

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

**Tuesday, October 14, 2003**

**1. PLEDGE OF ALLEGIANCE, ROLL CALL, AGENDA UPDATE.**

Mayor Thalhofer called the meeting to order at 7:01pm.

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

**ABSENT:** Councilor Ripma.

**STAFF:** Erik Kvarsten, City Administrator; Jim Galloway, Public Works Director; Rich Faith, Community Development Director; Marnie Allen, City Attorney; Clyde Keebaugh, Parks and Facilities Supervisor; David Nelson, Chief of Police; 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:** August 26, 2003 Regular Meeting and September 9, 2003 Regular Meeting.

**2.2 Resolution:** A Resolution accepting a public utility easement from David and Sandra Laski for the Adaptive Homes partition.

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

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

None.

**4. DISCUSSION / REPORT:** Safety issues at CP Park.

Chief Nelson stated at the last council meeting you instructed staff to study the lighting, security and vandalism at CP Park. I conducted a records search for calls for service to CP Park. That didn't turn up any calls in our database where we took a written report. We have responded to some calls there over the past few years primarily for kids being in the park after hours and reports of vandalism but we have never been able to catch the kids that have vandalized the park. I have also checked with Clyde Keebaugh to make sure that I wasn't missing anything and he confirmed that there had been no official report of the vandalism to CP Park made. His crews had taken care of the problem simply by doing some minor repairs or painting. I also checked in our database for calls for service to Mr. Bryant's residence. I used the date of January 1, 2001 because that was about the time that Albertsons opened up. In the past three years Mr. Bryant has had one call each year that we have responded to. Prior to that in 2000 he reported his vehicle stolen and in 1998 he reported that either a rock or ball had been thrown through the front windshield of his car. I also checked with the four patrol sergeants to get their feedback from a patrol standpoint. They indicated that they see kids in the park after hours and they will ask them to move on. They also see a lot of kids coming to and from Walt Morey Middle School. I asked them what our patrol routine is for that area and they responded that it is a road that they frequent because they use that road to access Walt Morey School, Home Depot and the other businesses right off of Stark and that they do patrol that area fairly regularly. Some of our recommendations would be some low voltage lighting along the walkway, which would provide illumination that would provide security for the residence and also people using the walkway. There is a sign on the north side of the park with the park rules and hours, we would recommend putting another sign as you are walking from the walkway north into the park. Our last recommendation is to not illuminate or light the park itself because that would be contradictory to the park rules since the park is technically closed at dusk. If it is lighted it will just invite people to come use the park

Clyde Keebaugh, Parks and Facilities Supervisor stated prior to Mr. Bryant coming before the council the parks staff had already begun some pruning at CP Park to help alleviate some of the sightline and lighting problems.

Clyde Keebaugh showed the Council some photos of the park before and after the pruning was done at the park.

Clyde Keebaugh stated we had an independent lighting contractor give us a recommendation and cost estimate. Their recommendation, if we were to choose to add lights, would be to add one light pole along the trail and by the play structure put in two bollard lights, which only stand about 4' high. The bollard lights would also keep us from having to remove additional trees. If we were to put light poles in we would have to do some severe trimming of existing trees to open up space so they could throw some light. I think that would have a negative impact on the park as far as aesthetics. The estimate for installing one light pole along the walkway would be approximately \$1,900. To install two bollard lights along the pathway adjacent to the play structure and by Mr. Bryant's residence is estimated at around \$3,200.

Councilor Daoust asked is it your recommendation, as it was Chief Nelson's, to not put any lights in the park?

Keebaugh replied my recommendation would be to leave the park lighting as it is. We have opened up the sightlines and the park is illuminated as well or better than most of our other parks. If some of the residents are concerned about security issues on their property some additional lighting on their own properties could aid in their security issues. I don't know whether lighting the park up any more is really going to resolve any issues. I have looked at the park in the evening and there are some shadow areas but other areas are illuminated well. Chief Nelson is correct, if we light the park up real well it will just invite more folks to use the park in the evening.

Councilor Daoust stated the pruning has really opened up the park.

Councilor Kight stated I have noticed the absence of any type of barrier between the park and Mr. Bryant's house. Am I correct that there is no fence?

Keebaugh replied there is a fence along part of his property line but it ends at his house.

Councilor Kight stated it looks like the entire side of his house is exposed.

Keebaugh replied yes.

Councilor Kight stated it seems to me that maybe one of the reasons that he is experiencing the vandalism is because his house is exposed to the park. Does he have any lighting along the side of his house?

Keebaugh replied no.

Councilor Kight asked do we use the bollard lights anywhere else in the city?

