

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

Tuesday, June 13, 2006

1. PLEDGE OF ALLEGIANCE, ROLL CALL, 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 (by phone).

ABSENT: None.

STAFF: John Anderson, City Administrator; Jim Galloway, Public Works Director; Rich Faith, Community Development Director; Kathy Leader, Finance Director; David Nelson, Chief of Police; and Debbie Stickney, City Recorder.

GUESTS: See Attached.

2. OATH OF OFFICE: Officer Jeremy Costello and Officer Nicholas Thompson.

Mayor Thalhofer administered the Oath of Office for Officers Costello and Thompson.

3. CONSENT AGENDA:

3.1 ACCEPT MINUTES: February 28, 2006 Regular meeting, March 14, 2006 Regular meeting and March 21, 2006 Work Session.

3.2 RESOLUTION: A resolution accepting the May 16, 2006 Election results from the Director of Elections, Multnomah County, Oregon.

3.3 MOTION: A motion to accept the Annual Performance Evaluation of the City Administrator John K. Anderson as completed by the City Council and John Anderson on May 23, 2006.

Councilor Gorsek asked that Item #3.3 be pulled from the Consent Agenda and asked that it be scheduled for an Executive Session at a future date. Council Agreed.

MOTION: Councilor Ripma moved to adopt the Consent Agenda (Items 3.1 and 3.2). Seconded by Councilor Gorsek. Motion Passed Unanimously.

4. APPOINTMENTS: 100-Year Celebration Committee.

Mayor Thalhofer recommended that the following folks be appointed to the 100-Year Celebration Committee: Councilor Daoust and Councilor Ripma as Co-chairs; Diane McKeel,

Executive Director of the West Columbia Gorge Chamber of Commerce; Sheryl Maydew, Executive Director of the Troutdale Historical Society; Matthew Wand, resident of Troutdale; Daniel Haskins, resident of Troutdale; Claudia Stewart, Ray Davenport, and Mary Bryson members of the Troutdale Historical Society.

MOTION: Councilor Thomas moved to adopt the Committee as suggested by the Mayor. Seconded by Councilor Gorsek.

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

Motion Passed Unanimously.

Mayor Thalhofer stated that Sharon Nesbit, Rip Caswell and I will serve as volunteer consultants to the committee.

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

Michael Orelove provided the Council with a packet of information that includes projects he has worked on in other communities. He expressed interest in doing a project in conjunction with the 100-Year Celebration.

Diane McKeel, Executive Director of the West Columbia Gorge Chamber of Commerce and a Board member of the Rivers Confluence Project informed the Council that a component of the Rivers Confluence Project is an education piece that schools can participate in. Last Tuesday I attended a dedication at Fairview Grade School for their Legacy Pathway project. The project was done by the 4th grade class. The students made modern petroglyph artworks etched into Columbia River Basalt Stone. The artworks were set into larger cement pieces and are placed at six sites in Fairview, Wood Village and Troutdale. The site in Troutdale is Glenn Otto Park. Part of the dedication ceremony was to present these small trees to their partners in appreciation for their help. I am here to present the tree to the City of Troutdale on behalf of the 4th Grade students and teachers at Fairview Elementary School.

6. MOTION: A motion to approve the Mt. Hood Cable Regulatory Commission's 2006-07 Budget.

Councilor Thomas stated the Mt. Hood Cable Regulatory Commission (MHCRC) was created by an IGA by the cities of Fairview, Gresham, Multnomah County, Portland, Troutdale and Wood Village. Each jurisdiction appoints citizen representatives to the Commission. The Commission has enforcement and development responsibilities for cable service franchises with Comcast and implementation of local public benefits derived from those franchises. The Commission also contracts with the City of Portland for staffing services. They fund 3.25 full-time staff, with 2.8 of the staff funded by the jurisdictions and .7 staff funded by dedicated fund interest. Some of the Commission's accomplishments include: Providing consumer protection and complaint resolution. In 2005 the Commission assisted in the resolution of

177 complaints from citizens who believed they had been treated unfairly by the cable company. We continue to facilitate partnerships and network planning in support of the successful I-Net. Over 250 public sites currently use the network for their data connectivity including all schools in East Multnomah County and Portland, Multnomah Educational Service District, all County libraries, most East County public safety sites, and many other local government sites. The Commission engaged in its eighth year of grant-making for the Community Access Capital Grant program. In 2005 we granted nearly \$552,000 for six new community-based projects that will leverage about \$1 million in additional funding. The Commission has preliminarily chosen its 2006 grant recipients to receive over \$850,000 in funding. Those recipients include four non-profit organizations, three public school based projects and one grant to Metro East Community Television. The Commission led advocacy efforts against national legislation that would pre-empt local government authority over your right-of-ways, reduce monies to the general fund, eliminate the I-Net and grant funding, reduce resources to Metro East Community Television and move consumer protection enforcement to a federal agency. The MHCRC is responsible for developing an annual budget and submitting the proposed budget to each member jurisdiction. The proposed budget is up 9.6 percent from the current fiscal year. This higher than normal increase is contributed by the increase in personnel and health care benefits, personnel cost of living adjustments and Comcast franchise fee review. The cable franchise fee revenue is projected conservatively, slightly below the current year forecast due to the sluggish growth reflected during the current fiscal year and the emergence of satellite dishes and voice over internet protocol (VIOP). The estimated cable franchise fee balance to the City of Troutdale is \$28,205.00. The City of Troutdale will be contributing \$14,601 to the budget for the Cable Regulatory Commission.

