

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

**Tuesday, June 10, 2003**

**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 Kight, Councilor Kyle, and Councilor Daoust.

**ABSENT:** None

**STAFF:** Erik Kvarsten, City Administrator; Kyra Williams, Finance Director; Jim Galloway, Public Works Director; Rich Faith, Community Development Director; Marnie Allen, City Attorney; and Debbie Stickney, City Recorder.

**GUESTS:** See Attached List.

Mayor Thalhofer asked are there any agenda updates?

Kvarsten replied we have no updates this evening.

**2. CONSENT AGENDA:**

**2.1 Accept Minutes:** May 13, 2003 Regular Meeting.

**MOTION:** Councilor Daoust moved to adopt the consent agenda. Seconded by Councilor Kyle. Motion passed unanimously.

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

Don Jones stated I have lived in Troutdale for 28 years. I am in the business of inspecting appliances for lint buildup. Most of the nursing homes that I go into have residential dryers. I will go in and inspect the flues for lint buildup. I am asking the Council to consider an ordinance that regulates inspections of dryer vents in nursing homes, daycares and residential homes before the homes can be sold.

Jim Hobuss asked the Council to consider an ordinance requiring a bleach and water wash on all new construction to prevent mold. The majority of the homes that I test are construction defects regarding mold where the construction materials have gotten wet and that allows the mold to grow.

**4. MOTION:** A Motion supporting the Transportation Management Association.

Diane McKeel, Executive Director of the Troutdale Chamber of Commerce stated last July the Troutdale Area Chamber of Commerce received a grant from Tri-Met to begin a feasibility study on the transportation issues that face the Troutdale area. We have formed a group and have been working on the study for the last year and it is now time to move on to the next step, which is the formation of a Transportation Management Association. We are here tonight to speak to you about the feasibility study and our plan to move on to the next phase of the project. I am going to let Rick Williams, our project manager, take you through the summary and the process that we have gone through.

Rick Williams stated I work for a development company in Portland and I am also the Executive Director of the Lloyd District Transportation Management Association (TMA), which was the first TMA to be established in the State of Oregon in 1994.

Rick Williams reviewed the Feasibility Study Executive Summary and Decision Draft documents (copies are included in the packet).

Councilor Gorsek asked what is the final determination of the southern boundary?

Williams replied the original study area was downtown to the east, to the west to Fairview, the northern boundary is the north side of I-84 and the southern boundary is MHCC. As we began the Chamber also began discussion of a larger merger of Chambers that would include Fairview, Wood Village and Cascade Locks. All of a sudden the boundaries became flexible depending on the larger discussion of transportation. During the first year the boundaries would remain flexible.

Councilor Ripma asked the idea would be that the businesses within the boundary would fund this along with grant dollars?

Williams replied yes. The amount of money that we have to come up with can be from in-kind contributions or cash.

Councilor Ripma asked how do you get the businesses to contribute? Is it voluntary or is there a transit district formed?

Williams replied this will really be the decision of the stakeholders. The Clackamas Chamber looked at raising the membership dues because they had a large membership base. The Lloyd District and Gresham established business improvement districts where the owners of property voluntarily taxed themselves a fee that goes to the TMA to support the activities. In Washington County the Western Transportation Alliance imposed a voluntary head tax on anyone who joined the organization and they were blessed with Intel and Nike who have

thousands of employees. There are a lot of different ways to do it. We would hope that if Troutdale went forward it would join the community of TMA's in the region and pick and choose which strategies are best for them.

Councilor Ripma asked did the Port of Portland volunteer to contribute money?

Williams replied they have said they would consider being a member on equal standing with other businesses, but as far as a contribution above and beyond the membership fee, they probably would not.

Councilor Ripma asked the commitment from the city is to endorse the idea, there is no financial request?

Williams replied correct.

Councilor Thomas asked you stated that the group saw a need for urban renewal; do you know why?

Williams replied as we were talking about some of the big ticket items the group discussion was how could we as a group or we as a community bring leverage to the larger regional process. Urban renewal came up as an option where money would be available in the district and then the district might be able to move projects up higher on the funding list at the regional level with urban renewal dollars.

Councilor Thomas asked are economic improvement districts (EID) voluntary or are they assessed?

Williams replied by law they have to be voluntary before they can be mandatory. Any EID has to come forward from a business community to the city council with a petition from those properties within the boundary. 70% of the value of that property has to petition in favor of the district.

Councilor Kight stated on page 4 of the Executive Summary you have listed to support development of 242<sup>nd</sup> Avenue connector. Could you explain what that project is?