Keebaugh replied not in our parks system. The downtown stores use this type of light on the stairways.

Councilor Kight stated he was concerned that the bollard lights would be prone to vandalism because of their low profile. Have any other neighbors besides Mr. Bryant complained about this problem?

Keebaugh replied no.

Councilor Kyle asked is there any other properties that are as vulnerable as Mr. Bryant around the park?

Chief Nelson stated yes and no. His property in my opinion is vulnerable on the side of his residence because there are no physical security barriers there. The residents that live on

either side of the walkway have a potential for vandalism to either their fence or throwing things over the fence into their backyard.

Councilor Kyle stated you reported that Mr. Bryant was experiencing vandalism to his vehicles not necessarily to his house.

Chief Nelson replied yes.

Robert Bryant stated since the last council meeting that I attended my car has been broken into again. The pruning has really helped. Looking at the side of my house along the walkway there are a lot of overgrown rhododendrons. I park my car on the street in front of my property. I have four lights on the front of my house. I am scared to put a light on the side of my house because it would be an easy target for vandalism. I am not saying that they are vandalizing my house but they are hanging out in the rhododendrons, which provide a real good hiding place. I feel real strongly that we need to improve the lights. I have a neighbor lady, that was unable to attend tonight, that was walking towards Albertsons at around 7pm and asked me to stay outside and wait for her to return from Albertsons because she was so scared. There is a public safety issue at this park.

Councilor Daoust asked from your perspective and given your location, how much do you attribute your experience with problems and vandalism to the park as compared to being located on SW 28<sup>th</sup>, which seems to get used by a lot of people? Do you think the park is the main problem or the amount of traffic that SW 28<sup>th</sup> gets?

Bryant replied I would say the location of my property is most definitely a hindrance being next to the park. But with the rhododendrons and no lighting at that particular area and at the other end of the walkway and the easy access to Albertsons it invites skateboarders, bicycles, foot traffic and it is pretty ideal to get around the general neighborhood by going through the park.

Councilor Daoust stated there has been a lot of pruning of brush next to your house, are you recommending removing some of the rhododendrons?

Bryant replied yes.

Councilor Daoust asked do you think it would help if you built a fence along your property line?

Bryant replied I am not just concerned about my cars; I am concerned about the public safety issue.

Councilor Gorsek asked so you don't think it would help to add lights or put up a fence?

Bryant replied I believe it would be a good idea to have park lights in the area where the rhododendrons area and at the other end of the trail in the park.

Councilor Gorsek asked if you are afraid to put up a light because of vandalism, what would guarantee that city lights wouldn't be vandalized as well?

Bryant replied first of all I don't think I would be installing \$3,200 lighting system on the side of my house. I think it would be the responsibility of the city to maintain the safety of the park, not my house.

Councilor Thomas asked where do you feel the biggest safety issue is?

Bryant replied the walkway from 28<sup>th</sup> to Albertsons. I believe that the additional lights would illuminate the trail and that would be helpful.

Councilor Thomas asked would it make sense to remove the rhododendrons?

Keebaugh replied we could do that.

Mayor Thalhoffer stated it appears to me that you need to put up a fence all the way to the street but you don't think that would help.

Bryant replied from the edge of my house to the city's property is probably 4'. You are entitled to your opinion but you don't live there. There are other neighbors here tonight that will discuss another point of view of the problems in the park. There are other issues with the park then just the vandalism.

Councilor Kight stated the area of your house that is exposed to the park, is there a reason why you wouldn't want to put up a fence to provide security for your family?

Bryant replied they are not vandalizing my house. Putting up a fence will not take care of the public safety issues for the people walking through the park.

Councilor Kyle stated it sounds like to me that people are hiding in the rhododendrons or in the shadows. I am all for just taking the rhododendrons out.

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

Bonnie Lind stated I live on the north side of SW 28<sup>th</sup> Street and we look directly onto the park. There has been an ongoing problem at the park. The walkway is dangerous. My husband and I will not use it at night. Half of the time we won't even take our grandson to the park because of the glass and graffiti. Several of us go to the park and pick up glass constantly. This park is probably the only park in Troutdale that has a walkway to a shopping area. They come from Albertsons with their wine and beer and they sit there and drink and instead of putting them in the trash can they throw them.

