

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

**Tuesday, April 11, 2006**

**1. ROLL CALL and AGENDA UPDATE**

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

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

**ABSENT:** None.

**STAFF:** John Anderson, City Administrator; Jim Galloway, Public Works Director; Rich Faith, Community Development Director; Kathy Leader, Finance Director; Marnie Allen, City Attorney; Debbie Stickney, City Recorder; and Amy Pepper, Environmental Specialist.

**GUESTS:** See Attached.

**2. CONSENT AGENDA:**

**2.1 ACCEPT MINUTES:** January 10, 2006 Regular Meeting, January 10, 2006 Work Session, January 31, 2006 Work Session and January 31, 2006 Joint City Council/Planning Commission Work Session.

**MOTION:** Councilor Gorsek 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.

None.

**4. PROCLAMATION:** Proclaim April 22, 2006 as Arbor Day.

Mayor Thalhofer read the proclamation.

**5. APPOINTMENTS:** Appointments to the Fire User Board.

Mayor Thalhofer stated the agreement that the cities of Troutdale, Wood Village and Fairview entered into with the City of Gresham for Fire and Emergency Services made provisions for a

User Board. There will be nine members on the board, each of the three small cities will have two members. I would like to appoint, with your confirmation, Councilor Thomas to be the council representative for Troutdale on the User Board and John Anderson to be the staff representative for Troutdale on the User Board.

**MOTION: Councilor Daoust moved to accept Mayor Thalhofer's proposed appointments to the Fire User Board. Seconded by Councilor Gorsek.**

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

**Motion Passed Unanimously.**

**6. PUBLIC HEARING / ORDINANCE (Introduced 3/28/06):** An Ordinance amending the maximum building height standard for the Central Business District (CBD) exception area in reconsideration of Text Amendment No. 36 adopted January 24, 2006 (Ordinance No. 770).

Mayor Thalhofer read the ordinance title and opened the public hearing at 7:05pm.

Rich Faith, Community Development Director stated this ordinance was introduced on March 28, 2006 to revise the 45' maximum building height standard for the Central Business District (CBD) exception area that you adopted on January 24<sup>th</sup>. The ordinance, as it was introduced to you two weeks ago, would have continued to allow for a 45' high maximum building height in the exception area subject to the buildings not exceeding a 35' plane as measured off of 2<sup>nd</sup> Street. After hearing testimony on March 28<sup>th</sup> the Council deliberated and reached an agreement to go back to the original 35' maximum building height standard in the exception area. The ordinance before you has been revised according to those directions and if adopted would establish a 35' maximum building height in the CBD, whether inside or outside of the exception area. Per the definition of height in the Development Code it would be measured from the average grade to the highest point of the roof. There is also another provision in Appendix A, which contains the design standards for the CBD, that requires the buildings fronting on Historic Columbia River Highway to be measured from the grade of the Highway in front of the building.

Mayor Thalhofer asked is there anyone here to speak to us on this issue?

No testimony received.

**MOTION: Councilor Kyle moved to adopt the ordinance as written. Seconded by Councilor Ripma.**

**Councilor Kyle stated everyone came to a nice conclusion. I hope that the public understands how important their input was to the decision.**

**Councilor Ripma stated I concur with Councilor Kyle's comment. I appreciate the Council's willingness to reconsider this.**

**Councilor Gorsek stated I still like 25' but this is a good compromise so I will support it.**

**Councilor Thomas stated even though we had to look at this two more times I think it was worth the effort.**

**Mayor Thalsofer stated I would like to thank the members of the public who came and testified. I understand that the developers of the Marino property are okay with this and they are going to go forward with the development. I think this is a good compromise.**

**Councilor Canfield stated I think putting the 45' genie back in the bottle is a very good thing to do. I am going to support this motion.**

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

**Motion Passed Unanimously.**

John Anderson, City Administrator stated that the Verizon representative will not be arriving until 7:30. We would like to request that we move Agenda Item #8 before Item #7.

Council agreed.

**8. PUBLIC HEARING / ORDINANCE (Introduction):** An ordinance establishing legal authority for a federally mandated pretreatment program and revising Chapter 12.07 of the Troutdale Municipal Code.