Rich Faith, Community Development Director replied the committee brainstormed a number of different projects that have been on the drawing board or are on the drawing board. This is one that has been considered in the past and perhaps it still has some merit.

Councilor Kight asked are you aware that this has been studied by ODOT and it has been mothballed. The 3<sup>rd</sup> bullet you list Exit 16B, are you aware that project was also killed by ODOT?

Williams stated these are the recommendations of the business group. The listing of the priorities was unaffected by the existing politics or decisions in the region. What was asked of the business community was what projects could be implemented that would improve the

business climate in the Troutdale area and these are the recommendations that they made. The discussion of whether or not these projects could get back on a list would be part of the first year process. Some of these projects will drop off during the next step of refining the action plan.

Councilor Kight asked why do you think that the Tualatin TMA failed?

Williams replied because they did not conduct the feasibility process in the beginning. They formed around the shuttle and the money for the shuttle was offered to the Tualatin Chamber and they were encouraged by the Transit Agency to form a TMA to manage the shuttle.

Councilor Kyle asked at what point did the Tualatin TMA fail, was it the first year?

Williams replied they had been in existence since 1997 or 1998.

Councilor Kyle asked what about Columbia Corridor TMA?

Williams replied they lasted about two years.

Councilor Daoust stated at our last 4 Cities meeting all four East County Cities said we need to prioritize our transportation needs together. Why would Metro want to obligate another grant for another TMA when Gresham has a TMA? Why not expand Gresham's TMA to include all of East County?

Williams replied I think that is an option. It is a matter of timing and also the question of like businesses having like problems. We may have that situation here. I think that direction might be explored in the first year.

Councilor Daoust asked do the TMA's compete with each other?

Williams replied for regional funding they can. The Lloyd District has a good relationship with the City of Portland and they contribute heavily to the TMA. We have the business improvement district and we have the \$25,000 regional commitment from Metro. That \$25,000 from Metro represents 25% of the Lloyd District's budget. Other TMA's will compete with each other for the money available at Metro if they are not doing well with the business membership funding.

Councilor Thomas asked how cooperative has Tri-Met been?

Williams replied they have been extremely cooperative with the TMA's. Tri-Met is the administrator of the grant. Metro gives the money to Tri-Met.

Councilor Ripma asked was McMenamens Edgefield a stakeholder?

Williams replied they were not.

Diane McKeel stated we invited McMenamins to be on the stakeholder group. There previous marketing manager was a member of the Chamber's Board and she was aware of what we were doing. Because of the changeover of personnel we never actually identified another person from there to come forward. When we sent the survey out asking for interest in knowing more about the TMA or being involved they returned it saying yes they wanted more information and wanted to be a part of the TMA.

Councilor Ripma stated I ask because the 242<sup>nd</sup> connector is a horrible project to the Edgefield complex and they were always actively opposed to it. Does our endorsement of this constitute an endorsement of the 242<sup>nd</sup> connector? That would trouble me.

Diane McKeel stated the document you are looking at came out of a brainstorming session. This doesn't mean that these are the ideas that will happen. We realize that as we go forward and build our stakeholders group that the ideas will be sorted out and there will be some that come to the top and some that will drop off.

Williams stated what we are asking for with the endorsement is for your input that the work group has answered the four questions and to endorse the grant request to Metro to begin the formation phase of a TMA.

Councilor Daoust asked will you go forward with the grant application whether you have our support or not?

Williams replied that would be up to the Chamber and the work group.

Councilor Kight stated I share Councilor Ripma's concern regarding the 242<sup>nd</sup> connector.

Williams stated I could take this back to the committee and let them know that the Council has a problem with that project and ask them to remove it.

**MOTION: Councilor Daoust moved to support the Transportation Management Association with the caveat that the Troutdale City Council wants the listing of the 242<sup>nd</sup> connector removed from the draft report. Seconded by Councilor Thomas.**

**Councilor Daoust stated we have a couple of councilors on transportation committees and we try our best to heighten the voice of East County when it comes to transportation needs but I think we need all the help we can get. If the business community is willing to step up and form a TMA, then more power to them. Gresham is two years ahead of us. I think we need to get the support of the business community and get on with additional support for transportation needs.**

**Councilor Thomas stated in addition to what Councilor Daoust said I think it is very positive for future business development here. By having a transportation plan in place when we get ready to develop the old treatment plant and the former Reynolds Metals Plan, that will give us a leg up on bringing businesses to our area.**

**Councilor Gorsek stated I think it is a great plan and we should go forward with it.**

**Councilor Ripma stated I also favor it for the reasons stated.**

**Mayor Thalsofer stated I favor it and I would like to see it go forward.**

**Councilor Kight stated I also support it. I serve on the Joint Policy Advisory Committee for Transportation as a representative for East Multnomah County, which put forward the money for the feasibility study so obviously I am in support of it with the 242<sup>nd</sup> connector removed.**

**Councilor Kyle stated I am also in support of this.**

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

**Motion passed unanimously.**

Mayor Thalsofer called for a 10-minute break at 8:22pm.