Larry McWilliams stated my property line is directly adjacent to CP Park on the south end. I have a few things that I would like to publicly note for the record regarding the notification that I received from the City on October 3<sup>rd</sup> concerning undesirable activity in CP Park. I have

resided next to this park for ten years and I am very knowledgeable on the positive and the negatives within the park on almost a daily basis. The dictionary defines the word safe as not apt to incur danger or harm. Safety at CP Park has and continues to rapidly spiral downwards. I attribute the deterioration as stemming from four core reasons. First, there is a lack of adequate lighting within the park. Secondly is the overgrown and unsightly ground foliage and bushes throughout the park property especially in the area that separates the playground equipment from the grassy field. Ongoing maintenance in these areas helps open the park up and increases visibility. The overall appearance of CP Park has turned around for the better in the last three years. I credit the parks staff member who mows and edges on a weekly basis. His time spent there is very short since the entire parks department responsibilities are growing far faster than the available number of staff to keep up. The City's desire to acquire more and more green and park space with little or no money for additional maintenance personnel will result in many existing parks falling into greater disrepair. The third item is insufficient police presence both day and night. Even with the increased attention level given to the three prior reasons they will not correct the main reason for the problems within CP Park. The secluded path leading from the Troutdale Commons retail area into the park needs to be removed. A convenient short cut for a couple dozen adjacent homeowners has also created an ideal environment where kids can loiter during school hours and after dark, take drugs and drink alcohol. In June of last year I turned into the police department drugs that I found on the path. Gang graffiti has rapidly grown in popularity in this area as well as throughout the entire park property. Garbage bags get dumped in the park. I have seen shoplifters running down this path into the park and residential area trying to escape retail employees chasing them. Two different times fires have been started in the areas of close proximity to this path. Beer and wine bottles all too often are thrown into my backyard. On two different occasions I have observed vagrants sleeping under the tree in the pathway both in the day and night hours. Prior to the construction of the retail area to the south the problems on this path were zero and throughout the park problems were very minimal. Having spoken with numerous people I have had no one tell me that they felt secure using this path in the park day or night. This path is unsafe. To restore law and order and return this park to the state of being safe and an enjoyable place for families to use, this path needs to be removed.

Sam Paskett stated I live on Faith Court next to Larry. I moved in the week before they started construction on Albertsons. What changed was the amount of traffic. I have had my truck broken into three times and my wife's car has been broken into twice. I think the park is poorly engineered. If it is going to be connected to a retail area you need to have a larger park and it needs to be better maintained. It is very dark around the backside and front of the park. I have observed middle school or high school kids hanging out in the park in the middle of the day. I have run across used condoms and needles in the park. I like living in my neighborhood. Our police are very responsive and do a good job. You can't expect the police to always be there to take care of a poorly engineered park.

No further testimony received.

Councilor Daoust stated I only live a block away from this park. I walk in the park at night and walk down the path and it is a little spooky. At first I was thinking that the pruning has done

the job and lets just monitor it for a while. I was going to recommend further pruning of the rhododendrons. The more I think about it I am wondering if we shouldn't close the entrance by Albertsons. I know the path was deliberately put there for connectivity. There is also another path two streets down that connects the same neighborhood with the same retail space, so this is not the only path connecting the neighborhood to the retail space. I have heard of no problems or concerns about the other path. If this path were closed you are only a block from 257<sup>th</sup> so it is not that big of a detour. I am not suggesting to tear out the path, I don't think that is necessary but I am thinking of putting a fence on the Albertsons end to close it off. We could monitor it for a while and see if that cuts off the source of most of the problems. I think we should touch base with Albertsons and let them know what we are thinking about doing.

Councilor Gorsek stated I have walked in that park during the day and felt uneasy. I like Councilor Daoust's idea but I am worried that we are creating this long dead end where people can hide and do things. It seems like you would want to close it at both ends if we could do that. I do think the pruning has improved the sight distance in the park. I would recommend removing the rhododendrons, or least cut them back to a point that no one could hide in them.

Councilor Thomas stated I agree with Councilor Daoust and Gorsek in closing the walkway. Unfortunately if you close it you have to find a way to secure it. First, I really think we need to address those rhododendrons. Secondly I think we ought to put the lights in to help alleviate the safety issues and also make it easier for surveillance. Then we can take a look at the trail and work with the stores.

Mayor Thalhoffer stated I feel that we should eliminate the pathway at both ends and put something in the middle to keep people out. There is an additional pathway that provides connectivity. Mr. Bryant should probably build a fence. The rhododendrons should be trimmed back. I am undecided about lighting the park because if you light it then you are inviting people to use the park at night but the lights may prevent undesirable activity in the park.