David Olson, MHCRC Director, stated I am here to assist in answering any questions that the Council may have.

Council had no questions.

MOTION: Councilor Gorsek moved to approve the budget for the Mt. Hood Cable Regulatory Commission. Seconded by Councilor Canfield.

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

Motion Passed Unanimously.

7. PUBLIC HEARING ON THE FOLLOWING RESOLUTIONS:

- 7.1** A resolution certifying the City of Troutdale's eligibility to receive State Shared Revenues.
- 7.2** A resolution declaring the City of Troutdale's election to receive State Shared Revenues for Fiscal Year 2006-07.
- 7.3** A resolution adopting the City of Troutdale's Fiscal Year 2006-07 Annual budget and making appropriations.

7.4 A resolution imposing and categorizing Ad Valorem Taxes for Fiscal Year 2006-07.

Mayor Thalhofer read the resolution titles for agenda items 7.1 and 7.2 and opened the public hearing at 7:33pm.

Kathy Leader, Finance Director stated the State of Oregon requires the city to hold two public hearings regarding any proposed uses of the State Shared Revenues. The first hearing that Troutdale held was at the April 19th Budget Committee meeting. There was no public comment received at the first hearing. The Budget Committee approved the proposed uses for those revenues. Tonight is the second hearing on the proposed uses for the state shared revenues in the budget that is coming to you for adoption tonight. The state requires the city to approve two resolutions relating to the state shared revenues. The first one certifies that we qualify to receive the state shared revenues and the second resolution elects to receive those revenues. I have included Exhibit A in my staff report which itemizes the estimates for state shared revenues for the next fiscal year, 2006-07.

Council had no questions.

Mayor Thalhofer asked is there anyone here that would like to speak to us on these two resolutions?

No testimony received.

Mayor Thalhofer closed the public hearing at 7:38pm.

MOTION: Councilor Canfield moved to adopt the resolution certifying the City of Troutdale's eligibility to receive State Shared Revenues. Seconded by Councilor Gorsek.

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

Motion Passed Unanimously.

MOTION: Councilor Thomas moved to adopt the resolution declaring the City of Troutdale's election to receive State Shared Revenues for Fiscal Year 2006-07. Seconded by Councilor Canfield.

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

Motion Passed Unanimously.

Mayor Thalhofer read the resolution title for agenda item 7.3 and opened the public hearing at 7:40pm.

Kathy Leader, Finance Director introduced the Budget Committee Chair, Jim Jensen.

Jim Jensen stated I have had the pleasure of serving on the City of Troutdale's budget committee for, I believe, twenty-six years. Every year I am more and more impressed by the quality of not only the department heads and city staff, but also of the non-elected city officials such as John Anderson and Kathleen Leader. I can't remember a time when I have been more impressed with city staff than I have been this year. The Budget Committee had a considerable amount of controversy and disagreements. The disagreements were heartfelt because of the different beliefs that we had in trying to put together a budget that we all believed reflected the goals of the city. By the end of the day I think we put together a very good budget that I believe will serve the city well. I sincerely hope that the council does reconsider putting the Mayor's stipend back where it was. It is my pleasure to tell you that the City's Budget Committee has put together a budget which we strongly recommend.

Kathleen Leader stated I would like to review the resolution adopting the budget and the changes that have been recommended by staff from the approved budget. Tax Supervising and Conservation Commission has certified our 2006-07 Approved Budget with no recommendations or objections. Exhibit B of my staff report includes the detail of the original proposed budget, the approved budget and a column that itemizes some staff recommended changes that are included in the resolution that is before you tonight to adopt. The first change is a positive change in the General Fund. Back in February of this year when we put together the proposed budget document we only had a portion of the revenue and expenditure activity. At this point we now have our actual numbers through May 31st. Based on those numbers it appears that we will end the year with a better ending fund balance in the General Fund than we anticipated. Right now our estimate shows that we will end the year with approximately \$3.2 million which is an \$825,000 increase over the amount we included in the proposed and approved budget. A couple of the key reasons for this are healthy building permit revenues, a significant increase in the Multnomah County Business Income Tax and a projected turn-back of appropriations in the General Fund of over 5% or \$400,000. The second item that staff is recommending as a change is related to Verizon's Fiber-to-the-Premise project. Public Works Management anticipates some additional staff workload related to inspecting construction work that they will be incurring in the public right-of-way. We are asking that you allow an increase in appropriation of about \$30,000 for contract services to allow some flexibility in utilizing outside consultants to handle the inspections if the workload demand is too great for our existing staff. The third adjustment that we are proposing in the adoption of the budget relates to some much needed renovation and movement of staff in City Hall. In the approved budget we included \$5,000 to cover some minor updates to the second floor of City Hall. Exhibit C outlines the process we went through to look at the best use of City Hall and citywide building space.