Mayor Thalsofer read the ordinance title and opened the public hearing at 7:15pm.

Amy Pepper, Environmental Specialist stated the Department of Environmental quality (DEQ) formally approved the amended Chapter 12.07 and the Industrial Pretreatment Operation and Program Implementation Manual on March 17<sup>th</sup> delegating authority to the City of Troutdale to implement the pretreatment program. To implement the pretreatment program the City must establish legal authority through the adoption of language in the Municipal Code. Wastewater treatment plants are designed to break down and treat human waste. Human waste consists of easily-treated organic material. Industrial wastes, such as heavy metals and oils, will not break down in the treatment plant. Industrial pretreatment programs are designed to handle the waste at the source before they are discharged to the public system. The objectives of the industrial pretreatment programs are: to prevent the introduction of pollutants into the publicly owned treatment works that will interfere with its operation; to prevent the introduction of pollutants into the publicly owned treatment works that will pass through the publicly owned treatment works, inadequately treated, into receiving waters or

otherwise be incompatible with our treatment plant; to determine what discharges have the potential to upset the City's publicly owned treatment works; to protect both the publicly owned treatment works personnel who may be affected by wastewater and sludge in the course of their employment as well as the general public; and to promote reuse and recycling of industrial wastewater and sludge from the publicly owned treatment works. Tube Specialties Company owns and operates a business within the City and discharges industrial waste to the City's publicly owned treatment works. Tube Specialties business is to form, weld, and machine parts using steel and aluminized steel tubing stock to which an iron phosphate coating is applied during the cleaning process. In December of 2003 DEQ determined that the iron phosphate process constitutes "coating", which is one of the six core processes defined in 40 CFR Part 433.1(a) and that Tube Specialties powder coating operation qualifies as "categorical" under Federal promulgated statutes. DEQ gave the City an option to either stop accepting their discharge or develop a delegated pretreatment program. Based on verbal confirmation that Tube Specialties was willing to pay for the fees and costs associated with development of the pretreatment program, the City notified DEQ of the City's intention to develop a program. On June 22, 2004 the City and Tube Specialties entered into an agreement that allowed Tube Specialties to continue discharging to the City and assured adequate funding for the development and implementation of the program. There are two documents required for a pretreatment program: an implementation manual and local limits study. DEQ formally approved the program implementation manual including amendments to Chapter 12.07 of the Municipal Code on March 17, 2006. The City has contracted with CH2M Hill to acquire the background data and to develop the local limits, which should be completed in December of 2006. Once the local limits are completed we expect to have a public comment period before adoption by Council. We have provided a 35-day public comment period as required by DEQ. No comments were received. Staff is recommending adoption of the proposed ordinance.

Councilor Ripma asked is Tube Specialties the only business that requires this pretreatment?

Amy Pepper replied yes.

Councilor Ripma asked is the fact that Tube Specialties isn't here mean that it is going well?

Amy Pepper replied there were some small issues in the beginning but it is going well now.

Councilor Kyle stated when we started putting this together it seemed to me like there was a possibility that Tube Specialties may not have to utilize the program. Do you know where they are in that process?

Amy Pepper replied the EPA indicated that they have not had a chance to review the metal finishing uses at this time.

Councilor Daoust asked has DEQ and EPA already approved Chapter 12.07 in addition to Exhibit C?

Amy Pepper replied yes.

Councilor Daoust asked is it a big deal if we make any changes to Chapter 12.07?

Amy Pepper replied some of the changes to Chapter 12.07 are required by EPA.

Councilor Daoust stated the development of the pretreatment program costs about \$100,000. Does the \$100,000 include any of the costs for Tube Specialties to actually treat anything?

Amy Pepper replied no. The cost for development of the program was my staff time to develop the documents as well as the local limits study.

Councilor Daoust asked in the meantime, what does Tube Specialties have to do to treat their wastewater?

Amy Pepper replied they do not treat their wastewater. They have limits that they are able to meet without pretreatment.

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

No testimony received.

