

CITY OF TROUTDALE



AGENDA
TROUTDALE CITY COUNCIL MEETING
COUNCIL CHAMBERS
TROUTDALE CITY HALL
104 SE KIBLING AVENUE
TROUTDALE, OR 97060-2099

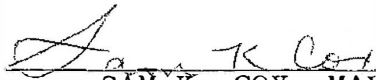
7:00 P.M. -- JULY 24, 1990

EXECUTIVE SESSION IMMEDIATELY FOLLOWS REGULAR MEETING

- (A) 1. PLEDGE OF ALLEGIANCE, ROLL CALL, AGENDA UPDATE
- (A) 2. CONSENT AGENDA:
 - 2.1 Accept: Minutes of June 26, 1990
 - 2.2 Approval: Texaco Liquor License [Name Change-OLCC requirement to go before Council for approval.
- (A) 3. PUBLIC COMMENT:
 - Please restrict comments to non-agenda items at this time.
- (A) 4. PUBLIC HEARING: ORDINANCE Amending Ordinance No. 491-0 By Adopting the 1990 Troutdale Development Code.
 - Open Public Hearing
 - Declarations, Challenges, Ex Parte Contact
 - Summation by Staff - Cline
 - Public Testimony: Proponents
 - City Council Questions
 - Public Testimony: Opponents
 - City Council Questions
 - Rebuttal
 - City Council Questions
 - Recommendation by Staff - Cline
 - Council Questions or Comments
 - Close Public Hearing
- (A) 5. ORDINANCE Amending Ordinance No. 491-0 By Adopting The 1990 Troutdale Development Code First Reading
- (A) 6. DISCUSSION: Forfeiture Ordinance

Collier/Christian

- (A) 7. MOTION: Consideration by Council to establish the procedure and set a date for a public hearing to hear an appeal of a Final Order on File No. 81-90-049 -- Denial of a request for a Planned Development by the Troutdale Planning Commission
Cline
- (A) 8. COUNCIL CONCERNS AND INITIATIVES
- (A) 9. ADJOURNMENT.



SAM K. COX, MAYOR

LEGAL2[62]

NOTE: EXECUTIVE SESSION WILL IMMEDIATELY FOLLOW REGULAR CITY COUNCIL MEETING IN THE CITY ADMINISTRATOR'S CHAMBERS

ORS 192.660(1)(a) Employment.

MINUTES
REGULAR CITY COUNCIL MEETING
COUNCIL CHAMBERS
TROUTDALE CITY HALL
104 SE KIBLING AVENUE
TROUTDALE, OR 97060-2099

JULY 24, 1990

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

Mayor Cox called the meeting to order at 7:00 p.m. and called on Councilor Burgin led the pledge of allegiance.

City Recorder, Raglione, called the roll.

PRESENT: Bui, Burgin, Cox, Fowler, Jacobs, Schmunk, Thalsofer

STAFF: Christian, Cline, Collier, Gazewood, Raglione, Wilder
Jennings

PRESS: Dave Pinson, Gresham Outlook

GUESTS: Robert Johnson

Mayor Cox asked for agenda updates. Christian stated that Council had before them a waiver of fee request from the Troutdale Historical Society and a memorandum regarding a Planning Commission concern of vacancy for position #4.

ITEM 2. CONSENT AGENDA: [Tape 1, Side 1 0:57]

Mayor Cox called this agenda item.

MOTION: Councilor Bui moved to approve the Consent Agenda [Item 2.1 - June 26, 1990 Minutes; 2.2 - Texaco Liquor License]. Councilor Jacobs seconded the motion.

YEAS: 6 NAYS: 0 ABSTAINED: 0

Bui - Yea; Burgin - Yea; Fowler - Yea; Jacobs - Yea; Schmunk - Yea; Thalsofer - Yea

ITEM 3. PUBLIC COMMENT: [Tape 1, Side 1 01:16]

Mayor Cox called for public comment.

Robert Johnson, 1933 SW Laura Ct., Troutdale voiced his objections to the sign up cards for public hearings. He stated for persons in the audience that would like to discuss an issue that is raised during

the public hearing process - it didn't afford them that opportunity. He stated that the three minute time limit wasn't adhered to in all cases. He stated that the cards intimidated some people.