Kathleen Leader reviewed the memo with the Council and explained the three phases for the renovation. Phase I was completed in 2005-06 with the move of the Public Works Management Department to the Public Works Shop building on 4th Street. Phase II is what is being put before you tonight which we estimate will be approximately an \$85,000 expense which will include the relocation of some of the departments within City Hall and renovation of work areas to provide some much needed work space and storage area. We anticipate bringing Phase III to you as part of our budget process next year. Phase III will include

evaluating the receptionist area to provide some enhanced security and to provide some additional customer counter space. It will also include evaluating the council chambers to see if we can make the space function better for different types of meetings. We have included an additional \$80,000 appropriation in the General Fund related to the Phase II projects in addition to the \$5,000 that was already included in the approved budget.

Kathleen Leader stated the second resolution, Item 7.4, is the levying of the local tax. These limits were approved by the Budget Committee. We are requesting the levy of the full permanent rate of \$3.7652/\$1,000 for general operating purposes and a second levy for debt service on our sewage treatment plant bond issue at \$647,702.

Councilor Gorsek asked in Exhibit B, for the Unappropriated Fund balance and total General Fund requirements, \$730,000, does that account for everything that is above that?

Kathleen Leader replied yes. We are anticipating an additional \$825,000.

Councilor Gorsek asked so once we take out the additional requests we have \$730,000 left?

Kathleen Leader replied yes, with an ending fund balance of just over \$2.6 million.

Councilor Gorsek asked is it possible to take that \$730,000 and pay down the debt on the sewage treatment plant?

Kathleen Leader replied you can make a motion to do that. I would recommend that you evaluate that knowing that some of these related revenues are restricted because they are building function related revenues and are restricted to be used only for that program. I would also recommend keeping a reserve in the General Fund because we have seen some numbers that show the future in our General Fund might end up having to spend reserves just to operate.

Jim Jensen stated one of the things that has helped keep this city afloat and avoided having to make drastic cuts in city services over the years is that staff has been able to maintain an appropriate fund balance reserve. Mr. Jensen voiced concerns and hesitation to dip into that fund to pay something else off because we don't know what the future holds.

Councilor Ripma stated the use of the \$825,000, putting it into the Unappropriated Fund balance is a conservative, fiscally sound use of that money. We use that fund to keep us running until the revenues from property tax come in. If we approve the budget as set forth in the resolution, are we adopting the memo regarding the City Hall improvements? I don't have anything against it, but it is the first time I have seen this information. The only thing in it that I have any concern about is the renovating of the Council Chambers. I don't want to make a final decision on that by adopting the budget and I just want to make sure this will not do that.

Kathleen Leader replied the Council Chambers is part of Phase III. During the next year we will look at different recommendations for the use of this space and obtain cost estimates related to it and bring that information forward to the Budget Committee as part of the 2007-

08 budget, so you would have input on that. Since the Council utilizes the chambers we would get some input from you on the project.

Sheryl Maydew, Director of Troutdale Historical Society stated next year is the City's 100 year celebration. We would like the entrance arch to be our 100-Year Monument. The Historical Society Board has agreed that if the City wants to do this that we would be willing to be the organization that sets up the account to collect the funds/donations, we would organize the committee and organize the construction and see it through.

Rip Caswell stated probably eight or nine years ago and idea came about to do a city sign monument and it went through the process of going to the Chamber and the City Council and it was sent to an advisory committee. I attended a lot of the meetings with the advisory committee and I believe it was brought back to the Council and it was approved but then it was forgotten about. We had several meetings where the merchants in town were really concerned about businesses failing so we had some brainstorming sessions to discuss what we could do. Out of those meetings it was brought up that we need more signage. When I came to town the north side was blackberries. You had a vision and through a public/private partnership that vision was painted and it is a beautiful scene. To me this is the frame that needs to go in that painting. Now we have the urban renewal project going and this would set the standard of what to expect to come. Just like the vision that you had for the north side, this is like the next phase. I think it would be very appropriate at the 100-year birthday to use this as the marker for what has been accomplished. This would really be an icon that would last for generations to come. It could become the postcard that people photograph when they are traveling through Troutdale and the Columbia River Gorge. Now is the time; don't let this get buried again.

Councilor Canfield asked can you give me an idea of the process that the Historical Society has for raising the other half of the needed funds?

Sheryl Maydew replied there would be a lot of people involved in the fundraising, not just the Historical Society. We have agreed to set the account up and to administer it. We have provided you with a copy of a letter submitted by the West Columbia Gorge Chamber of Commerce (copy included in the packet) stating their support for this project and their commitment to working with other organizations to raise a portion of the needed funding.