Mayor Thalhoffer closed the public hearing at 7:28pm and stated this is the first hearing on this ordinance, a second hearing will be held in two weeks.

**7. PUBLIC HEARING / ORDINANCE (Introduced 2/28/06):** An Ordinance administering rights-of-way, Amending Title 12 of the Troutdale Municipal Code, and repealing Chapter 5.20 of the Troutdale Municipal Code.

Mayor Thalhoffer read the ordinance title and opened the public hearing at 7:30pm.

Jim Galloway, Public Works Director stated this item was introduced on February 28, 2006 and was postponed from its originally scheduled second hearing of March 14<sup>th</sup> at the request of Verizon. Most of our right-of-way management issues are currently contained in the franchise agreements between the city and the particular utility company involved. That leads to situations where we have different standards for different utilities and also requires that the standards be negotiated every time a franchise comes up for renewal. In an effort to get away from those issues and standardize our right-of-way requirements we brought forward this proposed ordinance for your consideration. At the February 28<sup>th</sup> meeting a number of issues were discussed. I want to identify the changes that have been made to the proposed ordinance since that meeting. Sections 12.12.040(c) and 12.12.050(f) were changed at the request of Verizon to indicate that users were only required to pay the cost of the relocation of their own equipment. That was just a clarification and doesn't really change the intent of the initial proposed language. The second change is in Section 12.12.050(c) to define what a new utility lines is. As you may recall that was the bulk of the conversation at the last hearing. The consensus at the work session on March 21<sup>st</sup> appeared to be that you preferred a definition of establishing new lines as only being lines installed where none now exist. The third change, at the recommendation of the City Attorney during that work session,

is to Section 12.12.120. The original language in that section required a utility to get a franchise. There is a likelihood that the Council will adopt a privilege tax for telecommunications to be in lieu of a franchise so this language has been modified to say that if other parts of the Code do not require a franchise agreement then there would be an exemption from the requirement to obtain a franchise. I wanted to point out two other items. During the discussion with Verizon there was talk about an offer from Verizon to underground up to 1,000 feet of its Fiber Optics in an area that would otherwise not be required to be underground. A letter to that effect from Verizon was faxed to the City today and has been provided to you. The second item is that we received a letter from PGE apologizing for their late comment on the ordinance but asking to have two changes made to the proposed ordinance. I believe a copy of that letter has been provided to you. The two changes they are requesting are: In Section 12.12.050(c) is an effort to exempt 57,000Kv lines from the requirement of undergrounding citing that the cost is prohibitive. They are requesting a change to Section 12.12.050(f) asking that the relocation section not apply to undergrounding. After giving this some thought we believe that the first request is probably reasonable and my recollection is that there is a particular size cable that is impractical to underground because of the heat generation. I would be reluctant to adopt the second change that they have asked for. I think that if we have reason to direct them to relocate within the right-of-way and going from aerial to underground makes sense at the time, I don't think we should necessarily be precluded from doing so.

Councilor Ripma asked where are the 57,000Kv lines located?

Jim Galloway replied I don't know where any are located in Troutdale. This would only apply to any new lines installed. When I spoke to PGE they said at this point they don't have any intent to put in such a high voltage line and doubts that they would but didn't want to be bound by that undergrounding requirement.

Councilor Ripma asked couldn't we address that at the time it is needed?

Jim Galloway replied that is an option.

Councilor Ripma asked on the undergrounding required, can PGE in locations in the City where they currently have overhead lines, put in more overhead lines?

Jim Galloway replied that is correct.

Councilor Ripma asked which was not the case under the previous version that you brought to us?

Jim Galloway replied that is correct.

Councilor Daoust asked of the two requests from PGE, the first one you think is okay but the second request you are not recommending?

Jim Galloway replied that is correct. I think their first argument is probably valid. I think Councilor Ripma's comment about perhaps addressing that if and when it should ever occur is probably an acceptable course of action as well. There second request, I would advise against.

Councilor Ripma stated PGE is not here to defend that exemption so I am advocating that we don't give it to them because we don't know what those lines look like and there is no reason to grant them a blanket okay for these lines to be overhead when we are trying to underground everything.