Mayor Thalsofer reconvened the meeting at 8:30pm.

**5. PUBLIC HEARING / ORDINANCE (Introduced 5/27/03): An Ordinance amending Chapter 3.08 of the Troutdale Municipal Code regarding Transient Lodging Taxes.**

Mayor Thalsofer read the ordinance title and opened the public hearing at 8:31pm.

Councilor Thomas stated I started looking at the transient lodging tax for those that stay longer than thirty-days for a means to help finance the services that we provide to those people that stay for a longer term. As we reviewed this at the last meeting, several concerns came up. One of those concerns was whether we should exclude the actual hotel/motels. What I would like to do tonight is present an alternate ordinance, which does exclude them. The reason behind that is so that we don't negatively impact them as far as being competitive in the market area.

Councilor Gorsek asked you indicated that you have proposed an alternate ordinance so that this will not effect hotels and motels, is that correct?

Councilor Thomas replied yes.

Councilor Gorsek stated basically you responded to the concerns of the folks from the hotels and motels that testified at the last meeting.

Councilor Kight asked the reason the hotels and motels are being excluded is because usually when they have people staying long-term it is because they are here on business

such as construction crews. That property already pays property taxes, versus an RV or Trailer which does not pay property taxes because it is mobile. Was that the concept behind this?

Councilor Thomas replied yes.

Mayor Thalhofler asked is there anyone here from the RV Park?

None

Mayor Thalhofler asked have they been noticed.

Councilor Thomas stated I checked with city staff and the RV Park, hotels and motels both locally and regional headquarters were notified.

Kyra Williams, Finance Director stated a point of clarification on who was notified. The owner of the RV Park and the person who prepares their transient lodging tax return was notified.

Mayor Thalhofler asked was the manager of the RV Park notified?

Williams replied the owner was notified I believe. The actual people that live in the RV Park were not sent notification because we do not know who is living there.

Mayor Thalhofler stated I am concerned about notification. I would hate to pass an ordinance and have people come in and say we didn't know anything about this.

Mayor Thalhofler asked the City Attorney, what would you suggest in a situation like this where it appears that the people who need to be noticed didn't get noticed. Some people were notified and others weren't.

Marnie Allen, City Attorney stated in terms of the legal analysis they received the legal notice that they were entitled to and maybe more than that. The city is not required to mail or deliver individual notice to everyone who is affected by legislative decisions. Instead the responsibility falls on the people in the city to review the published notice. In terms of the legal analysis, we believe there is not a problem going forward with the ordinance. As a matter of policy, if you want to decide to put this over to require more notice than what the law requires, you can certainly decide to do that.

Councilor Kight asked our legal obligation is to notify the people who are of record, the title owners to the property, is that right?

Allen replied no. Our legal obligation is to publish notice of the meeting and the agenda items that will be considered at this meeting in the paper.

Councilor Kight asked so our obligation stops with the publishing of this meeting in the newspaper?

Allen replied correct.

Councilor Kight stated so we have fulfilled that and then we took it to the next level and we sent notices to the RV Park, hotels and motels.

Williams read a list of the people that were mailed notices of the meeting (a copy is included in the packet).

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

Jutin Patel of Gresham Area Hotel Management and Troutdale Hospitality Group stated I am in support of the alternate ordinance.

Doug Walls stated I'm not really here to speak on this agenda item but I don't like the way that people are notified. I don't think it is too much to ask to send people certified letters and ask for Ms. Williams to bring you the return receipt to prove that they have been notified before you vote on any kind of tax.

Mayor Thalhoffer closed the public hearing at 8:50pm.

**MOTION: Councilor Ripma moved to adopt the Alternate Ordinance as set forth in our packet. Seconded by Councilor Daoust.**

**Councilor Ripma stated I think this alternate ordinance responds to a problem that was made clear at the last meeting. I also think this ordinance will take care of a long-standing problem that we have had. The original approval of the RV Park was meant for transient lodging as part of the tourist destination that Troutdale has become and we hope will continue to be. It hasn't worked out that way at all and this is very fair. I want to commend Councilor Thomas for his hard work on this to come up with a fair and creative solution.**