Councilor Kyle asked Rip will you be putting this together once the funds are available?

Rip Caswell replied there will be a lot of people involved. I will be doing one component which is the sculpture of the fish.

Councilor Kyle stated when we talked last year, Rip I believe that you were going to talk with the County. Have you done that and do we have any hurdles left with the County?

Rip Caswell replied I don't believe so. Councilor Thomas, Mike Greenslade and I met with the County and they were very excited about the project and they will support it.

John Anderson stated to clarify I think we have preliminary interest and approval by the County, but I don't think we have a formal application yet.

Councilor Daoust stated I am ready to support the proposal. I think anything we run into that needs to be worked out can be work out.

Councilor Ripma asked is the proposal to appropriate the City's share of \$45,000 in the 2006-07 Budget?

Councilor Thomas replied yes.

Councilor Ripma asked the \$10,000 would be released for the initial design and engineering and the rest when there is matching funds, is that correct?

Councilor Thomas replied yes.

Councilor Ripma asked is it possible, if we were to raise the money quickly, could this project be done by October of 2007?

Sheryl Maydew replied that would be the goal to have the unveiling on our 100th birthday.

Rip Caswell asked does that include in-kind contributions?

Sheryl Maydew replied yes. The estimate is \$87,000 and the proposal is for the City to put up half of the money and we would fundraise for half of the money. If the City agrees the \$10,000 would be released for the initial design and engineering work and the remaining \$35,000 from the city would only be paid once the Historical Society received \$45,000 in contributions. The City's contribution would be capped at \$45,000.

Councilor Thomas stated I have been excited about this project for about a year. I think if we could get this done by next October for our 100th birthday that would be fantastic. At the Budget Committee meetings I was asked to gather more information on the project and I have done that. The budget is estimated at \$87,000. I worked with Mike Greenslade to put together the budget, so I think the numbers are fairly accurate. The Historical Society has agreed to take on this project and set up an account for the contributions.

Mayor Thalsofer asked if I understand this if the Historical Society is unable to raise the \$45,000 then the City doesn't have to contribute the \$35,000?

Councilor Thomas stated the only risk to the City is the \$10,000.

Tana Canfield stated I have been a big fan of this project. I count on the Council and the City to support this project because I believe this will be a landmark. It will not only be historic but artistic. I believe people will finally be able to find the City of Troutdale. Citizens open up your pocketbooks and lets have an "adopt a trout" program in Troutdale for this project.

Mayor Thalsofer closed the public hearing at 8:30pm.

MOTION: Councilor Ripma moved to adopt the resolution adopting the City of Troutdale's Fiscal Year 2006-07 Annual Budget and making appropriations as set forth by staff. Seconded by Councilor Gorsek.

MOTION: Councilor Thomas moved to amend the motion to transfer \$45,000 from the General Fund Unappropriated Fund balance and increase the appropriation authority within the General Government Department Materials and Services category line item 01.35-8211 by \$45,000 with the following recommended instructions for city staff: Prepare a letter of understanding between the City and the Troutdale Historical Society to define at a minimum the following: The total funding from the City should be capped at \$45,000; \$10,000 would be released initially for design and engineering work; \$35,000 additional would be released once the \$45,000 has been matched in contributions by the Troutdale Historical Society, the definition of matching funds include in-kind, which will need to be defined; financial reporting criteria; the Historical Society will be responsible to oversee, direct and ensure the completion of the project including the initial engineering and architectural work; secure all necessary permits to complete the project; and the agreement expiration shall not exceed two years from the date the agreement is approved by the City of Troutdale. Seconded by Councilor Kyle.

Councilor Thomas stated I think this puts a stamp on Troutdale. I believe this will be an icon that people can use for pictures. It ties to our goal for partnering and it helps establish a definition of what Troutdale stands for.

Councilor Kyle stated I know that the signage project has been around for several years and this council last year supported the concept. I am hoping that tonight this Council will actively supported this effort by approving the budget amendment and hopefully we will have a landmark in Troutdale.

Councilor Daoust stated I will support this wholeheartedly. I really like the idea of a public/private partnership. And I really appreciate the Troutdale Historical Society for stepping forward to be that partner.

Councilor Canfield stated this design is intriguing. I attended the merchants meeting when the design was unveiled. However, I have some concerns in talking about our budget. The long-term forecasts are not good even with this additional unanticipated revenue. Although this is a good idea, the concept is good but I am mindful of Troutdale's future needs. I have been asking myself for the last week whether or not this is a good use of public money at this time. I have not decided yet how I will vote.

Councilor Gorsek stated this is a really nice design. We have been talking about this idea of signage for awhile and strange as it may seem landmarks are important to people and they do attract people. I think this does a nice job of replicating what we have seen in other gateway communities. While I have similar concerns about the

budget, we do have a little flexibility here and I see this as being very similar to the Confluence Project. I will support it.