Councilor Kight stated I concur with the other members of the council. The first step should be to block that pathway. If we add lighting we may end up exacerbating the problem. I am thinking two things would happen. One you would attract people at night because the bollard lights are a low impact light that will just light the path and they will collect around the lights and secondly they are going to vandalize them. The lights will invite additional activity to the park at night. I think we ought to have additional police patrols in this area. I think we ought to remove the rhododendrons. Hopefully Mr. Bryant will take personal responsibility and put up a fence. Everyone will park their cars in their driveways, have alarm systems in their cars and remove all personal things from their cars that can be seen and stolen.

Councilor Kyle stated I agree with eliminating the trail access to Albertsons. I also agree that the rhododendrons should be removed. As far as the lighting, I would like to revisit that in a couple of months after these other measures have been taken to see if the lighting is still needed.

**MOTION:** Councilor Kight moved to have the parks department remove the rhododendrons along the path next to Mr. Bryant's house, close the path at both ends, contact the Principal at Walt Morey Middle School and the School Resource Officer and inform them of the problems that are occurring in the park, and have additional police patrol in the area of the park. Seconded by Councilor Daoust.

Councilor Daoust asked for clarification on gating the path at both ends. Would that be gated at both ends of Larry McWilliams property?

Councilor Kight replied yes.

Councilor Thomas asked would you consider a friendly amendment to add lighting to the park.

Councilor Kight replied I considered that but two things stop me from doing that. One, we don't want to create an environment that creates more activity in the evening and secondly, if we can take it back to the way it was prior to the commercial center access, I am willing to take those steps first. We don't have the money in our budget this year.

Councilor Daoust stated I agree with Councilor Kyle and Councilor Kight that we should look at the lights later.

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

**Motion passed 6-0.**

Council agreed that they would revisit this in a few months to see if these measures have helped to alleviate the problems.

Council directed staff to send letters to the owner of Troutdale Commons retail shopping plaza off of Stark and 257<sup>th</sup> and the residents on SW 28<sup>th</sup> to inform them of the closure of the trail in CP Park and identify alternate access points to the retail stores.

Mayor Thalhofer called for a break at 8:55pm and reconvened at 9:03pm.

**5. PUBLIC HEARING / RESOLUTION:** a Resolution establishing the Sandy Heights Sanitary Sewer Pump Station Reimbursement District.

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

Jim Galloway, Public Works Director stated in 1998 the Council enacted an ordinance, which established this reimbursement district process. The item that we have before us is the first and only such request that we have had since the process was established. The intent of the



reimbursement district is to provide a method to reimburse someone who finances a public improvement, as a condition of their development, for the cost of those improvements that can benefit other properties. The process is summarized in my staff report (copy enclosed in the packet). We are in the early stages of the process. We have received a request from the initial developer. The next step is that I prepare a report and bring it before the City Council in a public hearing, and that is where we are today. The request that was received from Ron Johnston Enterprises pertains to a 23-lot subdivision named Sandy Heights that he has developed in the southeast part of the city. One of the requirements of that subdivision was that the new homes be connected to city sewer. Due to the topography of the area, the way the developer implemented that requirement was to construct a sanitary sewer pump station to convey sewage from those lots to the city's system. In a letter dated March 15, 2000 Mr. Johnston asked to be reimbursed for a portion of the cost of that pump station. There was some question as to whether or not the city had received that particular application or request. We didn't find it in our files and the individual on our staff who it was allegedly sent to did not recall receiving it. However, we told you when we first brought this before you over a year ago that we felt the appropriate thing to do would be to give Mr. Johnston the benefit of the doubt and let him make his case before you. Also in his application Mr. Johnston indicated that the only other adjacent property that might benefit from this particular development was that owned by Mr. George Zifcak and that he would probably utilize his sanitary sewer pump station when they developed their particular subdivision. Mr. Johnston felt that the proper method of distributing the cost, which is approximately \$130,000, would be on an allocation of the ratio of the square footage of Mr. Zifcak's property to Mr. Johnston's property. That would be roughly 62.6% of the cost for Mr. Johnston and 37.4% for Mr. Zifcak. This particular breakdown is supported by a letter from Mr. Johnston's attorney, which we received only today (copy is included in the packet). The staff analysis and action regarding this particular request was to indicate that yes it would appear that Mr. Johnston, if you take away for the moment the question of whether or not the application was submitted in a timely fashion, met the other requirements of the ordinance. We disagree with Mr. Johnston primarily on the method of allocating those costs. We felt rather than using total square footage of the two developments that a more appropriate method would be to utilize the number of lots that each of those developments had. We felt that the benefit received was more in tune to that particular ratio than the other. Mr. Johnston having 23 lots in his subdivision and Mr. Zifcak who has since come before you and had a subdivision approval for 10 lots that would be able to connect to that particular sanitary sewer pump station. The ratio would then be 69.7% for Mr. Johnston and 30.3% for Mr. Zifcak. This item has been before Council previously in July 2002 and again in September 2002 and at both meetings Council listened to discussion from the parties and asked them to try and work out an agreement between the two parties. I have been notified that they have been unable to do so and that is the reason it is back before you this evening. Staff's recommendation would be that a reimbursement district be formed; that the only property within that reimbursement district would consist of Tax Lot 8700 in Section 36 DD, Township 1 North, Range 3 East, which is the property belonging to Mr. Zifcak; the estimated cost of the improvement be slightly less than \$130,000; that the cost allocation be 30.3% to the Zifcak property based on the ratio of lots; and that the city charge a lump sum of \$1,000 for administrative costs with the initial payment and 1% of the outstanding balance with each of the remaining reimbursement payments.