Mayor Cox stated that there was more order by using the cards and that he called for additional sign up cards several times during the public hearing processes.

Councilor Burgin stated that one purpose for using the cards was to have an accurate record of the persons testifying to an issue. He stated that persons should also be prepared to testify at a public hearing when they come to the meeting. Council was present to hear testimony -- not to argue it nor to bring up new points for arguing back against. The purpose of the hearing was to hear what the public had to say, not for Council to inspire them to say new things at hearing. Later in the meeting during public comment, the Mayor was always very generous to allow comment during the Council meetings.

Christian stated that particularly public hearings that are challengeable to other bodies or in courts, the City was required to maintain a legal record that goes to a higher body for review. The cards are evidence during that procedure. The City was becoming more professional and more proficient in record-keeping and procedures and preparations for any challenges. The cards were a suggested process for land use hearings in order to maintain an adequate record.

Johnson stated that he had seen people in the back of the room just shout out their comments, the testimony is heard - they haven't filled out a card so should someone run back there and have them fill out a card?

Christian stated no. During the public hearing that isn't considered as testimony, it is just a comment. It isn't part of the testimony and isn't taken down as part of the official record. If there is no name to associate it with, no address - just a comment from the audience it isn't considered as part of the testimony. This is for public hearings not during Council meetings. Christian noted that the agenda follows a specific process, by law, for public hearings.

Councilor Fowler stated that Council should adhere to the three minute limit. Mayor Cox agreed.

Johnson stated that the Mayor and Council had been very good about allowing the audience participation to the degree that was allowed. He also stated that if there was more than one public hearing it was confusing.

Raglione stated that in the future there would be a process so the public could mark which agenda item they wished to speak to.

Mayor Cox called for other comments. There were none.

ITEM 4. PUBLIC HEARING: Ordinance Amending Ordinance No. 491-0 by Adopting the 1990 Troutdale Development Code. [Tape 1, Side

1 10:50]

Mayor Cox opened the public hearing at 7:11 p.m.
There were no declarations, challenges.

Summation by Staff - Cline began by stating that the periodic review process had been going on for approximately 4 years, insofar as the revisions to the Code. It is updating and streamlining the City's current regulations. He stated that the CAC had met 17 times dealing with changes to the Code, as well as numerous hearings before the Planning Commission. The final hearing before the Planning Commission was held in June.

Cline stated that Periodic Review required 4 factors to be addressed. 1) Substantial changes in circumstances or un-anticipated events; 2) New or amended State goals; 3) Amended state agency plans or programs; 4) Requirement set forth at the time of original acknowledgment [in this case 1983].

Cline stated that due to the length of the document he would highlight key changes and review any questions Council had to any changes. Changes included: implementation or strategies of implementation of the downtown plan - it divides the CBD [Central Business District] zoning classification into four sub-areas - as does the downtown plan and has a schedule of permitted used for the different areas modified substantially from the current CBD zoning standards. Modifications to procedure, clarification to remove potential conflict concerning procedures and amendments. Change on page 2.6 directed by City Council from the adoption of the Comprehensive Plan Text [SEC. 2.120] that requires a Master Development Plan required by RMU [Regional Mixed Use] must have final Council authorization through a Type 4 procedure.

Cline stated additional hearings were held on how the Metropolitan Housing rule and the City's compliance with that rule. The effective change modifies both the R4 and the A2 zoning district. It provides a methodology for calculating based upon parcel size the density which would be allowed within an A2 zoning district classification. In addition, rather than having R4 designated as a two family dwelling it would now be designated as an attached residential district. After public hearings it was staff recommendation that this be considered by the Planning Commission. Two family dwellings are allowed within the R7, and R5...they were coming back and making a complete separate classification strictly for two family rather than allowing in addition to the two family a tri-plex and quasi structures which were at a lower density than what would normally be permitted within the A2 to help fill the gap. Cline stated other minor modifications were directed by State in dealing with different types of residential uses and facility uses.

Cline stated there had been numerous public hearings on the proposed final Code and was before Council with a recommendation from the Planning Commission for approval. It was one of a few final items to be addressed to conclude Periodic Review hearings for the City of Troutdale.

Councilor Thalhofer clarified that the Type 4 procedure would go to the CAC, PC, prior to the City Council correct? Cline agreed.