Councilor Ripma stated I support the proposed 100-Year monument. I think it is a great idea. I think there is a great deal of community support behind it and it will happen. I think Rip Caswell's vision is perfect for Troutdale and I commend him for kicking this off.

Mayor Thalsofer stated I support this as well. I think it will be a real benefit to the City of Troutdale. People will know where the city is and it will add a lot of character to the city and people will want to come and drive under the arch. I appreciate the Historical Society's willingness to take this project on because without a structure to receive money this would go nowhere. I would caution the Historical Society to make sure that the in-kind contribution work done is dollar for dollar real and not some inflated figure otherwise we will be really short on the matching funds.

Vote on the Motion to Amend:

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

Motion Passed Unanimously.

Vote on the Motion as Amended:

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

Motion Passed Unanimously.

MOTION: Councilor Thomas moved to adopt a resolution imposing and categorizing Ad Valorem Taxes for Fiscal Year 2006-07. Seconded by Councilor Gorsek.

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

Motion Passed Unanimously.

Councilor Daoust left the meeting at 8:46pm.

8. RESOLUTION: A resolution establishing and revising specific fees and charges and rescinding Resolution No. 1767 and 1802.

Kathleen Leader, Finance Director stated each year staff reviews the fee schedule to make sure that we are recovering the cost of the different services that we provide. Section 1.c

covers document copies. These fees cover the cost of staff time and material in copying documents requested by the public. There are two changes being recommended by Community Development: increase the fee for a copy of the Development Code document from \$20 to \$30; increase the fee for a copy of the Transportation System Plan from \$20 to \$25; add a new few for providing a copy of the documents listed on a compact disc (CD) at \$5. In Section 1.i we are proposing to add a new fee for a business license change of address application fee. In the past we have not charged for this service. This fee would cover the cost of staff time and materials to process a new business license application when there is a change of address during the year. Section 1.m is being proposed to be added for lottery device fees. There was a recommendation made at the Budget Committee meeting by Chair Jensen that we review and look into increasing the fee that the city charges for state lottery machines. Currently the city charges a \$55 annual fee per amusement device. This is proposing to charge an annual fee of \$100 per lottery machine; all other amusement devices will remain at \$55. This particular fee was last looked at in October of 1998. Section 1.r. is the utility bill late fee. There is no recommended increase in the fee; we are just moving the fee from the Public Works Section of the fee schedule to the General Section, because the revenues that we generate from this fee are recorded in the General Fund. Section 2.g is the traffic violation surcharge fee. There is no fee increase being recommended. This fee was put in place last year and staff is requesting a change in the language to clarify when this particular surcharge is being assessed. This change was recommended by the Judge and Court Clerk. Section 6.c is the plan review fee. The city has, in the past, charged a fee for staff time for new construction plans for new residential construction at \$300 plus \$30 for each additional lot up to a maximum of \$2,000. This change is proposing that we add a fee specific to review of new non-residential construction plans at \$150 to recover the cost of staff time to review these plans. Section 7.d is the park vendor license fee. Staff is recommending that we eliminate this \$10 fee. Historically the cost to administer this particular program hasn't been covered by the fees collected. We are going to continue to process the permits so that we are aware of the vendors in the parks. The Budget Committee recommended that staff review the park use and rental fees to make sure that the fees are adequate. We aren't recommending any changes at this time because the Parks Advisory Committee is in the process of reviewing the issue of alcohol use in the park building and the fee schedule.

Councilor Ripma stated on the nuisance abatement, the fee is being proposed at \$100 and under the fiscal impacts it says it will be an increase of \$300 per year. Are there only three appeals per year?

Kathleen Leader replied yes. I apologize; I skipped over that item in my report. This is a new fee that we are proposing this year. It covers the staff time to process appeals that go through the system. Recently in the last year we have had a surge of these types of appeals of three or four a year.

Councilor Ripma stated of all the proposed changes this is the only one that troubles me. Nuisance abatement is such a divisive issue. People get cited and then to turn around and charge them \$100 to appeal it and if they win they are out \$100.

Kathleen Leader stated in talking to our Code Enforcement Officer our hope is to alleviate these appeals before they even come to court. In the last three of four cases that we have had in the last year there was a feeling that if they would have been in contact with the city earlier on in the process the appeal probably wouldn't have even been filed. This is a means to try to get some communication between the city and the individual on the front end before it gets to the level of an appeal.

Councilor Ripma stated so the theory being that if the appeal is \$100 they won't just jump into and appeal it.

Councilor Thomas asked how many business license change of addresses do we process in a year?

Debbie Stickney replied I don't have that number with me; it is probably less than 25 a year. The reason behind the proposed fee is that we have had to change our process due to the issue that arose in Fairview regarding the uses of buildings. We now need to have the building department review the applications when there is a change of address for a business to make sure that the zoning matches the use and that the building was built to handle the type of use. We also have to make sure that Gresham Fire is notified of the change and they need to inspect the building. This fee is being proposed to cover the cost of staff time to process the change of address applications.

Mayor Thalhoffer asked is there a rationale for increasing the state lottery devices to \$100?