Councilor Daoust asked does the Sandy Dell Subdivision, Mr. Zifcak's development, have to connect to this?

Jim Galloway replied they do not have to as far as a condition that was imposed by the city. However, I think probably the economics of the situation are such that this is certainly the most viable option for Mr. Zifcak.

Councilor Daoust asked why did the city require such an expensive system with a capacity to serve 250 homes when we know that this is going to serve a lot less?

Jim Galloway replied we did not require him to size something for 250 lots.

Councilor Daoust asked has Sandy Dell gone through enough of the process that we know there is only going to be 10 lots, or could that be altered to have more lots?

Jim Galloway replied my understanding is that the subdivision that was approved by the Council has 10 lots which could utilize the sanitary sewer pump station, the only lot within that development that could possibly be further subdivided is the one that has the existing home on it and that is not proposed for this subdivision and I believe that lot has its own sewer connection to the north end of Sandee Palisades.

Councilor Gorsek asked you stated that the only issue that Mr. Johnston has was with the allocation formula?

Jim Galloway replied that is my understanding. Mr. Johnston is not here this evening. For the record he did ask that we postpone the session tonight, I responded that his request was coming after the agenda had been prepared and time had been set aside for this matter to come before the Council and that Mr. Zifcak was planning on attending and that it would be inappropriate to him to put this off. His reason for asking for this to be postponed was because his attorney could not be here. I advised him if that was the issue that his attorney could provide comments in writing and that is the letter you have been provided this evening.

Councilor Thomas asked is the \$1,000 fee with the initial payment and the 1% with the remaining payments really going to cover our costs?

Jim Galloway replied I don't honestly know. This is the first time we have used this process, so at this point it is a guess. It was our intent to recover our costs.

Mayor Thalhoffer asked on the next to last paragraph in the letter from Dennis Odman, Mr. Johnston's attorney, he mentions that because the ordinance relates to improvements other than sewer a dangerous precedent would be established. Do you anticipate that there will be a reimbursement district for water, storm water or streets?

Jim Galloway replied not associated with this development. I think that is a more general statement that the attorney is making.

Councilor Kight stated in the fourth paragraph of Mr. Odman's letter it reads, "Again, the only fair way to allocate the cost of the improvement is based upon the square footage of the properties that the improvement benefits." On the second page of his letter in the first paragraph it states, "The point is, an owner within the district should not be able to determine his share of reimbursement cost for the improvement which benefits his entire property by establishing the number of lots created." I have read this at least twice and he fails to make a compelling argument as to why the per lot allocation for sanitary sewer doesn't make sense as oppose to square footage. Am I missing something?

Jim Galloway replied I don't believe you are.

Councilor Kight asked the City Attorney if she had any comments on Mr. Odman's letter.

Marnie Allen, City Attorney replied I disagree with the basic proposition in the letter that the methodology that staff is proposing is somehow inconsistent with our ordinance or sets a bad precedence. The ordinance is drafted as such that the council and staff, in proposing a methodology initially is supposed to decide what is just and reasonable. Here what is just and reasonable is to allocate a cost directly based on the number of connections to the sewer pump station. It is an argument that would save his client some money if you went with square footage, but I don't think it is a strong argument.

Councilor Kight asked is there any obligation on the part of Mr. Johnston to allow Mr. Zifcak to connect to his sewer pump station?

Jim Galloway replied I don't know legally if there is any requirement or not. Certainly if he wants to recoup some of his costs he would allow that.

Marnie Allen stated the sewer pump station will be accepted into the City's fixed asset system at some point and Mr. Zifcak, as part of his subdivision, is required to connect to the City's sewer system.

Councilor Kyle asked are there any other lots in the area that may develop that may want to tie into this?

Jim Galloway replied not that I am aware of.

