

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

Tuesday, November 14, 2006

1. PLEDGE OF ALLEGIANCE, ROLL CALL, AGENDA UPDATE

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

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

ABSENT: Councilor Gorsek (excused).

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 Dave Nelson, Chief of Police.

GUESTS: See Attached.

Mayor Thalhofer asked are there any agenda updates this evening?

John Anderson, City Administrator replied yes. We would like to add an item after Agenda Item #5, which would be an executive session regarding litigation.

2. CONSENT AGENDA:

2.1 ACCEPT MINUTES: September 12, 2006 Regular meeting, September 26, 2006 Regular meeting, and October 3, 2006 Work Session.

2.2 RESOLUTION: A resolution authorizing the Mayor to sign the grant acceptance from the Oregon Department of Homeland Security in the amount of \$16,610.00

2.3 RESOLUTION: A resolution extending the term of a Temporary Revocable License to DR Horton for the temporary placement of a construction management trailer adjacent to the Morgan Meadows water quality swale.

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

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

Marty McMahan voiced concern about the amount of time it is taking to get an RFP out on the former Sewage Treatment Plant site.

4. PUBLIC HEARING / ORDINANCE (Introduced 9/26/06): An Ordinance adopting the Troutdale Parks Master Plan and repealing Ordinance No. 635.

Mayor Thalhofer opened the public hearing at 7:10pm and read the ordinance title.

Rich Faith, Community Development Director stated I would like to introduce Bethany Johnson who is with the Community Planning Work Shop from the University of Oregon. Bethany served as our consultant on the Parks Master Plan over the last year. As you recall we introduced this ordinance to you on September 26th and held a public hearing. At that hearing Council suggested some revisions to the document; in particular the Council focused on tables in the proposed Plan that listed future projects and thought that the project list should be all inclusive and directed us to include some projects that were not listed. The revised ordinance before you this evening includes some additional acquisition and improvement projects. The first addition is the purchase of the Glenn White property to construct and expand the parking area for Glenn Otto Park. The second is the construction of the new Parks and Facilities Maintenance Operation Facility that we are looking at locating on the west side of Columbia Park. The third item is construction of the Riverfront Park and Plaza on our former sewage treatment plant site, which is part of our Riverfront Renewal Plan. Other important decisions made at the September 26th hearing include: 1) Based on the consultants report and recommendation the Council decided not to go forward with pursuing a parkland dedication ordinance. 2) There was also some proposed language that came out of the Planning Commission's recommendation to modify language with regards to Woodale Park and the Council decided not to include that change in the Plan. 3) In response to testimony received from a citizen with concern that adoption of the Parks Plan might conflict with Statewide Planning Goal 5, Council asked the City Attorney to look into that. The City Attorney and I both reviewed that and in my written staff report before you this evening I have provided the reasons why we feel that adoption of this Plan does not violate any part of Goal 5. In addition, as the consultant and I were looking over the document one last time we realized that we had some discrepancy in the numbers relating to future parkland needs. We are basing parkland need on a projected buildout population of about 21,400. What we have shown in some places in the document is that translates into the need of an additional 40.59 acres of parkland to meet the level of service that we have established. But in other areas of the document we noticed we had a figure of 45.34 additional acres. The reason for this is if you break out the particular types of parks, in particular community parks and neighborhood parks, and apply the level of service, it actually comes out to a projected need of 45.34 acres because we have a surplus of mini parks at this time so the number is reduced by that 4.75 acres. So we have two different numbers throughout the document and we felt it would be worthwhile to add language to explain that discrepancy. The final minor clarification we made in the document relates to Hood View Park, which is the name that we have given to the proposed park on the Strebin Farm site. Because it recently came to our attention that there is a charitable trust that has already been set up and some of that land has already been earmarked for dedication to the city, we felt it would be beneficial to include that information in the document.

Councilor Kyle stated when we revised the parks system development charges they were to be increased in steps. Are we at the top step now?

Rich Faith replied yes.