Kathleen Leader replied the fee covers staff time in tracking the different types of devices and the location of the device in the city. There has always been a nexus related to those certain types of amusement devices with loitering and the additional police or city services to those locations.

Councilor Kyle stated I have a problem with the nuisance abatement. Could you tell me where that happens in the process?

Rich Faith stated when it comes to appeals of a nuisance abatement we have an independent hearings officer that is called in to conduct the hearing. We have a contractual arrangement with this individual so there is a cost to the city to bring the hearings officer here to conduct the appeal hearing. What occurs is the initial notice of the nuisance abatement is sent to the property owner and they are given 10 days in which to abate the nuisance. In the notice that they are given it outlines their appeal rights. Generally we don't expect someone to appeal it. Normally if they receive the notice and they feel that it may be in error they will contact Jack Hanna and they talk through it. In many cases it is resolved through conversation by granting an extension of time to take care of the problem. What we have seen in the last year is that the individual receives the abatement notice, read that they have appeal rights and decides to exercise those rights without even contacting the city. In fact one of the individuals contacted me first and asked for more time and I asked him if he had called Jack and he said he didn't want to do that, he just needed more time so he was going to appeal it. He did appeal it and we scheduled the appeal hearing where we had to spend 2 hours dealing with a simple request of needing more time. We had almost the same thing

happen a month or two later. Again, the question that was posed to the individual when they appeared before the hearings officer was why didn't you contact Jack to request more time. His response was that if the city was going to send him a registered letter and tell him that he has a nuisance he was going to exercise his right to appeal it. The city is out a minimum of \$100 just to have the hearings officer come in to deal with cases that could have been dealt with if they had just contacted Jack.

Councilor Kyle asked when a nuisance abatement is issued is it in the form of a citation?

Rich Faith replied no.

Councilor Kyle stated I am curious about the language that is included in the notice. Is there language included that says if you feel like this is in error please contact us?

Rich Faith replied we use a standardized form that provides language about who the notice is being issued to, the location of the nuisance, the specific citation from the Code in terms of what the nuisance is, what needs to be done to correct it, the date by which it needs to be corrected and the appeal rights. Jack's contact information is also provided on the notice.

Councilor Kyle asked is this the same type of notice that would be issued to someone for putting a political sign in the right-of-way.

Rich Faith replied it could be.

Councilor Kyle stated when I was campaigning for council somebody took a sign home and put it where they shouldn't have and they were very intimidated by the notice they received. I don't believe that it gave information about calling to let the city know that it had been removed. I am curious about the language in the notice. I am not going to support this. I question whether or not there is another method to resolve this. I have looked at some of those notices and they really are frightening or threatening.

Councilor Gorsek asked in Section 3.b.b., which is the Measure 37 fee, what is the logic of the \$2,300 fee?

Rich Faith replied as I recall when the Measure 37 ordinance was adopted there was a stipulation that there would be a fee established by resolution. We looked around and checked with other communities that had adopted or were in the process of adopting a Measure 37 ordinance and asked what their fees were and they pretty much ran the gamut. We made a conscious decision to go with the higher end. \$2,300 was the fee that another community was charging, I don't recall which one that was now, but we felt if another community was going to impose that fee we would do the same.

Councilor Ripma stated on the nuisance abatement, after hearing staff's explanation I am satisfied with it.

Councilor Thomas stated I have to agree with Councilor Kyle at least on the wording of the nuisance abatement notice, especially from a customer service point of view. I understand it

needs to be firm enough so that they understand that it needs to be dealt with, but I am not sure adding a fee of \$100 to appeal it is very customer friendly. The \$100 fee concerns me. If the language in the notice is threatening and then you ask for \$100 more, that just adds to the threat and I am not sure that I like that.

Rich Faith stated your feeling or opinion is that it is threatening; my reading of it is it is factual. It provides factual information in terms of location, name, what the nuisance is, time period to correct it and the appeal rights.

Councilor Ripma stated this probably deserves a better explanation. Jack Hanna should be here and maybe we should see a copy of the notice before we adopt this new fee.

Mayor Thalhofer stated I would like to see the notice. I have no problem with stating the facts. Does the notice include a statement to call Mr. Hanna to discuss the issue?

Rich Faith replied I can't answer that.

Mayor Thalhofer stated I have no problem with stating the facts as long as they know that they can call the Code Enforcement Office to talk about the notice. Maybe we should look at the actual wording. I have no problem with people getting intimidated; the police intimidate people all the time with tickets.

Council agreed to hold a work session to discuss this.

Councilor Canfield asked regarding Section 3.b.b the Measure 37 application fee, is it true that someone filing a claim is not required to follow city procedures, within a certain period of time they can go straight to circuit court and not pay this fee?

Rich Faith replied it is my understanding that if someone refuses to pay the fee that we would probably still have to process the application.

Councilor Canfield asked but they would not be required to pay the fee?

Rich Faith replied according to our ordinance they are required to pay the fee.