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

David Mielke, Verizon, stated regarding the second change recommended by PGE, there is a state statute on forced undergrounding and I don't think the intent of that section is to usurp the state statute with respect to forced undergrounding, is that correct Marnie Allen?

Marnie Allen, City Attorney replied the City would implement any directive to underground utility lines in accordance with state law. There is some ambiguity about whether or not a city is preempted under that state statute.

Mayor Thalhoffer closed the public hearing at 7:40pm.

**MOTION: Councilor Thomas moved to adopt the ordinance administering rights-of-way, amending Title 12 of the Troutdale Municipal Code, and repealing Chapter 5.20 of the Troutdale Municipal Code as presented by staff. Seconded by Councilor Gorsek.**

**Councilor Ripma stated I was against this change to reduce the requirement for undergrounding for Verizon. Fiber-optic cable is a new service they are putting in. I am not against fiber-optic cable; I am very much for it but I think our undergrounding policy is long-standing and some of us on the Council have defended it against attempts to raid the budget for that. I think it is important to Troutdale. The way this is worded now allows for installation of overhead lines and will make it more expensive to underground later.**

**Mayor Thalhoffer stated I favor the motion. I know it does have a downside but there is an upside for the homeowner.**

**Councilor Canfield stated I agree with the Mayor. It does have a slight downside, however, I believe by doing this it will enable Verizon to provide something good for the citizens of Troutdale.**

**Councilor Kyle stated for all of the reasons that Councilor Ripma mentioned, I am going to oppose this. I know that we have defended the undergrounding fund several times. I think undergrounding is important.**

**Councilor Daoust stated I am going to support this. I am looking forward to fiber-optics being installed in Troutdale. I think this will be a great thing for the residents of Troutdale. I also appreciate Verizon for volunteering to underground up to 1,000' additional. That was a good compromise on their behalf.**

**VOTE: Councilor Gorsek – Yes; Councilor Ripma – No; Councilor Thomas – Yes; Mayor Thalhofer – Yes; Councilor Canfield – Yes; Councilor Kyle – No; Councilor Daoust – Yes.**

**Motion Passed 5 – 2.**

**9. PUBLIC HEARING/ORDINANCE (Introduction):** An ordinance adopting a new Chapter 3.26 of the Troutdale Municipal Code imposing a privilege tax on telecommunication carriers for use of the rights-of-way.

Mayor Thalhofer read the ordinance title and opened the public hearing at 7:46pm.

Kathleen Leader, Finance Director stated historically the City of Troutdale has granted franchises to telecommunication providers to use their equipment in the public right-of-way to provide telecommunication services to the citizens of Troutdale. Most recently Verizon has been that provider. Under that franchise they have agreed to pay 7% of their gross revenues from access exchange services for the use of the right-of-way in the city. The most recent agreement with Verizon expired back in June of 2000. The City and Verizon have been exchanging communications to renew that franchise but due to pending litigation, federal and state legislation that could affect the terms of the franchise, both parties agreed to delay the renewal over that time period. Verizon has continued to pay the 7% of gross revenues on the access exchange and the City has allowed them to maintain their equipment in the right-of-way. Verizon approached the City approximately a year ago to start negotiations again. The City and Verizon have negotiated in good faith over the past year, however, we have been unable to come to agreement on all the terms in the franchise. There are two main areas that we have not been able to reach agreement on. The most significant being the requirement that if Verizon were to provide cable services in the future that they obtain a separate franchise agreement for the cable services. At this point and time there is some legislation at the federal level that would limit the ability of the City to impose a separate franchise, they would only be required to have one franchise. The City feels that it is in our best interest to require a cable franchise with any cable provider because the franchise establishes the terms and the services being provided and we wanted to secure our right to require Verizon to obtain a cable franchise in the future if they did provide cable services. Verizon was not in favor of signing an agreement that would require them to enter into an additional franchise if they were not required to by federal law. The second issue that we had was the length of the agreement. The City has recommended a five-year term or a ten year term with re-opener language mainly because of some legislation that is out there right now and the changes that are happening with the telecommunications technology. Verizon, because of the investment with the fiber-optics was looking at a 15 to 20 year agreement. With no franchise in place and no privilege tax imposed the City has no legal means to require telecommunication providers pay for the privilege of using the City's right-of-way. We have three options for the