Councilor Daoust asked if we end up putting a road through the middle of Depot Park would those projects listed on page 6.9 still be valid?

Bethany Johnson replied these projects were determined before we knew what was going to happen with urban renewal. These numbers reflected not having a road through there. However, thinking about the road configuration and how the park interacts with the road will be important. Do you want to keep it as a park and if so, you probably do need some enhancements. There will need to be some discussion about how the park and road interact.

Councilor Ripma asked are the Riverfront Park improvements listed in detail in this document anywhere?

Rich Faith replied no.

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

Bill Ormond stated my property adjoins the pathway from CP Park into the shopping center. The Parks Plan calls for a reconsideration of the closure of that pathway. I understand that because of misuse it was closed several years ago. From my standpoint, I don't see that there is any changed circumstance that would warrant a reevaluation of that closure. I have observed a man jumping over both fences in order to hand a package to a minor who was waiting in the park. I have had to clean up empty beer cans and food wrappers that have been tossed over the fence from the areas that are still open. My master bedroom is only 5' away from that walkway. If the path were to be reopened and become a gathering place for young folks, it would become a nuisance for me and diminish the quality of life that I have. What we would like to see is either not have the reopening of this path reconsidered or if it is reconsidered we would like to not have it reopened.

Larry McWilliams stated I am also here with regards to CP Park and the possible reopening of the pathway through the park that goes to the Troutdale Commons retail center. My wife and I have lived in Troutdale for 13 years. I want to thank this Council for always providing the citizens of Troutdale an opportunity to voice concerns on issues that come before you.

Larry McWilliams shared some excerpts from his statement made to the Council back in October 2003 when the Council eventually decided to close the path in CP Park. His statement from October 2003 included testimony about how dangerous the secluded path is becoming, the drug activity that takes place, other undesirable activity, gang activity, litter, shop lifters using the path as an escape route, transients sleeping on the path, and how he urged the Council to take action on this issue.

Larry McWilliams stated as of October 2006 peace and tranquility has settled in on Troutdale's smallest neighborhood park. Families have returned to the park to play. We have had no fires being set, no drugs, no transients or other undesirable activity on the path. To reopen this path would be like revisiting the past. I urge the Council to stand by your previous determination that this path is unsafe and does not belong in a community.

Councilor Thomas asked do you have any suggestions as to what we could do with this property?

Larry McWilliams replied that is a tough call because it is closed in on three sides as far as visibility goes. I don't know what to do with it other than keep it closed; it really isn't good for anything.

Bill Ormond stated if the City would care to dispose of that property, I would consider purchasing it from the City.

Councilor Daoust asked there is another trail on Charity Court that provides another entrance to Albertsons and that is still open isn't it?

Bill Ormond replied yes, however there is a lot of liter on that path.

Terry Satterlund stated my backyard faces the park. I do take the other route, Charity Court, to get to the grocery store but it is flooded if it rains and the properties adjoining that route are full of liter. I sit and watch that section of the trail that was closed off and it is now populated with wildlife. It is the one place in the park that can't be reached by people.

Larry McWilliams stated one of the differences between the path on Charity and the trail in CP Park is that you can visually see all the way through the path on Charity but at CP Park it is like looking at a dead end alley.

Councilor Kyle asked do you feel safer using the path on Charity?

Terry Satterlund replied we were out of the country and were renting out our home for the last 17 years, but since we have been back we have felt very safe. We did receive letters from our renters over the last 17 years telling us about young people taking boards off of our fence and conducting their business behind our bushes. We had to remove trees and leave it open just to protect our renters.

Councilor Thomas asked with regards to the letters you were receiving from your renters, did they have the same issues/concerns about the trail and park prior to the Albertsons being built?

Terry Satterlund replied no.

Sam Paskett stated I live on Faith Court and I testified before you three years ago. I don't see any good reason to reopen this trail. I think the park is better off now than it has ever been. I haven't seen any drug paraphernalia in the park and I haven't seen as much damage to the play structures. Personally I think it is better to leave it closed.