George Zifcak stated I have three items that I would like to bring to your attention. The first is the square foot calculation. If we have to use the square foot calculation the existing house on this lot is not part of the development. I feel that the lot formula is fair. This subdivision is very contentious and we are still not out of the woods yet. I had requested that we delay the actual formation of the district until we plat the subdivision because it is still subject to a LUBA appeal.

Mayor Thalhofer stated this resolution is establishing the Sandy Heights Sanitary Sewer Pump Station Reimbursement District. Mr. Zifcak are you saying you don't want us to do that?

Zifcak stated I don't want that to happen tonight because we still have two days before the LUBA appeal period ends.

Mayor Thalhofer asked the City Attorney to respond to that.

Marnie Allen stated I personally view the LUBA appeal and finality of the subdivision decision separately from the application to create a reimbursement district. If a LUBA appeal is filed and they find an error that required a remand back to the city and lets say the worse case, the city council decided on remand to not approve the 11-lot subdivision. Your job tonight on the reimbursement resolution is to try and figure out if you should create the district to begin with and if so how much cost should you allocate to this property. Even if there is no LUBA appeal and the decision is final and Mr. Zifcak doesn't take any action on his subdivision application and he files a new application with a different number of lots; those things are really outside of the city councils control in just trying to decide what is the fair and just way to allocate the cost. We have reason to believe that 10-lots will be built on that property. I don't see strong justification for delaying the creation of the reimbursement district. Typically these districts are created upfront before the sewer pump station is even built, so we are several years behind now trying to make a decision on whether to create this district or not. It may be that the council decides not to create the reimbursement district altogether.

Mayor Thalhofer stated Mr. Zifcak is indicating that he would like to delay this. His attorney was not able to attend tonight's meeting. I don't know how we should proceed.

Marnie Allen stated I think the council needs to decide whether you want to continue or delay.

Mayor Thalhofer stated I think the majority of the council is ready to proceed with this, but Mr. Zifcak you are putting us in a bad position because you apparently don't want to proceed.

Zifcak stated I really don't have a problem with the reimbursement district. I foresee potential pitfalls with saying the reimbursement district is approved and then finding out six months from now that this subdivision is not going to be built and this property is then stuck with this \$40,000 debt even if in the future only one additional house ends up getting built on this property.

Councilor Daoust asked are you concerned with the timing of the payments that you would have to make?

Zifcak replied no. It is really the formation of the district. If the formation of the district has to start with this resolution tonight, then yes, I am asking to delay. If the formation of the district can start when we have a platted subdivision then that is fine. I am not sure I understand this process.

Marnie Allen stated I think the way that reimbursement districts are intended to work is they are intended to identify and allocate a cost irrespective of what changes might happen and what development might occur on that property. You are making your best guess now to say this is the fair amount of the cost that we should allocate to this property.

Councilor Thomas asked does this resolution require two hearings?

Marnie Allen replied no. The code does call for the adoption of two resolutions.

Jim Galloway stated this is a two-step process. First you establish the district and a methodology for assessing the cost. Then when the developer comes back with his final cost, we come back with a second resolution, which distributes those costs. The amount in this resolution may or may not be the absolute final cost. He will still have to provide invoices and documentation to show us that is the appropriate cost.

Mayor Thalhoffer stated I am very uncomfortable proceeding tonight because Mr. Zifcak's attorney is not present this evening. Mr. Johnston asked that we delay this because he was unable to be here this evening. I would like to set this over to another date.

Marnie Allen stated I would like to address the procedural issues and Mr. Zifcak's request to set this over. In light of the fact that two resolutions have to be adopted by the council, and this resolution just creates the district and the methodology based on per lot, the second resolution actually allocates the cost. By the time that staff brings back a second resolution actually allocating the cost we will know if there is an appeal to LUBA and we may know if the sewer pump station has been accepted by the city. Many of these issues or concerns that Mr. Zifcak has raised can be addressed and his attorney can be present at the hearing for the second resolution to raise those arguments.

Zifcak stated it sounds like what you are saying is that if some of these things are not in place by the time the second resolution comes before the council that there can be some adjustments made, is that correct?

Marnie Allen replied the city council, when it adopts the second resolution, decides what the just and reasonable allocation of the costs are to the property.

Councilor Daoust stated so tonight we determine the methodology for assessing the cost, in my mind that means we would assess a cost based on a 10-lot subdivision and the dollar amount.

Marnie Allen stated that is based on the estimate. Mr. Galloway would then get the actual costs.

Councilor Daoust asked but we could adjust that at the second resolution?

Marnie Allen replied yes.