Proponents: - None other.

City Council Questions: Councilor Burgin asked about the definition of "single family"?

Councilor Schmunk commented on there not being an "Index"/"Table of Comments".

Cline stated that there would be an index included once all the revisions were completed.

Christian stated this was before Council for first reading and the City Attorney would need to complete his review prior to the final reading also.

Opponents: [Tape 1, Side 1 21:12] There were none.

Rebuttal/City Council Questions: None other.

Recommendation by Staff: Cline stated that as stated before this was before Council for public hearing and first reading. An index and possible changes would be completed prior to Council having it before them for second reading. The staff recommendation from Planning Commission was to approve.

City Attorney Jennings stated that definition for dwelling unit followed immediately by definition for family would give the definition for single family. The reason it was broken down that way would be to go back to single family residential portion 3.010 and on - it talked in terms of dwelling units. The two could be combined to make another definition alphabetically. That language wouldn't be used in that way in the Code, however.

Councilor Burgin stated his concern was single family residences that are now incorporating mini-apartments for elderly relatives, or others, if there were two doors and two sets of living areas/bathrooms - it was connected by a doorway but otherwise, two separate living areas it was being called single family residential because it was connected by an interior door.

City Attorney Jennings stated Councilor Burgin was approaching it in terms of structure and he was in terms of family unit.

Mayor Cox called for further Council questions. There were none.

Mayor Cox closed the public hearing at 7:24 p.m.

ITEM 5: ORDINANCE Amending Ordinance No. 491-0 By Adopting the 1990 Troutdale Development Code and Providing an Effective Date Clause [Tape 1, Side 1 23:58]

Mayor Cox called this agenda item and read the ordinance by title.

ITEM 6: DISCUSSION: Forfeiture Ordinance [Tape 1, Side 24:12]

Mayor Cox called this agenda item.

Christian stated that County Ordinance 633 was asking the City to enter into an intergovernmental agreement with them to enforce that ordinance inside Troutdale city limits. This basically would state that the City would allow that enforcement. Christian stated there was also a separate intergovernmental agreement marked "amended" before Council. That followed up on the initial agreement and laid out specifically how the forfeiture would proceed and how the proceeds of the forfeiture would be distributed among the agencies involved.

Christian stated that there were differences in what was before Council and what the original ordinance allows. Example: Current ordinance only addressed illegal drug activity and gambling. The City ordinance was narrow in the application of the City right to the forfeiture process in terms of dealing with criminal activity. The County ordinance had a broad range of actions [prostitution - which was eliminated from the original Troutdale ordinance].

Christian stated that the amended version came from discussions with Chief Collier and Jim Jennings regarding the percentage of disbursement because they use the District Attorney as their forfeiture counsel and 35% would go to that attorney. Beyond that, it conformed to the City ordinance in terms of general fund rather than directly into the police department.

Jennings gave background information. The County passed an ordinance in 1984 which allowed them to seize vehicles and other instrumentalities primarily involved in drug traffic. In 1989 a new state law passed which cleaned up concerns that the Courts had raised with the forfeiture idea, generally - as well as expanded the areas into which forfeiture could extend. In response to that the County drafted an ordinance for their use - it expanded forfeiture into the following crimes: theft; unauthorized use of a vehicle; burglary; gambling; prostitution and related offenses; visual recording of sexual conduct by children; someone caught driving a vehicle while their right to drive is suspended and reason for suspension relates to conviction for driving while under the influence.

Jennings stated that Council had a series of considerations to make: 1) Desire to have forfeiture ordinance operating inside City of Troutdale? If yes, 2) [pg. 5 subsection (d)] what of the 7 offenses would Council wish to include? 3) City ordinance enforced City wide or Multnomah County ordinance and have the County handle forfeitures?

Jennings stated that Council first needed to decide continue the forfeiture ordinance?

Councilor Burgin stated that with the possible exception of someone that had their license suspended for reason of driving under the influence where there is a specific public danger, forfeiture ordinances are anti-family, anti-woman, anti-constitutional. To say, indiscriminately regardless of whose car it is or which member of the family may need that car for their livelihood, their day care or whatever, the entire family is submitted to a penalty of the offended member. That is nearly always the male member of the family. He stated that it was a bogus way of going about something without giving people the due process that they are guaranteed under the Constitution. A person deserves a trial before there is a sentence. It was his opinion that with the possible exception of someone driving under the influence, he wasn't even comfortable with the forfeiture ordinance that the City currently had.