Bruce Satterlund stated I live on Hope Court. We have been gone for the last 17 years but when we had the house built in 1981 the path led to the cabbage patch field and for eight years we watched our kids ride their bikes up and down that path. We did receive letters

form our renters after we left letting us know that there were problems. When we returned then we started asking why the path was closed and that is when we started hearing what had happened. Things have been real peaceful since we have returned.

Councilor Thomas asked Rich, have we had any recent requests to reopen this trail?

Rich Faith replied I am not aware of anyone that has come forward in a formal matter requesting that the trail be reopened. I do know that there have been comments made from people who used it when it was open that have expressed their dissatisfaction that it is no longer available to use. Those have not come directly to me; I have heard that through Clyde Keebaugh and members of the Parks Advisory Committee. We have a member of the Planning Commission who has expressed her disappointment that it isn't open. There are clearly two sides to this issue.

Councilor Thomas asked do we have any maintenance issues there?

Rich Faith replied yes it is a maintenance issue simply because debris gathers in this area and gets trapped. The parks crew just has to make the extra effort to get in there and clean it up.

Mayor Thalhoffer closed the public hearing at 8:00pm.

MOTION: Councilor Daoust moved to approve the ordinance adopting the Troutdale Parks Master Plan and repealing Ordinance No. 635. Seconded by Councilor Thomas.

Councilor Daoust stated Troutdale has an excellent parks system already. These master plans, both the one we did in 1995 and this one, are the backbone behind having a good system. I was involved in the 1995 Parks Master Plan and now eleven years later we are redoing it and I see some good progression with how far we have developed these master plans from the 95 Plan to this Plan with regard to looking at what facilities we need and looking into the future. This is a good Plan and it meets the City's desired level of service with different types of parks. I assume that the Council agrees with all of the acquisitions and improvements listed in this Plan. I really appreciate the Parks Advisory Committee and their role in this Plan. Regarding the reopening of the CP Park trail, the Plan says that we would simply reevaluate the reopening, the Plan doesn't say to reopen the trail. So I don't think we necessarily need to change the Plan unless the Council wants to do that tonight. The only way we could change it tonight would be to just drop the last sentence off of page 5.2 that says that the Parks Advisory Committee recommends that the trail closure be reevaluated and that measures to improve its visibility and public use be implemented so that the trail can be opened once again. If the Council wants to take care of it tonight we could easily do that.

Council agreed to take care of it tonight.

MOTION TO AMEND: Councilor Daoust moved to amend the motion to include the removal of the last sentence on page 5.2 under CP Park, which reads, “The Parks Advisory Committee recommends that the trail closure be reevaluated and that measures to improve its visibility and public use be implemented so that the trail can be opened once again”. Seconded by Councilor Thomas.

Councilor Ripma stated I agree with everything that Councilor Daoust has said. The Parks Master Plan is a guide or a wish list. Whether we agree with all of the acquisitions listed or details, those can be decided case by case when the time comes. We have an ambitious program for parks and that is a Troutdale tradition.

Mayor Thalsofer stated I agree with the motion as amended.

Councilor Canfield stated it is a comprehensive ambitious plan. It is kind of a wish list. I want to thank the residents of CP Park for informing us of the results from closing the trail.

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

Motion Passed Unanimously.

5. DISCUSSION: A discussion on withdrawing from the Gresham Fire Advisory Committee.

John Anderson stated the City of Troutdale, Fairview and Wood Village contract for fire service with the City of Gresham. The City of Gresham has a City Council Fire Advisory Committee and in the past they have invited each of the three cities to nominate someone to represent their city to be appointed to that committee. That has been in place for many years. About a year ago we entered into a new 10-year contract with Gresham for fire service and that contract established a more rigorous User Board. The User Board has members appointed by the three city councils to represent the interest of the cities. As a result of that there is some overlap in those functions and there is a recommendation from the staff at the City of Gresham that we really don't need to have two sounding boards for the three cities. We took that recommendation to the User Board and they concurred with the recommendation. What we are bringing forward to you is a recommendation that the City of Troutdale indicate to the City of Gresham that we no longer need that representative on their Council Fire Advisory Committee.