Councilor Canfield stated but according to Measure 37 they are not required to follow those procedures, is that correct?

Rich Faith replied I think that is a legal issue that is still being debated. I don't know that there has been any kind of official ruling on that. I am not sure how other jurisdictions are dealing with that.

MOTION: Councilor Ripma moved to adopt the resolution establishing and revising specific fees and charges and rescinding Resolution No. 1767 and 1802 with the following amendment: delete item 5.f – Hearing Fee of \$100 for an appeal of a nuisance abatement citation. Seconded by Councilor Gorsek.

Councilor Gorsek stated with the exclusion of the hearing fee for a nuisance abatement I think these fees make sense.

Councilor Thomas stated I agree with discussing the hearing fee at a work session and I also agree with the removal of the \$10 vendor fee this is worthy of support.

Mayor Thalhofner stated I agree.

VOTE: Councilor Canfield – Yes; Councilor Kyle – Yes; Councilor Gorsek – Yes; Councilor Ripma – Yes; Councilor Thomas – Yes; Mayor Thalhofner – Yes.

Motion Passed Unanimously.

9. MOTION: A motion to direct staff to bring forth a resolution to define “impervious surface area” as only the area which drains to a City storm sewer system.

Jim Galloway, Public Works Director stated this is being brought to the Council as directed by Council at your May 23rd Work Session. The city has had a storm water system development charge (SDC) in place since 1991. That SDC is imposed upon new development that connects to or uses our storm sewer system. The basis for the charge is the amount of impervious surface area created by the new development. We recently had a situation where a development came in and indicated that they were going to be sending zero amount of the storm water runoff from their property into the City’s system and asked if they would still be required to pay the SDC for storm water. We took a look at the Code and consulted with the City Attorney and determined that the wording and interpretation of the ordinance was that if there was no water coming from the site they would not have to pay a system development charge because they were not connected to the system. However, if they were connected to the system, even if it is only a small amount of the storm water runoff, they would pay the full amount of the system development charge for all of the impervious area even if all of that area did not drain into the City’s system. We gave that some thought and wondered if perhaps that was the way we wanted to implement that and brought it to you at a work session for discussion. The purpose of having this on tonight’s agenda is to simply see if there is consensus among the Council to bring this back for a formal discussion and a possible change to the Code. Because this would be a potential change in the methodology of our SDC, state law requires us to give a 90-day notice prior to having that hearing.

Councilor Kyle asked I am wondering if the change of this definition will have an affect on whether or not somebody is allowed to park an RV or boat on a grassy spot without having a gravel base? Are we changing the definition throughout the code? We had a discussion a couple of years ago and we changed the language so that you couldn’t park a boat in your yard and we required that they have a proper surface for that. I am wondering if we are changing the definition?

Jim Galloway replied no we are not. If there is a requirement elsewhere in the Code that someone must put down some type of hard surface for the parking of an RV or boat, that

would not be changed by this action. This only discusses how you compute the amount of the charge based on the amount of impervious area.

Councilor Gorsek asked how hard would it be for your staff to determine a standard for this?

Jim Galloway replied it probably wouldn't be too difficult to come up with a generalization. I think the way we would probably address this for commercial or industrial development is generally the engineer that is putting the project together for the developer or property owner gives us his calculation. We look at that and if it looks fairly close we are probably not going to spend a lot of time on it. We don't have to do a calculation for single-family homes.

Councilor Gorsek asked in your opinion are you looking for a change or do you like it the way it is?

Jim Galloway replied we came forward with this recommendation to consider a change. Our thinking was that it would be a little bit fairer. There were some on the Council that raised an issue, and it is possibly a valid one, that there is probably more staff time involved if we make the change than there is now and there may be folks who paid a higher amount in the past who may come in ask for a refund.

Councilor Gorsek asked this came about because of the development on Stark?

Jim Galloway replied the Tonkin Honda Dealership. They came in and raised the issue that is a fairly significant monetary issue for them. Based strictly on the amount of impervious surface area that they have I believe they would have been charged an SDC for storm water in the neighborhood of \$50,000. They have indicated that they will not be sending any storm water into our system. They have an infiltration pond that they intend to capture their storm water in. They raised the question of why should we have to pay. After talking to the City Attorney and looking at the wording of our Code she felt we should not be charging them.

Councilor Gorsek stated this really wouldn't impact us because if it is not in our system we are not paying any extra to take care of that water.

Jim Galloway replied there are a variety of arguments that I have heard. One is that a development on a particular piece of property benefits from the city having a storm system in two ways. One, to take the water off of your property that you generate. The second is flood protection because our system is taking the water from your neighbor or the property upstream from you that keeps you from being inundated. So I have heard an argument made that you kind of benefit in two ways, so even if we don't take any of your water you are still deriving some benefit from the city having a storm water system.

Councilor Gorsek stated so in that case you are a free rider. You see a lot of these swales; do we have any standards in terms of the garbage and oil that collects in those?