Mayor Thalhofler asked Mr. Zifcak, you have stated that you don't want us to go forward with establishing the reimbursement district yet, is that correct?

Zifcak stated I don't want it to establish absolutely that it is 10-lots. If there is an appeal to LUBA and later we come forward with an application for only one lot, if that one lot can share in the allocation of the costs according to another methodology that is fine. I am willing to go ahead with the possibility of adjusting it in the second resolution.

Mayor Thalhofler stated I am not in favor of proceeding but if the rest of the council is okay then we will proceed.

Councilor Daoust stated I am ready to proceed. I think this allows flexibility to adjust the distribution in the second resolution. Tonight we can set up the district and the methodology based on 10-lots.

Mayor Thalhofler asked Mr. Zifcak are you comfortable with going forward?

Zifcak replied I am comfortable. I want to be clear that if this district is formed if we have an appeal to LUBA, that in the second resolution are we able to change the number of lots or adjust the allocation if necessary?

Councilor Daoust asked to clarify the answer, can the total dollar amount change?

Marnie Allen replied that is what changes, the total dollar amount. The ordinance says that when you come back with the final proposed reimbursement resolution the council may approve the reimbursement resolution as proposed or adjust the cost if they are not just and reasonable. So if when we come back with the second resolution the proposed costs that are being allocated to Mr. Zifcak's property you feel are not just and reasonable for whatever reason, you can adjust those costs.

Councilor Kight stated just to clarify, if we form this district what we are doing is setting up a liability for this particular piece of property in the tune of around \$130,000. Not a dollar changes hands until that second resolution kicks in. He has already platted the property and identified the number of lots. At that time he can come back to the council and inform us that he can only develop three lots and object to the \$130,000 debt because maybe he will only be connecting three lots. Is this right?

Marnie Allen replied I think the perspective that you have overlooked is Mr. Johnston's perspective which is, I have paid for and put in a sewer pump station, there are other properties that would benefit from it and I am entitled to some reimbursement and I shouldn't have to wait for this developer to make different changes and resolve all of his issues with regards to what can happen on his property. The timing of this is what is complicating everything and it is the fact that we have waited so long. Typically with a reimbursement district you come in up front and you don't know how many lots are going to be built on the property that will be in the district. You do an analysis and determine how many lots could be developed under our zoning. It could take three, five or ten years for that property to be

subdivided and you have allocated those costs regardless of whether it develops into the number of lots that you used to assess the costs for the property. Once it is subdivided that triggers the obligation to make the payment.

Councilor Kight stated but until it is subdivided it isn't triggered.

Marnie Allen replied correct.

**MOTION:** Councilor Kight moved to adopt the Resolution establishing the Sandy Heights Sanitary Sewer Pump Station Reimbursement District with the following change to the first sentence in Section 3 of the Resolution "The estimated cost of the improvements is \$129,876.38 of which 30.3% shall be assigned to the District in accordance with the methodology in the staff report". Seconded by Council Gorsek.

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

**Motion passed 6-0**

**6. PUBLIC HEARING / ORDINANCE (Introduction):** An Ordinance amending Chapter 10 of the Troutdale Development Code relating to signs (Text Amendment No. 34)

Mayor Thalhofer read the ordinance title and opened the public hearing at 9:59pm.

Rich Faith, Community Development Director stated the current sign code was adopted in June of 2000 and was a complete overhaul of our previous code which had some potential flaws because of constitutional issues regarding content of signs. This ordinance has been in effect for three years now and we have had some time to test it out and see some of the problem areas. We have discovered a few areas that we feel need some patching. The amendments this evening are primarily housekeeping but there are a couple that would be considered as substantive in nature. I will summarize the major changes in the code. The first category of changes is the addition of the term portable signs. This is important because it provides the basis for a number of other changes that took place when we introduced this category of signs. (Rich showed a picture of an A-frame sign) A-frame signs were defined in the code and portable signs is a much broader category and definition and encompasses A-frames. The whole issue of portable signs was prompted primarily by some of the signs that were in the downtown area. The next major change in the code was to clarify the definition of a temporary sign. The problem is we have temporary signs that are actually allowed to be displayed for an indefinite period of time. We often called them temporary signs but in reality they were permanent so we wanted to clarify that even though a sign may be temporary in terms of its construction it may be a permanent sign in term of the length of time it can be displayed. The third type of change is with respect to directional signs by specifying a height and dimensional standard. The standard we are recommending for these signs is they cannot exceed 5' in height and 15 square feet in area on one sign face. The next change has