Jennings stated that he had raised that issue with the County. The people making the decision to forfeit had significant discretion in what they choose to do. The reading of the law states that the person who has a car that is being forfeited must know that the illegal activity is taking place in that car, or have reason to know. The theory being that protects the innocent spouse from having the only family car forfeited. Jennings gave examples.

Councilor Burgin asked if Jennings was stating that all the cars that had been forfeited by people involved in prostitution have been cars of single men?

Jennings stated that he did not know. But, to believe the assurances that both he and Chief Collier had heard from the County Sheriff's Department...they are not forfeiting vehicles where there is any question that the spouse did not know of the activity. He stated that it way very complicated. Currently the City of Portland enforces their ordinance their own way, Multnomah County doing one their way, City of Fairview their own way, Gresham was cooperating with Multnomah County, Wood Village passed one. Therefore, it was difficult to compare what one agency did to another agency.

Chief Collier stated that there was also a provision in the statute that covered legal lien holders. There was not only the law enforcement process but the forfeiture counsel process and a state oversight committee.

Councilor Burgin asked if the process involved an immediate forfeiture followed by some examination so, whatever innocent family member would be out of luck for several days during that process?

Christian stated it was a confiscation, not a forfeiture. But, it is still held.

Jennings stated it was his opinion that there would be a test of one of the laws, at some point, on the wide band of Constitutional issues.

Councilor Burgin stated that people that would challenge it would be people that had money and those people would be the people most

interested in keeping their name out of the paper. So, the people that have cars forfeited are people at the lower level economically and won't challenge the law.

Jennings stated that he wasn't sure that Legal Aid or another indigency defense challenge the laws at some time. He stated that this was similar to the RICO statute which has clearly been effective in fighting a variety of crimes by causing suits to be filed, tying up all the proceeds from drug and other illegal activity.

Jennings stated that forfeiture ordinances are effective - especially where there is a lot of money or cash being generated. However, Councilor Burgin was right, there are some problems.

Councilor Schmunk asked if there was a lien-holder they couldn't forfeit it could they?

Jennings stated that if there was a bank that had title to the vehicle, the bank would be notified and probably get the vehicle back. In most cases the forfeiting agency can't afford to pay off the lien in order to get title to the vehicle.

Councilor Thalhofer stated that it appeared from City of Portland's ordinance - that they have the ability to pick and choose the cars that are kept - that didn't seem right.

Jennings stated that after discussing this with the Multnomah County's District Attorney's office that was the same process that they used also. For a car that doesn't have much worth, it wasn't worth the costs associated with the forfeiture procedure to do it for some vehicles.

Chief Collier agreed unless it was for a constant, repeat offender and they wanted to get the individual's attention.

Christian stated that the forfeiture ordinance didn't specifically speak to vehicles alone - anything that was associated with the criminal activity.

Councilor Fowler stated that there had to be a witness to the exchange of money to prove prostitution.

Jennings stated that it had to be proved by a preponderance of evidence [less than a criminal] that an act took place [in this case] in the vehicle to be seized. There is a judicial process to prove that the law was broken. He stated that there was a very streamlined process in order to get these through the court system - it wasn't a long, delayed process.

Jennings stated that there needed to be agreement from the Council on whether or not the City had a forfeiture ordinance before discussions could be pursued.

Mayor Cox called for Council comment.

Bui - Stated there should be further investigation.

Thalhofer - There should be a forfeiture ordinance with appropriate safeguards. He was most concerned with the drug issue.

Jacobs - Was interested in seeing it pursued.

Burgin - Didn't like the semi-judicial process and stated that it seemed wrong.

Jennings stated that there were two separate judicial processes going on 1) civil court deciding that the activity took place; 2) criminal court having to prove beyond a reasonable doubt that the individual was guilty. A vehicle could be forfeited and yet not be found guilty of the crime.

Fowler - Most interested in drug situations.

Schmunk - Favored pursuing it. There needed to be some deterrent and this was a deterrent that was one step to try to stop criminal activity.

Jennings asked for a sense of the offenses that Council absolutely didn't want enforced inside the City and asked for other offenses that Council wished to see included.