Jim Galloway replied we do have provisions for oil. It has been required for a number of years that storm water systems have some type of water quality facility; probably one of the more common ones is some type of a filter device. Where you have an open swale and it

becomes a collection for wind-blown debris, we don't have a real standard for that. On the ones that the city maintains we try to clean them on a periodic basis.

Jim Galloway stated I have new information since the work session. We contacted nine cities that we use for comparison of our SDC rates, two of the nine don't charge a storm water SDC, the remaining seven all do charge based on the amount of impervious area and do not either reduce or eliminate that charge if they are not hooked up or if they infiltrate or do something else.

Councilor Ripma asked so none of the other jurisdictions that charge an SDC for storm water provide an exemption of the type that we are giving to Tonkin?

Jim Galloway replied that is correct.

Councilor Ripma stated so Tonkin won't be contributing \$50,000 to our SDC fund because they have promised that none of their water will ever enter our system that the rest of us have paid for. If any water should end up in our system due to an error in engineering or a miscalculation, will they then be forced to pay?

Jim Galloway replied certainly if in the future they make a change to their system that changes their circumstance, yes we would do something.

Councilor Ripma stated I am talking about what if in the future it proves that they are actually contributing storm water and the rest of us have to deal with it.

Jim Galloway stated I would want to talk to the City Attorney to see if we could do something about it.

Councilor Ripma stated I think before we go forward we ought to answer that. If drywells end up being prohibited will they then have to pay if they are forced to connect?

Jim Galloway replied yes.

Councilor Ripma asked would they pay at the current rates?

Jim Galloway replied it would be the rate at the time they connect.

Councilor Ripma asked has anyone else been given a complete exemption like Tonkin has?

Jim Galloway replied no.

Councilor Ripma asked since the adoption of the SDC fees for storm water, everyone who has had impervious surface has been forced to contribute to the storm water SDC?

Jim Galloway replied I believe that is correct.

Councilor Ripma asked if we go forward, are we addressing the issue of refunds at all, or is that not part of it?

Jim Galloway replied I think there are two components to that. I think from the legal prospective, if we make any change in the policy I don't think that automatically entitles anyone who built under our previous policy to get a refund anymore than if we adopt a new fee that we can go back and charge everyone who built and didn't pay such a fee. From a legal prospective I don't think that is a requirement. There is the public process and the public perception issue that you have to deal with.

Councilor Ripma asked if we open this can of worms could single-family home owners seek a refund?

Jim Galloway replied if there is a home build today under our current code where they could make the affirmative case that all of the water is retained on site I believe that the interpretation from our City Attorney is we should not charge them an SDC. I am not aware that we have any situations like that. No one has ever asked. As to whether someone in the past who did pay but feels they shouldn't have is entitled to a refund, legally I don't think so but there is a public policy issue the Council would need to deal with.

Councilor Thomas stated personally I don't think we should make any changes. The thing that concerns me is that even though the water is being kept on-site, draining all that impervious surface runoff into one spot in the ground could adversely impact what we already have in the city for drywells. So in essence even though it is all being retained on their site, they could still have an impact on the city. Maybe they should pay unconditionally.

Jim Galloway stated even though I didn't mention that as an option, I guess that is the other option. One option I mentioned was leave things the way they are now as our attorney has interpreted it. The other option was to only charge for the amount of impervious surface that drains to the city's system. I guess the other option is to change the ordinance to require payment for the full amount of impervious surface area even if you are not connected to the system.

Council consensus was to make no changes to the current code.

10. STAFF COMMUNICATIONS

None.

11. COUNCIL COMMUNICATIONS

Councilor Canfield and Councilor Ripma welcomed the Mt. View Market to the business community.

Councilor Kyle asked folks to mark their calendars for the Troutdale Bite and Bluegrass on July 22nd at Mayors Square.

Councilor Gorsek stated on Stark Street heading west from Troutdale Road at the interchange for the college there is yellow caution sign that indicates that you need to go either straight or turn left, that is now a 4-way interchange. Councilor Gorsek asked Mr. Galloway if we could ask the County to install the correct signage.

Councilor Thomas stated next Monday at 6:45pm the Mt. Hood Cable Regulatory Commission will be holding a public hearing on the cable privacy policy (personal identifiable information) in regards to what the cable companies can keep, distribute and how they use the information they collect from their customers. There is a Seattle ordinance that does a great deal to help protect the information and states how they can use the information and that has withstood the test of the courts. The Commission, after receiving public testimony, would then like to prepare a resolution to bring back to the cities for adoption.

Mayor Thalhfer stated I attended a budget hearing at Multnomah County on Monday, June 12 to speak in opposition to Multnomah County's proposal to discontinue the business income tax revenue sharing IGA, which would have an impact of approximately \$500,000 a year for Troutdale.

Councilor Thomas suggested that the City send a letter or resolution stating our position.

12. ADJOURNMENT:

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

Meeting adjourned at 9:54pm.

Paul Thalhfer, Mayor

Approved September 12, 2006

ATTEST:

Debbie Stickney, City Recorder