to do with real estate signs. Currently we do allow as an exempt sign real estate signs that notify a piece of property is for sale, lease or rent, however we made no distinction between the type of properties that might be for sale, residential or commercial. The change that we are proposing would do that by limiting the size and height of the sign for commercial and residential signs. Another addition to the code would be the prohibition of home occupation signs and floating signs. We currently prohibit home occupation signs, which is spelled out in the home occupation chapter of the code. We felt that we should reaffirm that by including that in our sign chapter as well. With respect to floating signs, our code does not address them in any way and we have actually had a number of businesses that have inflated signs displayed and we had a real hard time dealing with those. The best we could do is treat them as a temporary sale sign that was subject to height and size limitations. We wanted to float the idea of prohibiting these types of signs altogether. The Citizens Advisory Committee agreed that they should not exceed one cubic foot and even if you were to bundle floating signs or balloons they could not exceed one cubic foot. The idea being that there should be no issue with an individual balloon but we didn't want to see a number of balloons put together to create a large sign. The Planning Commission had a great deal of discussion and debate and they decided to increase the size to five cubic feet. The proposal is to prohibit floating signs or devices that exceed five cubic feet, whether an individual sign or several signs bundled together. The next change modifies the section dealing with temporary signs and the time period in which they can be displayed. We currently have a 60-day limitation; the change would say 60-days from the date the permit is issued. Finally we are proposing amendments to the central business district to permit portable signs and standards as they relate to the central business district. The major difference between the portable signs in the central business district is that the maximum sign face area for all sides cannot exceed 10 square feet where as in other areas of the city each sign face can be 10 square feet. Those are the major changes, there were other minor changes being proposed for consistency. The Citizens Advisory Committee reviewed these amendments in June and endorsed them. They were then forwarded on to the Planning Commission for review in July and are being brought to you with the recommendation for adoption.

Councilor Daoust asked are existing signs grandfathered in, such as the Culpepper boot?

Rich Faith replied that appears seasonally.

Councilor Daoust asked what about their horse?

Rich Faith replied that is not a sign.

Councilor Thomas stated a 32 square foot sign seems a little large, I think that we might want to consider something smaller.

Rich Faith replied if you are referring to the commercial and industrial real estate sign the reason why we came up with that number is because it is the size of a typical piece of plywood, which is commonly what they use.



Councilor Thomas asked the portable signs, if it was stuck in the ground is it still considered portable?

Rich Faith replied the definition stated if it is easily removable and made of durable material and is not affixed to the ground or any part of a building. I would say if it is stuck in the ground then it is affixed to the ground.

Councilor Thomas asked you defined the A-frames as permanent, once you get a permit for one you can set it out permanently?

Rich Faith replied provided that the other regulations are met.

Mayor Thalhoffer asked have these changes been ran by the downtown merchants?

Rich Faith replied yes.

Councilor Kyle asked on page 4, subsection K 3, who enforces the 15 days?

Rich Faith replied it would be compliant driven.

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

No testimony received.

Mayor Thalhoffer closed the public hearing at 10:32pm and stated that there will be a second hearing on this matter at our October 28<sup>th</sup> meeting.

**7. PUBLIC HEARING / ORDINANCE (Introduction):** An Ordinance amending Chapter 2.20 of the Troutdale Municipal Code, Committees and Commissions.

Mayor Thalhoffer read the ordinance title and opened the public hearing at 10:34pm.

Debbie Stickney, City Recorder stated these proposed amendments are intended to reflect the current practice the city council is following with regards to appointing citizens to serve on city committees. The code currently reads that the mayor, one councilor and the chair of the respective committee serve as the selection committee with the councilor position rotating every six months. For the past two years the city council has followed a process where the entire council has served as the selection committee along with the chair of the respective committee. In addition we are recommending adding Section 2.20.100(B) to designate the parks advisory committee as the city's tree board. In January of 1998 the council passed resolution 1362, which designated the parks advisory committee as the city's tree board. The other amendments that are being proposed are simply to clarify the selection committee process, clarify that you must be a resident of the city to serve on a committee and to update the description of each of the committees.

Councilor Thomas asked why should the entire city council be part of the selection committee.

Debbie Stickney replied that was decided by the city council at a work session in November of 2001.

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

No testimony received.

Mayor Thalsofer closed the public hearing at 10:37pm and stated that there will be a second hearing on this matter at our October 28<sup>th</sup> meeting.

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

Councilor Daoust stated I did some research on the name of CP Park and believe that the CP stands for Cherry Park.

#### **9. ADJOURNMENT:**

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

Meeting adjourned at 10:40pm.

**Paul Thalsofer, Mayor**

**Approved November 18, 2003**

**ATTEST:**

**Debbie Stickney, City Recorder**