City Council to consider. Option A – adopt an ordinance imposing a 7% privilege tax on gross revenues from exchange access services by telecommunication carriers for use of the rights-of-way in the city. Option B – adopt a resolution approving a franchise with Verizon for telecommunication services and authorize staff to take enforcement action if Verizon refuses to sign the franchise. Option C – adopt a telecommunications service tax ordinance that would be applied to a broader definition of telecommunication providers and services to include access exchange, dial tone, data and wireless. Staff is recommending Option A.

Councilor Gorsek asked if Verizon should sell to someone else this would transfer over to whoever is the service provider?

Kathleen Leader stated this would be imposed on any telecommunication provider that installs equipment in our right-of-way.

Councilor Gorsek asked is Fairview, Wood Village and Gresham all doing the 7% approach?

Kathleen Leader replied yes. Many jurisdictions took this option when Verizon was no longer renewing franchises.

Councilor Ripma asked would this ordinance be replacing the franchise agreement?

Kathleen Leader replied yes.

Councilor Ripma asked the payment under this ordinance would be in lieu of the franchise fee they pay, correct?

Kathleen Leader replied yes, it would in effect be status quo but a different means to collect the fee.

Councilor Ripma asked Option A does not cover broadband or cable does it?

Kathleen Leader replied no, this is only on telecommunication service on exchange access.

Councilor Ripma asked will the privilege tax appear on the bill as a separate itemized item?

Kathleen Leader replied I am not sure about that.

Councilor Ripma asked could Option C be crafted to cover broadband and cable and other things?

Kathleen Leader replied Option C would open up to payment of a telecommunications tax on all providers of telecommunication services and then you would define those providers.

Councilor Ripma asked and that has been done and upheld in Oregon?

Kathleen Leader replied the City of Eugene is one that I know of. City of Portland has been looking at it.

Councilor Thomas stated I am not sure that they tax broadband but they tax wireless.

Councilor Ripma stated if we adopt Option A the reason the revenue would possibly decline in the future is just because people may stop using exchange service and they start receiving telephone service over the cable or go wireless and we would lose money if that continues to happen. If we adopted Option A, could we still, at a later date, consider something like Option C?

Kathleen Leader replied yes.

Councilor Thomas asked do you know what they are basing their 7% on as far as gross revenues? Is it the same standard that is used now?

Kathleen Leader replied yes, on exchange access services.

Councilor Thomas asked is there a way to include or have the provider pay into the undergrounding in addition?

Kathleen Leader replied Council could adopt an ordinance or a resolution similar to how you handled the undergrounding for PGE's privilege tax. You could decide to designate a portion of those funds towards undergrounding.

Councilor Thomas stated the reason I ask is because currently we are funding the entire undergrounding system basically on PGE's tax.

Kathleen Leader stated if you were to add any additional fees specific to a telecommunication provider they would net that off of the 7% gross revenues they pay.

Councilor Canfield asked what is the franchise fee for Comcast right now?

Councilor Thomas replied 5%.

Councilor Canfield asked what is that based on?

Councilor Thomas replied gross revenues.

Councilor Canfield asked on page 3 of 10 of Exhibit B, Section E reads, "cable services" as defined by 47 U.S.C 522", do you have that definition handy?

Kathleen Leader replied no.

Councilor Canfield asked staff to provide that definition at the second hearing.

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

Richard Stewart, counsel for Verizon, stated the question was raised about a change on the bill. It is my understanding that this should be transparent. Since it will be the same amount there will not be a change on their bill. One concern that we have is under the penalty provision it has a 30-day notice. We are a big organization and sometimes it can take 30 to 60 days for the notice to get to the proper individual. The 30 days does not give us sufficient opportunity to resolve the issue administratively. We prefer resolving issues administratively and I think the cities prefer that also. I would encourage the City to come up with a process so that we can administratively resolve the issue before we are in violation.