**Councilor Daoust stated I also want to commend Council Thomas for taking this on and actually crunching the numbers so we know what the affect is. It was one of the first things we talked about seven years ago when I came on this council. We have been struggling with the city supporting transients without collecting this tax. I think it is in the city's best interest to collect this transient lodging tax because the city provides the general services to them.**

**Mayor Thalhoffer stated I like the alternate ordinance but I have a real problem with no one being here from the RV Park. The last time this was before us, this room was full of people, tonight there is no one here and that makes me very suspicious that the people who are going to get taxed did not get noticed. They might have gotten the legal notice, but legal notice sometimes is not sufficient notice in some cases. I am not prepared to vote tonight. If I do vote, I will be voting no.**



Councilor Kight stated I am faced with the same dilemma as the Mayor. We can certainly justify the fact of imposing a hotel/motel tax on the people at the RV Park. It first came to my attention when I saw a school bus pull up and stop on Columbia River Highway and I couldn't understand why a school bus was stopping in that particular area and I noticed about three kids get off of the bus and walk into the RV Park. I thought that was strange since that was suppose to be transient population, people that are staying for less than thirty days and they leave. Little did I realize that there are people who actually live there. Certainly the tax is justified because you have a population of people who are receiving city services. I share the same concern that the Mayor has. I remember vividly this room being filled with people and to see that there is not one single person here I find rather odd. We published it in the paper and we sent notices. I am not comfortable with the fact that there is not one person here, which leads me to believe that the parties most affected didn't get notice.

Councilor Kyle stated I know the city has gone the extra step for notice and I just feel like the folks that live down there would be thrilled to be taxed to help support the services that they receive and that is why they didn't show up.

Councilor Ripma stated every person who stays in a hotel/motel in town is affected by this tax. The idea that you have to notify everybody who is going to pay the tax would disallow hotel/motel tax entirely. I think the fact that the room was full the other time was organized by the owner at the time. We have given adequate notice and the fact that they didn't choose to organize a protest this time could be taken in many different ways.

Councilor Gorsek stated the thing that strikes me is that we went out of our way at the last meeting to make sure people were informed about the skate park issue. The tax issue is an important issue. Like the Mayor and Councilor Kight I do worry about that notification issue.

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

**Motion passed 5 – 2 (Gorsek, Thalhofer)**

**6. PUBLIC HEARING / ORDINANCE (Introduced 5/27/03):** An Ordinance modifying the procedures for utility billing and termination of water service and amending Title 12 of the Troutdale Municipal Code.

Mayor Thalhofer read the ordinance title and opened the public hearing at 9:03pm.

Councilor Kight declared a conflict of interest. I have property that would be affected by this ordinance. I also want it on record that I had nothing to do with the legislation of this particular ordinance. As a result of having a conflict of interest I have had nothing to do with this period. I will be stepping down at this time.

Councilor Kight left the meeting at 9:04pm.

Kyra Williams, Finance Director, stated I would like to address the questions and concerns that were brought up at the first reading of this ordinance on May 27<sup>th</sup>. We do bill every month. The bills for the May 2003 charges were prepared the first week of June. The termination of services for delinquent payment on those charges will not occur until August 22<sup>nd</sup>. There is a pretty substantial amount of time that goes by before our code allows us to disconnect service. We send out approximately 150 shut-off letters per month and we actually shut-off between 20 to 30 accounts per month. The process that is outlined in my report does work very well for us until about four things happen: Either the renter and/or the landlord doesn't notify the city that the renter is moving in or out; The renter notifies the city that he or she is moving out and leaves the City of Troutdale utility billing area; The renter notifies the city that he or she is moving out and does not provide a forwarding address; The owner sells and moves out and leaves the City of Troutdale utility billing area. We do use a variety of collection methods in these cases, which I will go over in just a minute but first I would like to cover some statistical information. As of May 30<sup>th</sup>, the city has 12 accounts with the water meters locked off. This means there is no water service to that address unless they cut the lock off or they come in and make a payment. We have had one water meter locked off since January 2001. Since January of 2000 we have written off accounts totaling over \$7,800. As of May 30<sup>th</sup> the City has delinquent terminated accounts totaling over \$5,100. Delinquent terminated accounts typically fall into the above referenced times when our collection process does not work. While the balance of all accounts as of May 30<sup>th</sup> is approximately \$71,500 since the city operates non-profit utilities, any account written off eventually effects rates for everyone. Currently the balance of all terminated accounts ranges from \$8.98 to \$1,056.83. To address the question regarding how other cities are performing their collections, according to surveys sent out by the League of Oregon Cities the City of Beaverton, Milwaukie, Mollalla, Portland, Prineville, Stayton, Warrenton, Brownsville, Garibaldi, North Plains and Port Orford all use the same collection methods that we use of discontinuing service and holding the landlord responsible. I have contacted a number of other cities asking the same questions and Gresham, Wood Village, Sandy and Fairview all responded that they use similar collection methods. As of December 2001 the only city in Oregon that is using the method that we proposed at the last meeting of holding the property owner responsible for the account at all times is the City of Falls City. We do currently have one property owner that has twenty-six accounts that the bills are sent directly to that property owner. Of the twenty-six accounts four are duplexes with a shared water meter so those really don't apply. The remaining twenty-two accounts could be billed to the tenants but the property owner chooses to have the bill sent to him. We do utilize a collection agency for our municipal court and it is working somewhat for the court. They collect better data on their offenders then we do. We have sent a few of our utility accounts to the collection agency, the balances on those three accounts total over \$1,300 and none of that has been collected. If any of it is ever collected the collection agency will withhold 9% as their fee. The collection agency has also told us that in order for them to successfully collect they request either a social security number or a drivers license number. We did not begin collecting that data until April of this year and we currently only have data on 57 out of approximately 4,200 utility accounts. We do also report all of our utility account data on a lien record which is updated on a daily basis to a website which all of the local title companies have access to.