Councilor Schmunk asked the Chief if he had ideas as to other matters that could be included.

Chief Collier stated that each of the separate prohibited conducts should be reviewed on a case by case basis. He stated that if the monies used from drug deals were used to purchase a vehicle, he felt that the vehicle should be forfeited.

Councilor Burgin asked about holding proceeds until there was a trial determining guilt or innocence?

Jennings stated that the criminal process took longer [5-6 months] than the forfeiture process. That would require holding things longer than

Councilor Burgin asked if the forfeiture process could have built into it so that a quick, easy process that determined yes, it should be forfeited. The final disposition of the vehicle or assets could be held in abeyance until a criminal trial determined the guilt. Then they wouldn't be out anything. If they were found innocent, the assets could be returned.

Councilor Thalhofer thought that the City ordinance could have that built in.

Jennings stated he didn't think so. When there is a civil trial process and the jury makes a decision [this could be a jury decision,

made on forfeiting assets] when the process is done, everyone counts on having a decision that can be acted on. Appeal it or abide by it. Then everything else is held in abeyance until there is another activity in an equal court somewhere else. These are two different processes. The law was clear that the forfeiture of the assets has to take place on the civil side and cannot take place on the criminal side. That would be an unusual punishment for the crime. Jennings stated that you had to trust the judicial process on the civil side having enough integrity to faithfully discharge the responsibilities and give a person charged with something like this an adequate opportunity to represent themselves or present their case.

Jennings stated that he was confident that 12 people could make a right decision as to what to do with an asset.

Jennings stated that there would be someone that pushed it and didn't care if their name would be in the paper.

Chief Collier asked if there wasn't a forfeiture ordinance in place in the City and choose to use the state InRem forfeiture statute [H.B. 2282] would the forfeiture funds be disbursed to the state.

Jennings stated that they would be disbursed exactly as the state statute called them out to be disbursed. That was significant, he stated, if the City didn't do it themselves - someone else would be telling the City what happened to the money that the police officers confiscated.

Jennings stated that more often than not the issue was drugs and there was inter-agency cooperation on the drugs. Therefore, the mechanism of forfeiture would sometimes take place in the Federal Court system and sometimes in the State court system and certainly a number of agencies would have a slice of the pie. This is only the first layer and it would be back before Council again.

Jennings again asked Council for direction.

Schmunk had no problem with the list; Fowler had no problem; Burgin stated that if there was a forfeiture ordinance, it was a good list; Jacobs stated it was fine; Thalsofer stated it was okay; Bui stated that the list was excellent. If possible, the second and thereafter offenses of reckless driving.

Jennings stated that another would be a second offense 'attempting to elude a police officer'; or 3, 4, or 5th conviction of DUUI?

Councilor Fowler stated that they had been lost through bureaucracy and through the forfeiture process the City would be doing more penalizing than would ever happen through the Courts.

Councilor Burgin stated that was the whole point, it was admitting that the criminal justice system wasn't working so we would approach it at this level.

Christian stated that Jennings would look into information to bring to Council to establish what policy Council wants. There was enough information gleaned for that purpose. This item was for discussion only at this time there was no formal action to be taken.

ITEM 7. MOTION: Consideration by Council to establish the procedure and set a date for a public hearing to hear an appeal of a final order on File No. 81-90-049 - Denial of a request for a Planned Development by the Troutdale Planning Commission.
[Tape 2, Side 3 6:50]

Mayor Cox called this agenda item.

Cline stated the information included in the packets was for a planned development proposed for the property behind the new medical clinic off of 257th. It extended from 257th to 262nd also called Hensley and North of Hensley. The request was before the Planning Commission on June 20. The Planning Commission found that the proposed planned development was not in compliance with the City's Comprehensive Plan and denied the request. The applicant had submitted a written request for a "de novo" appeal before the City Council.

Cline stated that the Council could elect to 1) consider a de novo hearing [all over again] and schedule a date for the hearing; 2) limit the appeal to a review of the record made on the decision being appealed; 3) limit the hearing issues determined necessary for a proper resolution of the matter.

Cline stated Planning staff recommendation was that if the Council did decide to hear it de novo, September 11, 1990 was the suggested date to set the hearing.