Mayor Thalhoffer asked Marnie Allen, is there anything we can do to fix that?

Marnie Allen replied in the penalty for violation section, there are two issues. One issue is what if the nature of the violation is such that it can't be remedied in 30 days. One way to address that would be to add language that says that they can be fined or ordered to remove the equipment after they get notice and don't comply within the 30 days, or if they fail to enter into or to comply with the compliance agreement. So if there an issue that requires something special we could address it with a compliance agreement. If they don't enter into an agreement or comply with that agreement then we could impose a fine or take remedial action. A separate issue is an appeal process. It may be that there is a disagreement about whether or not there is a violation. We have in the transient lodging tax ordinance an appeal process that allows someone who disagrees with a decision of the City to appeal that to the Council if they file a request within 10 days of receiving notice. I could draft a similar section for this ordinance if that is the desire of the Council.

Councilor Ripma asked Mr. Stewart is that along the lines of what you were looking for?

Richard Stewart replied I would like more than 10 days.

Council agreed to have staff draft some language as outlined by Marnie Allen for the next meeting.

Marnie Allen stated I would like to take a minute to talk about a couple of things that might not be clear because we have been talking about different utilities and different services and how much the franchise fee is, 5% for cable, a different amount for NW Natural, a different amount for PGE, portions of it are paid under the franchise, there is a separate privilege tax, and when does it show up on the bill. This is complicated and highly regulated by the PUC and by federal statute. The reason that Comcast or cable service providers pay 5% is because that is the amount that is allowed under federal law. The reason that we are looking at 7% only on access exchange services for the privilege to use the right-of-way is because that is what state law says is the maximum we can collect. That means we can't charge anything above that for permits to review the construction they are going to do or to pay into an undergrounding fund. The total amount that we can charge them under state law for the privilege to be in the right-of-way is 7% of their access exchange revenue. There are

different thresholds for when the amount of the franchise fee and or privilege tax can show up on the bill and what amount you don't need to put on the bill.

Councilor Kyle asked so what you are saying is the maximum we can charge is 7% so if we wanted to do any undergrounding it would be deducted from that 7%?

Marnie Allen replied that is correct.

Councilor Daoust asked what would be the best way for us to designate some of these funds towards undergrounding?

Kathleen Leader replied you would take action similar to when you established the underground fund and designated the privilege tax from PGE franchise.

Marnie Allen stated another option would be to impose a different tax for the privilege of doing business in the city or some other thing; you just can't impose any more than 7% for the right to use the right-of-way.

Mayor Thalhoffer closed the public hearing at 8:22pm and stated a second hearing on this item will be held in two weeks.

**10. RESOLUTION:** A Resolution authorizing the Mayor to sign an agreement with the Department of Land Conservation and Development accepting a grant to prepare the Columbia-Cascade River District Economic Development Master Plan in partnership with other East County cities and the Port of Portland.

Rich Faith stated the City of Troutdale has been an active member in the East Metro Economic Alliance (EMEA) since its inception about four or five years ago. In 2002 EMEA conducted an economic development opportunities study for the East Columbia Corridor, which is generally a 4½ mile stretch from the Sandy River on the east to approximately 170<sup>th</sup> on the west, Columbia River on the north and I-84 on the south. The study area has become known as the Columbia-Cascade River District (CCRD). That district falls within the jurisdictional boundaries of Gresham Fairview, Wood Village and Troutdale. The document that came out of the 2002 study has been referred to as the Columbia-Cascade River District Vision. It provides an overall vision of how we would like to see that area developed in the future. In November of 2003 the Troutdale City Council reviewed and accepted the CCRD Vision as our preferred guide for how we would like to see future development in that area occur. Since the Vision document was prepared there has been a subcommittee of EMEA called the River District Steering Committee. We have been meeting regularly the past several years to come up with a strategy for how to promote this area for economic development. Last year the Steering Committee prepared a grant application for funds through the Oregon Department of Land Conservation and Development (DLCD) Technical Assistance Program. The grant would provide funds to hire consultants that could do an economic development plan for the District and would provide for future economic growth for the East County area. Because the District encompasses four jurisdictions and also includes