This process has not worked for us in the past. A few of the title companies claim that utility accounts are not a lien on the property and refuse to collect on those. I looked into the idea of filing into small claims court. The primary problem with that is knowledge of the address of the defendant. Any small claim that we would file would have to be served to the person at a known address and if we don't know their address then we can't serve them. There are fees involved and even after we win the case the City is still responsible for collecting that judgment. The Oregon Department of Revenue does perform collections for state agencies with a program called Other Agency Accounts. According to their program manager they only collect for state agencies with one exception; cities with a population of 500,000 or more are the only exception and the City of Portland is the only city within the State of Oregon that meets that population requirement. We have talked about collecting deposits in the past. I am not aware that the City of Troutdale has ever done that. I am only aware of one city that has in the past; I am not aware of any city that currently does it. The city that in the past did collect deposits abandoned the practice due to difficult recordkeeping. Our new billing system does allow for keeping records of deposits. We would be willing to try this under certain conditions. I did contact a credit reporting bureau but they weren't able to give me detailed information. We would need to provide social security numbers to be able to report to them. It would cost the city a minimum of \$600 a year in order to report to this agency. Implementation was a concern raised by the property owners. Within the proposed ordinance it showed that there would be an effective date of 30 days after adoption with provisions regarding billing that it would be upon change of tenant or upon the property owners request.

Jim Galloway, Public Works Director stated at the last meeting several folks testified regarding this proposed ordinance, mostly in opposition. I think there were two items that were being opposed. One was a concern from some property owners that didn't feel that they should be involved or be responsible for the tenants utility bills. I think most of them were concerned, not necessarily about being held responsible if the tenant didn't pay the utility bill, but concerned about the administrative burden that would be placed on the property owner to all of sudden receive all of the utility bills and be responsible for collecting them and acting as the middle man. We proposed an alternative ordinance that may address the later issue, it does not address the former issue. We still believe, and it refers to it in the state law, that the property owners could be held responsible. However, we did try to address the issue of the property owner having the administrative burden. The alternative ordinance has minor language changes but is fairly major in effect. It would basically change the definition of the account holder from simply being the property owner to being the property owner or anyone that the property owner designates. Under that provision if the property owner said that I want the bill to go to the tenant understanding that the owner is ultimately responsible for it, they sign a form and we would continue billing the tenant. It seems to eliminate the administrative aspect of the concerns.

Councilor Gorsek stated that sounds like a good reaction to the concerns we heard at the last meeting. Kyra, what you are indicating is that since January 2000 the city has written of \$7,800, is that right?

Williams replied yes.

Councilor Gorsek asked as of May 30<sup>th</sup> we have delinquent accounts totaling \$5,100?

Williams replied correct.

Councilor Gorsek stated a lot of the cities hold the property owner responsible.

Councilor Ripma asked under our current system the property owner is held responsible?

Williams replied yes.

Councilor Ripma asked the idea of having the property owner able to designate a tenant would allow the property owner to work with the tenant to collect a deposit or whatever they wanted to do.

Williams stated we would get acknowledgement from the owner. We would have their statement in writing that they designate this particular person and understand that they would be held responsible. As of right now we don't have an application for water service. We take requests for water service over the phone or by fax.

Councilor Thomas asked it is my understanding if there is a lien against the property it has to be cleared, is that not true?

Williams replied I can't remember which title company it was, but they had a statement that utility accounts are not considered a lien on property and they would not collect it.

Councilor Thomas asked in your report you indicated it could be an option to take deposits, what would it take to do that or would you be willing to do that?