Councilor Thomas stated as a member of the Fire User Board one of the things that the Fire Chief from Gresham promised us is that we would receive the same information that would have been provided to the Gresham Fire Advisory Committee. The purpose of Gresham's advisory board is more of an advisory to their council and not so much as an advisory committee to the other three cities involved.

John Anderson stated I did have an opportunity to talk to Mr. Doolittle, who is Troutdale's current representative on Gresham's committee and he saw no reason not to make this change.

MOTION: Councilor Thomas moved to formally withdraw from the Gresham Fire Advisory Committee. Seconded by Councilor Canfield.

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

Motion Passed Unanimously.

City Council Executive Session:

Mayor Thalhoffer stated we will now be going into an Executive Session which is being held under ORS 192.660(2)(h) – Current Litigation or Litigation likely to be filed. Only representatives of the news media and designated staff are allowed to attend. Representatives of the news media and all other attendees are specifically directed not to disclose information that is the subject of the executive session. No final decision will be made in executive session.

Mayor Thalhoffer recessed the Regular City Council meeting to go into an Executive Session at 8:10pm.

Mayor Thalhoffer reconvened the Regular City Council meeting at 9:05pm.

MOTION: Councilor Ripma moved to approve the DA Grey conceptual settlement as set forth in the memorandum dated November 10, 2006 from Edward Sullivan and directing staff to proceed in implementing the same. Seconded by Councilor Kyle.

Councilor Ripma asked the City Attorney, is it okay to speak to what is going on?

Marnie Allen replied yes.

Councilor Ripma stated this is a settlement proposed for a piece of property next to the Sedona Park subdivision. If this settlement goes through the way that we are proposing, the condominium development (Tyson's Place) that was proposed and approved by the City to go there will be reduced to up to nine single-family homes instead. Access to the development will be on Edgefield. We were unable to get the County to agree to allow access onto 257th. The City has agreed to contribute \$300,000 to DA Grey for their loss in profits from the reduction of a 19-unit condominium to 9 single-family homes. There are other details but that is the essence of the settlement proposal. For the long-term benefit to the entire city this is a very good settlement and I favor approval. We were faced with a high density condominium development being accessed only through a low density single-family neighborhood. Neighbors raised serious objections to that, and rightly so. We tried very hard to get

access onto 257th but we were unable to secure access to this site, which is right off of 257th. The property owner was actually permitted by law to have access through this neighborhood subdivision. The City will be much better off having a lower density development that is compatible with this neighborhood.

Councilor Kyle stated I favor this motion and the settlement agreement.

Councilor Daoust stated I also favor the motion and the settlement agreement. The Council should pursue asking the Sedona Park residents if they are willing to contribute towards part of the \$300,000 to help satisfy their concerns and to help the City work this out. I would hope that the Sedona Park residents recognize and work with us on this and help pay the \$300,000.

Mayor Thalsofer stated I favor the motion. I was very disappointed with Multnomah County for taking the stance they have in this situation and not being at all flexibility to help us solve this problem with a safety issue in the neighborhood. I think that the relationship between the City and Multnomah County will probably never be the same, at least as far as I am concerned. This is a tough decision for the Council but some of us, over the years, have made decisions to prevent existing neighborhoods from having, what we consider, a bad encroachment on the part of a developer. This is just another case where we are voting to make livability number one in Troutdale. That is something that I care deeply about.