land that is being purchased by the Port of Portland we have all decided to go together in a collaborative venture to submit this application. Because the bulk of the land area is in the City of Troutdale's current city limits or within our urban planning area, it was decided that Troutdale would become the lead agency and put its name on the application as the primary applicant for these grant funds. Back in September I brought this matter before you and the Council did approve a motion authorizing the Mayor to sign letters in support of that grant application. We have been fortunate enough to receive notice from the state that they have approved our grant application for \$70,000. We have until April 21<sup>st</sup> to respond to accept the grant offer. I want to make it clear to the Council that we are going to be the responsible party for complying with all of the conditions of the grant. This grant application has been followed very closely by the state and they are looking at it as a model for the rest of the state. They are very impressed with this application because it is a collaborative venture by five different governmental entities and they want to see this project succeed. They have put some caveats in the grant offer that I think are important for the Council to understand. They want assurances along the way that the five partners remain partners and therefore they have required as part of the conditions to receive our grant payment that each of the partners are going to have to review the work products that come out of this project and then they have to demonstrate their support of those products by means of a resolution or some other written documentation of that support. Each of the grant partners have been made aware of that and are clear in terms of what is going to be expected of them. They are lending their support not only in terms of the grant application but at this point in terms of our acceptance of the grant. Staff is recommending adoption of the resolution.

Councilor Gorsek asked what kind of products are we talking about?

Rich Faith replied a series of different kinds of reports or elements to the overall plan. We are looking for a uniform set of standards that will be applied to the River District. In other words all four jurisdictions would agree to apply the same zoning standards through a unified zoning district or overlay district within our own codes. The way that will be carried out is through a Memorandum of Understanding that would be signed by all five jurisdictions.

Councilor Gorsek stated the Port of Portland is a governmental agency and is one of the partners, but they also have development potential there. They have two hats in this process.

Rich Faith stated they do not have any land use or zoning authority but they are going to be a primary property owner and developer of properties, so in essence they are agreeing to the types of uses or standards for development within the District.

Councilor Gorsek asked how will you gain consensus? Lets say you have all of these groups and maybe one group doesn't like what the other four are saying, how will that be worked out?

Rich Faith replied the primary forum for some of these discussions will be at the Vision Steering Committee, which has representatives from the cities and the Port. Depending on

the nature of the disagreement and the extent of that disagreement, it may require the representatives to go back to their elected bodies to discuss.

Councilor Gorsek asked lets say we get two-thirds of the way through and things are going well and then all of a sudden we reach a point that we can't get past, will that mean no more funding?

Rich Faith replied potentially. At that point the state could terminate the grant. The only problem we would then have to deal with is any outstanding bills that need to be paid for the consultant and will our partners be willing to pay their portion of that bill.

Councilor Ripma asked the area covered is defined as 4½ miles long extending to 174<sup>th</sup>, isn't Portland included?

Rich Faith replied no, it is short of the City of Portland boundaries.

Councilor Ripma asked do we have to put up any money?

Rich Faith replied no. There is not a requirement for any kind of matching funds, not even in-kind. We do show that we anticipate that there will be about \$48,000 of in-kind contributions but they are not required.

Councilor Ripma asked if we get to a point where we don't agree on something, are we free to say it isn't going to work and we can just stop or do we have to come up with the rest?

Rich Faith replied the way I see it is that we will enter into contractual agreements with consultants and we will include in those contracts that this is all subject to fully complying with the grant and obtaining the grant so that at any time the grant gets cut off we can then terminate our contract with them. It would just be a matter of whether there was any work in progress since the last payment that we would be obligated to pay.

Councilor Gorsek asked if it were to all stop would we be required to finish the project?

Rich Faith replied I don't see how we could finish the project the way it is structured without the cooperation of the other jurisdictions.

Councilor Gorsek asked but the state wouldn't say you don't get the money but you have to finish the project?

Rich Faith replied I guess the state could try to negotiate anything they can to try and salvage as much as they can. They want to see this succeed.