Councilor Schmunk asked if this was the Finnegan piece? Christian stated yes.

Councilor Burgin stated that the letter discussed a design adjustment, change of design...any applicant has the right to submit a new proposal at any time is that correct?

Cline stated that was correct. They couldn't submit the same application back through within a one year time of it being denied but they could make modification and go through a re-submittal.

Councilor Burgin stated that he would prefer hearing a review of the record and if there was a substantial change that they wanted to make, they could re-apply and go back through the process - Planning Commission.

MOTION: Councilor Bui moved to hear the matter by a review of the record on September 11, 1990 at the regular meeting and the appropriate people be notified to appear. Councilor Burgin seconded the motion.

DISCUSSION:

Jennings stated that "on the record" meant literally on the record with nothing else or, "on the record with limited testimony and submission of fact". He was unclear which was the subject of the motion.

Councilors Burgin and Bui stated that they would let that stand as on the record only.

YEAS: 6 NAYS: 0 ABSTAINED: 0

Bui - Yea; Burgin - Yea; Fowler - Yea; Jacobs - Yea; Schmunk - Yea; Thalhofer - Yea

ITEM 8. COUNCIL CONCERNS AND INITIATIVES

Mayor Cox called this agenda item.

Christian asked if the two updates that were addressed earlier could be reviewed first.

Planning Commission Vacancy: Memo from Walt Postlewait, President, Planning Commission. Christian stated that the Planning Commission had no authority in terms of their membership other than recommendations to Council. Council must, in this case, declare the vacancy in order to proceed with filing the vacancy.

MOTION: Councilor Burgin moved to declare a vacancy on the Planning Commission for Position #4. Councilor Bui seconded the motion.

DISCUSSION:

Councilor Thalhofer wanted to make sure that every effort possible was made by staff to contact Mr. Williams to clarify his intention since he didn't submit a letter of resignation - although he did declare that he didn't intend to participate. That appears that he is all through with the Planning Commission.

Mayor Cox read an excerpt from the Planning Commission minutes for Council.

Councilor Thalhofer again stated that he wanted to be fair to Mr. Williams and asked Cline how many attempts there had been to contact Mr. Williams.

Cline stated that he had made 6 phone calls to Mr. Williams or his business trying to contact him. He did state that there hadn't been any written correspondence. He stated that the packet of materials for the last Planning Commission was left at Mr. Williams residence, however, Mr. Williams was not in attendance at that meeting.

Councilor Burgin stated that he made the motion because he had stated

his intention but hadn't yet written the letter. He asked to amend the motion unless Mr. Williams notified Council otherwise.

Jennings stated that the initial motion should be withdrawn and taken from the table as well as the second.

Councilor Burgin withdrew his motion. Councilor Bui withdrew his second to the motion.

Councilor Schmunk asked if a member was automatically removed after not attending three meetings? Since that was correct she felt that a letter should be written directly to Mr. Williams. She stated that Council should wait for a personal response from him in some way. Councilor Schmunk found it distasteful to just replace him.

Councilor Bui stated that receipt of some type of response regarding his resignation should be received by the next meeting date - August 14, 1990.

Councilor Schmunk stated that the letter should state that if no response is received by the next meeting date, it will be considered as his resignation.

Councilor Burgin asked about taking the action by building in 'if we don't hear from you the position will be declared vacant' then there would be no need to act on it again other than the process of filling the vacancy.

Mayor Cox stated that there was a #2 position that had been interviewed in the recent openings for Planning Commission. The Chairman of the Planning Commission sent a note stating the #2 person from those interviews should be appointed. Mayor Cox stated that he supported this rather than go through an entire selection process again within two months of the last selection process.

Councilor Thalhofer asked to have a legal opinion from the City Attorney.

Jennings stated that the Council meeting of August 14, would be the next Council meeting prior to Planning Commission meeting [which had been scheduled for August 22]. The letter could state that unless Mr. Williams was heard from prior to the August 14th meeting, the Council would feel free to appoint a new Commission member at that time.

MOTION: Councilor Burgin moved to direct City staff to forward a letter to Mr. Williams stating that unless Mr. Williams was heard from to the contrary, City Council would assume his position to be vacant and appoint a new Commission member at the August 14, 1990 City Council meeting. Councilor Thalhofer seconded the motion.