Councilor Canfield stated I could not be more against this if I tried. This proposed settlement is for \$300,000 to basically compensate DA Grey so that he will build single-family homes instead of condominiums. The reason for this is because the City Council voted to exclude access onto Edgefield, through an existing neighborhood which would essentially land lock this property. The neighborhood itself was concerned about the traffic except their objection to traffic disappeared when we mentioned single-family homes. The other thing that really bothers me about this is this City Council has preached before, especially during Measure 37 discussions, about the sanity of land use laws and how it is important to plan and how it is important for property owners to obey the zoning to the letter and that there should be no exceptions to that. So it is funny in this case when the majority of the City Council voted to violate its own zoning laws, one of which prevents access onto 257th which is what they wanted the County to allow. One of my esteemed colleagues claims that he is disappointed in Multnomah County, but Troutdale's own zoning prohibits access to this development on 257th. What we are actually paying for here is not a benefit to the community of Troutdale and it is not any public benefit for the citizens of Sedona Park, what we are paying for is for violating our own City laws. Even though I am going to vote against this, it is going to pass but I have to say that I have never been more disappointed in my fellow City Councilors since I've been here. To give you an example of other items in the General Fund, our Information Services budget is only \$241,000, our Finance Department works on \$490,000. \$300,000 is about three-fifths of that. This settlement is 2½% of our entire General Fund budget, for what? For the benefit of 15,000 folks that we are suppose to represent, no. For the benefit of even 50 households, no, because the traffic will be about the same. There is no benefit, there

is only a payment for violating our own laws. I also think that we should ask or insist that the residents of Sedona Park pony up to this. They are the few residents that are going to benefit from this and are the ones who should pay for part of this. If I lived in the neighborhood I probably would have asked for the same thing however, the City Council should have had the courage to tell the neighborhood no, the developer has the right to build this development the way it is proposed. The land had been zoned that way for a minimum of three years without any complaints from the neighborhood. The law is the law and we all took an oath that we are supposed to uphold the laws of the City of Troutdale but apparently when it comes to some things like this then those oaths don't mean a thing.

Mayor Thalhofer stated that is your version of the facts, and your assertion that we violated our own code...

Councilor Canfield stated I am not suggesting that it is anybody's opinion but my own.

Councilor Ripma stated when I voted the way I did to approve the subdivision I firmly believe that we did not violate our own law, but that is my opinion. I think we all have our opinion. DA Grey decided to appeal to LUBA and they had another opinion. I don't want anyone to think that I thought we were violating our own law.

Councilor Canfield stated if this was appealed to LUBA why are we considering a settlement?

Councilor Ripma stated it is a good settlement.

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

Motion Passed 4 - 2.

Marnie Allen stated I would like to clarify for the record that litigation had been pending for some time now and there are deadlines which prompted the City to have to act in a very quick manner. We received the proposed settlement on Friday, November 10th, which was a holiday and the agenda for this evening had already been published and we could not add this as a separate agenda item since it had already been published so it was added today and the media was notified of the executive session in accordance with the law. I just wanted to clarify that it is not the City's practice to add something to the agenda like this without notice, but the circumstances dictated it in this case.

6. STAFF COMMUNICATIONS

John Anderson informed the Council that the City of Fairview discussed the issue of the three small cities reinstating a committee to look into the creation of a fire district and they decided not to participate in the committee. Would you like to go forward with only the City of Wood Village and Troutdale participating or would you like to reconsider your earlier decision to participate?

Council asked staff to schedule this discussion for a future work session.

7. COUNCIL COMMUNICATIONS

Councilor Kyle thanked the voters for supporting her re-election.

Councilor Thomas thanked the voters for allowing him the opportunity to serve another four years. He also congratulated the Reynolds football team for making the playoffs.

Mayor Thalsofer stated Multnomah County Library Levy passed and again we were promised a Troutdale library. We have been working on this since the last levy when they promised us we would have a library in Troutdale. We will keep on top of this to make sure that we get a library this time. It will be up the City Council to find a location for the library.

Councilor Canfield congratulated Councilor Kyle and Councilor Thomas on their re-election.

8. ADJOURNMENT:

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

Meeting adjourned at 9:29pm.

Paul Thalsofer, Mayor

Approved February 13, 2007

ATTEST:

Debbie Stickney, City Recorder