Marnie Allen stated the agreement itself doesn't require the City to follow through and complete the project. It does specify that the documents and work products that have been completed, if the agreement is terminated early, belong to DLCD and have to be turned over to them.

Councilor Canfield stated I was looking at the DLCD criteria on page 7 and the third part of the criteria is to attract development in a coordinated manner. Where is the program for actually attracting development in the master plan?

Rich Faith replied as it was originally proposed we wanted to do a marketing program as one of the tasks and it may not show up because as I recall the grant can not pay for marketing. That is a piece that we still want to do. The Port has indicated their willingness to assist in that piece.

Councilor Canfield stated so the DLCD will pay for all of the reports and studies but they won't pay for the implementation.

Rich Faith stated they won't pay for production of marketing materials.

Councilor Canfield stated I think overall the concept is good; the last part just seems to be missing. People who might be interested in developing land in this district, were they asked what they might like to see from various jurisdictions?

Rich Faith replied we have not got to that point yet.

Marnie Allen stated there has been some discussion in the past by the Council about looking at opportunities to adopt land use regulations regarding development on the Alcoa property. I want to make it clear that is probably, to the extent there is a risk in entering into this agreement, it is that risk. One of the key products from this is going to be land use regulations in this area that includes the Alcoa property. All participating entities will have to approve of that, so the City is giving up some of its independence to decide what land use regulations should be adopted for development on the Alcoa property in joining in on a cooperative effort.

Councilor Ripma asked the other participants couldn't force us to adopt an ordinance.

Marnie Allen replied no. If there is agreement by all the parties the agreement could be terminated and we could have to pay some costs depending on what work had been done and not yet paid for.

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

No testimony received.

**MOTION: Councilor Ripma moved adoption of the resolution authorizing the Mayor to sign an agreement with the Department of Land Conservation and Development accepting a grant to prepare the Columbia-Cascade River District Economic Development Master Plan in partnership with other East County cities and the Port of Portland. Seconded by Councilor Daoust.**

Mayor Thalhofer stated a lot of folks put in a lot of time on this. John Anderson from Fairview is heading up this project. This is a great experiment and that is why the state is looking at this closely to see what will happen.

Councilor Canfield stated I have my doubts about getting five governmental agencies to agree unanimously, but I am willing to see what will happen.

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

**Motion Passed Unanimously.**

## **11. STAFF COMMUNICATIONS**

John Anderson stated your new 2006/07 Council Goals have been put in the front of your packet. Budget Committee meetings will start next week at 7pm at the City Conference Building on Monday, Tuesday and Wednesday.

## **12. COUNCIL COMMUNICATIONS**

Councilor Gorsek stated I am happy to see that the signal at the intersection of 257<sup>th</sup> and Hensley is finally working.

Councilor Ripma stated I don't know how involved the City is in running SummerFest but there was an idea floated at the last Historical Society's Board meeting to reverse the direction of the parade having it start at Glenn Otto Park and head into downtown. It is an interesting idea and something to think about.

Councilor Kyle stated since next year is our 100<sup>th</sup> Birthday, it might be nice to reverse it and end up downtown with a birthday cake.

Mayor Thalhofer stated I am very happy about finalizing the development code amendments. I think the Diamond Bros. will be probably start as soon as they are able to.

Councilor Canfield stated our Economic Development Coordinator, Eric Underwood, has resigned. What is the status of filling that vacancy?

John Anderson stated Erik was serving as Fairview's Economic Development Specialist and we contracted his services from Fairview as did East Metro Economic Alliance. The three agencies are talking about various options that we could pursue. We are exploring a number of options at this time.

Councilor Kyle stated the Troutdale Bite and Bluegrass Festival poster was unveiled last week and the web site should be up next week. The event will be held on July 22<sup>nd</sup> from 10am to 9pm.



**13. ADJOURNMENT:**

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

Meeting adjourned at 9:10pm.

**Paul Thalhofer, Mayor**

**Approved July 25, 2006**

**ATTEST:**

**Debbie Stickney, City Recorder**