Williams replied we would be willing to give it a try. It wouldn't solve short-term problems because we would only begin collecting deposits on accounts as they change hands. We would propose that it be a \$200.00 deposit to make sure that it would cover some of these larger bills and we would hold it until the account was terminated. We wouldn't want to have to account for interest earnings on the deposit. If someone were to live here for twenty years would they really want us to be holding their money for twenty-years. A person could be a perfect payer for six years and then lose their job.

Councilor Thomas asked of the twelve meters that are locked, do you know how many of those are rentals?

Williams replied I don't know that.

Mayor Thalsofer asked does this new revision really help us that much?

Galloway replied I guess we won't know for sure until we try it. Certainly the problems that we are trying to address are real problems that the finance department has faced. In some

cases not knowing if the tenant has moved in or out, this process should help us get that kind of information. It should make sure that someone that signs off on the application form saying to send the bill to the tenant would also be saying that I understand that it is my ultimate responsibility as the owner of that property to take care any bill that the tenant doesn't. It seems like that would drive the message home a little bit better and perhaps there are folks out there that don't feel like they have that obligation.

Councilor Kyle asked on page 2 of your report where it says as of May 30<sup>th</sup> the city has 12 residents locked-off. We don't know whether those are foreclosed houses, rentals or some other situation?

Williams replied correct.

Councilor Kyle asked in that same paragraph it reads currently we have balances of terminated accounts ranging from \$8.00 to \$1,000. Do we know where those came from?

Williams replied manually I could go in and distinguish which ones are from delinquent renter accounts and which are from delinquent property owner accounts but without doing that I cannot make that determination.

Councilor Kyle asked on page 1, looking at your billing dates, how are these established?

Williams replied by ordinance.

Councilor Kyle stated I notice that the bill becomes quite delinquent before the owner of the property is notified. Could we move that notification up in the process?

Williams replied yes.

Councilor Kyle asked the alternate ordinance, would this apply to everyone, not just rental units?

Williams replied correct.

Councilor Daoust asked currently don't we notify the property owner of delinquent accounts?

Williams replied yes.

Councilor Daoust asked how does that work out when we notify the property owners of the delinquent accounts? Do they take care of it?

Williams replied probably 90% of the time it does work.

Councilor Daoust asked do we have cases where non-payment of the bill would be because of the property owner?

Williams replied as far as just having the account delinquent because the property owner hasn't paid when the account is their name, is that what you are asking?

Councilor Daoust replied or if the tenant was paying the bill and the property owner has been notified of the delinquent account but yet the property owner still doesn't pay the bill, do we have cases of that?

Williams replied yes, that is why we are making this proposed change.

Councilor Daoust asked so how would the alternative ordinance change that?

Williams replied it wouldn't necessarily make them pay the delinquent bill but it would be an acknowledgement in writing by them that they are responsible.

Councilor Daoust stated I am trying to get a handle on what the benefits of this are, I am having a hard time seeing them. What is the big change of having the signed form versus the fact that state law requires the property owner to cover unpaid bills?

Williams stated it is just simply a written acknowledgement from the property owner of that fact.

Councilor Daoust stated so the big benefit is just the notification of the tenant change, is that correct?

Williams replied yes.

Marnie Allen, City Attorney stated I think another benefit to the city is that right now the city has a property owner that has been notified of the delinquent account and under state law they are obligated to pay that account. The city gets a lot of feedback about them not initiating the account and saying I didn't sign anything indicating I am responsible. They are basically disagreeing with the city's position that under state law they are responsible. Legally, they are responsible under state law and we do not have to amend the ordinance. By amending the ordinance it is an attempt to put them on notice and the requirement of the signed form that we are not going to be receptive to their position that they are not responsible just because they didn't initiate the service or sign a document.

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

Doug Walls stated the City of Fairview charges a \$50.00 deposit up front. I don't think that would be too much to ask here. As far as the statement that whenever the City of Troutdale loses a little bit of money from an unpaid water bill that everyone else pays. It is kind of like when people pay for other peoples kids to go to school, it is just a fact of life. I don't like the state law.

Tom Kerr stated I am a property manager in East County and manage about 400 properties. When I first heard about this proposal I was really disturbed by it because it would create tons

of headaches from a business standpoint. We manage quite a few properties in Troutdale so this would have a direct impact. As I look at the percentages for the money that is owed, \$7,800 over 29 months on the number of accounts that the City of Troutdale has, this seems to me to be a pretty small percentage. \$5,100 may be delinquent at this point but I think based upon the \$1,700 figure a high percentage of that \$5,100 would be collected. This whole thing seems to me to be very redundant. There are state statutes that make the owner responsible for the delinquent bill that a tenant does not pay. There are landlord/tenant statutes that make the landlord responsible to supply running water. If that water is turned off the landlord has to, under the landlord/tenant statute, turn that water back on by paying the delinquent bill. I see absolutely no benefit at all of having to sign a document every time a tenant vacates a property stating we would be responsible for the bill when we are already responsible. The City of Troutdale has the option as to whether or not they want to notify us. Every business loses money whether it is a profit or non-profit. I do see a benefit of collecting a deposit. I see benefits of using a collection agency. This would be additional administrative costs for me.

Mike Henniger stated I wasn't sent a copy of the report and only saw it tonight for the first time. The City of Troutdale, like property managers, deserves every single penny that is owed. We try to collect every penny and we try to, at the same time, avoid having owners incur costs of operation that are not their responsibility. You will note that the staff report starts with the May charges but there is no discussion at all about what information is required of the tenant, property owner or anybody establishing a water account in the city. There is no mention about whether or not they ask for a bank account number, although there is testimony that not having bank account information makes collection difficult. There is nothing in here about collecting a social security number, although social security numbers are routinely used throughout businesses to establish identity to report to reporting agencies to find out information regarding payment histories. We are trying to address the very real concerns of the finance department but it seems to me a lot of it self inflicted. I understand that state law holds the property owner responsible. I said I didn't think that was fair given the way the system worked in Troutdale. I have no control over who you are setting up water accounts with, what information you collect and when you fail to collect the money I am stuck with the bill. Does that seem fair to anyone on this council? There is simply no effort, it takes 3 months to get the water shut off. We all think shutting off the water is the perfect solution. Why does it take 3 months to do that. Well that is your call not mine. At one point the city said to me, you have a deposit that is why you ought to have to pay it. The point is you could collect a deposit. What would work really well for the city would be to have a water sales program that makes sense on the front end and the back end. I think those are the two things that are missing, in the middle they are fine. It is the beginning, what do we know about you and the end what do we do if you are not paying, that is broken.

Robert Spikes stated you have never lost a nickel from me on any water or sewer account. I feel the same way as the gentleman that just spoke. I think you are getting led down a rosy path here. We have a billing department that isn't giving us the information. What is the percentage of loss from the total billing. The units that are delinquent, I know some of them are houses because I know where some of them are located. If you lock off an apartment it can't be rented until it has water and someone is going to pay that bill. I am sorry but the only

thing I have learned tonight is that your water department isn't doing a very good job and they are not giving you very good information because we are not getting the information.

Linda Boyle stated I have a single-family residence here and what I would like you to consider is that I don't want the notice when the bill is delinquent, I want the notice when it is past due. I want it paid right a way. Delinquent from what I'm understanding means two to three months away. I want to know the day the bill is not paid.

Councilor Ripma asked does staff have a response to the public testimony?

Kyra Williams stated there were a number of comments that I didn't view as accurate. Once a tenant leaves and there is someone else residing at the property, we cannot disconnect service to the property and the person that is now living there if they did not incur that bill. So we cannot just go and shut off water service just because nobody has paid. We have to determine responsibility for that delinquency. We could change the definition of delinquent in our code so that we could notify the owners sooner or we could just change the code to read that we will notify the owners when the accounts are past due. Collecting information, I did attempt to explain that, until April 2003 we were only collecting the name that the bill was in, the address to mail the bill to and a home and work phone number. In April 2003 we began collecting a social security number and drivers license number so that hopefully we could utilize one of these other collection methods. However, what is happening in a number of circumstances is that no one ever tells us that they move in and they are gone before we ever knew they were there, then it is hard to even know who to go after. Our best effort to address that is to have an application form.

Councilor Gorsek asked is it possible to collect better information and do an application form just with the person that is asking for the water service?

Williams replied yes.

Councilor Ripma asked it was mentioned that Fairview requires a \$50.00 deposit. You did mention that there was an administrative problem with deposits, have we ever tried that.

Williams replied I am not aware of Troutdale ever requiring a deposit.

Councilor Ripma stated and you think something above \$130.00 would be needed?

Williams stated I would suggest \$200.

Councilor Thomas asked of the bills that are not being paid, how many of those are contested?

Williams replied that has happened in the past but I am not aware of that being the issue with any of the currently delinquent bills.



Councilor Thomas asked would you be willing to notifying both the resident and property owner when the bill becomes past due?

Williams replied yes.

Councilor Thomas asked would you be willing to accept a letter from the property owner notifying the city when there is a change of tenant rather than a formal form?

Williams replied yes. We aren't saying they can't provide the application form to us by mail, fax or any other method. We just want to collect very specific information that is necessary for us to maintain an account.

Councilor Thomas asked if we collect a deposit, wouldn't that require someone to come into city hall?

Williams replied yes.

Councilor Thomas stated if we were notifying both the renter and the property owner of the past due account, would you see a need for such a high deposit?

Williams replied if the deposit is smaller, than I would recommend that we disconnect water service sooner. The purpose of having a \$200 deposit would be to cover three months of charges, which is what would have accumulated on the account when we turn service off.

Councilor Thomas stated my concern is that when someone moves in and they have to pay a deposit of \$200 to us, a deposit to the phone company and other utilities, it then makes it difficult to rent the house because no one can afford to pay all of the deposits and fees to get in and I don't want to impact the property owners.

Williams replied I agree.

Councilor Kyle stated it seems to me that the problem isn't just with the renters, it is the overall water billing system.

Williams replied some of it.

Councilor Kyle stated I am not sure that the alternate ordinance is going to resolve that. I am wondering if you feel like it would be better to just re-do the code and require a deposit, an application form and shut water off earlier. It seems to me like those are the kinds of things that we need to do versus adopting the alternative ordinance.

Williams replied as far as requiring an application form from everyone, I guess what we would be looking for is what would happen if we can't get an application form? Some time ago the utility clerk contacted the Tualatin water district and they have an application form that is a door hanger form and when the public works folks would go out and read the meter upon a termination of an account, they would hang this application form on the door stating that they

had three days to return the application form to establish water service or water service would be disconnected. We have no method right now for disconnection of service other than the 90 days delinquency.

Councilor Kyle stated so that would need to be changed.

Williams replied that would be my preference. I am sure the public works shop would testify against that.

Councilor Kyle asked why?

Williams replied because they wouldn't want to be disconnecting service every day.

Councilor Daoust stated I don't support the ordinance.

Councilor Ripma asked are there laws that govern turning off water service?

Marnie Allen stated yes, there are constitutional laws and due process. There are some limits. I have not done an analysis to see if we can shorten that timeframe, I can look into that.

Mayor Thalhoffer closed the public hearing at 10:10pm.

Councilor Ripma stated we are talking about collecting a deposit large enough to cover the time period that we take now to turn off service, which is 3-months. Some think that timeframe should be reduced and water should be turned off sooner. I don't have a problem with collecting a deposit. That would be reason to research the timeframe that may be required by law. I think we should collect a big enough deposit to cover the three months if we are going to go that route.

Mayor Thalhoffer stated some favor shortening the time period and collecting a smaller deposit.

Councilor Ripma stated in that case we definitely need the City Attorney to research that.

Councilor Gorsek stated I worry that there are more issues here than just that. Like Councilor Kyle mentioned I think there are some serious issues within the whole code in terms of how we do the billing. I would like to see the whole billing process rewritten.

Councilor Ripma stated Councilor Gorsek if you are referring to collecting more information on the customers and collecting a deposit, I would be interested in pursuing that.

Councilor Gorsek replied I think that would be appropriate.

Councilor Thomas stated I agree with Councilor Daoust, I am not in support of this. I think there are some issues that we need to look at. We need to look at the billing structure. I am

not sure I would go for a full 3-month deposit. If we collect 50% that would be better than we had before. I would really like to see us rework the billing system, collect more information on the front end and notify the property owner when account becomes past due.

Mayor Thalsofer stated I would like to ask the city attorney to research the issue of shortening the time period for disconnecting water service. I would also like to see staff rework the billing system.

Councilor Daoust stated I agree that the city should take on the administrative burden rather than the property owners. I agree that coming back with changes to the code notifying the property owner of past due accounts, notifying the tenant and property owner that water is going to be shut off on a certain date, and to collect a smaller deposit of \$100.

Councilor Gorsek stated I would like more information on the lien issue with the title companies.

Marnie Allen, City Attorney stated you might consider making a motion to table this ordinance and let staff bring back a new ordinance because it will be substantially revised.

**MOTION: Councilor Gorsek moved to table the ordinance. Seconded by Councilor Thomas.**

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

**Motion to table the ordinance passed 6 – 0**

## **7. COUNCIL CONCERNS AND INITIATIVES:**

Councilor Thomas apologized to the council for not supporting the request to receive more information from the GSPC at the last meeting. I really felt I should have supported that request as a member of the Council.

## **8. ADJOURNMENT:**

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

Meeting adjourned at 10:20pm.

**Paul Thalhofer, Mayor**

**Approved July 22, 2003**

**ATTEST:**

**Debbie Stickney, City Recorder**