YEAS 6 NAYS: 0 ABSTAINED 0

Bui - Yea; Burgin - Yea; Fowler - Yea; Jacobs - Yea; Schmunk - Yea;

Thalhofer - Yea

[Tape 2, Side 3 19:32]

Councilor Burgin stated that he would like Council to be careful of exacting punishment because there isn't a criminal justice system with respect...we need to elect people and hire them in government positions to rework the criminal justice system so it will exact whatever kind of punishment necessary.

Councilor Thalhofer agreed with Councilor Burgin on that issue. His second concern was the median on 257th from Columbia to Cherry Park Road had been cleaned up of the weed concern. Multnomah County Department of Transportation had used inmate labor to eradicate the weeds. It was his opinion that the citizens of the City, as well as County, liked to see the prisoners out there working and doing something useful rather than just sitting in a jail cell.

Councilor Thalhofer stated that the third concern was the ordinance that was on the books designed to eradicate the weed concern wasn't working. It was July 24 and the Cherry Park Road berm weeds were still there. There were several areas in the City where there were numerous weeds just waiting to start a fire. He stated a procedure needed to be set in place to speed up the process to have the weeds taken care of more towards the earlier part of summer rather than the later part of the summer. Wasn't there something that could be done to hasten the process?

Christian stated there were economic issues. The 1st and 2nd notices had been sent out. The Building Inspectors had been extremely busy with inspections of the weeds, as well as the building that was going on. She stated that there were rough areas [Cherry Park berm] in the City and there were two companies that did this type of mowing. The City was on their list and was in line with everyone else to get these areas done. This was a budgeted item and would be done as soon as our name came up on those lists.

Christian stated that staff was responding to development demands right now. She was open to suggestions if Council had alternative ideas.

Councilor Schmunk stated that the letters did go out, several properties were taken care of by the recipients of those letters in her area. She was aware that several neighbors around the Post office area dumped garbage on the berm which created lots of weeds on the berm.

Christian stated that also created a problem for people that did the mowing because they couldn't get the mowers in there to get it cut. She stated that the County Farm property was also unsightly and she was uncomfortable sending someone out to mow 200 acres and place a lien on that property.

Councilor Thalhofer stated it shouldn't be a problem at all. It was

creating a fire hazard and if it wasn't taken care of by the property owner.

Councilor Burgin asked if there was a way to work with the owner on the berm on Cherry Park to maybe spray it early on in the spring?

Christian stated that could be offered in terms of time and materials. It was worth a try and she stated it was a good idea.

Councilor Burgin stated that for those properties that are a constant problem and in the right-of-way.

Councilor Thalsofer stated that the Port of Portland had mowed all of their weeds, baled them and trucked them out as well as the weeds on the right hand side of Cherry Park Road, south on 257th. He stated that he was very concerned about the fire hazard that these properties created. He asked what the City liability would be if a fire did start and consumed some dwellings?

Jennings stated that the liability wouldn't be very great since it would be on private property.

Councilor Bui - stated that he wanted to thank City staff for their participation in the Troutdale Parade and Picnic. He asked about the Historical Society request on the old Althaus farm and if Council was to consider any action at this meeting?

Christian stated that staff didn't have the ability to waive or reduce the fee and it would require Council action. A check had been written to cover the zone change fee [\$500]. The check could be returned or re-issued if Council decided what to do regarding this issue. It was a zone change requiring public notice and property owner notification, as would any zone change.

Councilor Schmunk asked Cline if historic was an overlay zone and required that large a fee? Cline stated yes it was an overlay zone and would require that fee due to the zone change and the process required of Planning Commission, full application and evaluation by staff, staff report, public notices sent to all affected surrounding property owners, an actual hearing before the Planning Commission and a determination made by the Commission.

Councilor Fowler asked if when the planning process was done for the historical inventory was this one of them and if there wasn't a tax break for this?

Mayor Cox stated yes, there was.

Jennings stated that it didn't come automatically from the City's designation, however. There were two levels for the tax break to occur 1) Registry for Historic Places at the Federal level when approved; 2) State level. However, it had little to do with what the City did.

Mayor Cox stated that the Historical Society puts up a marker which costs them \$100 and the City has, at times, stated that they liked the historical designations. He stated there were very few requests and the fee could, perhaps, be reduced.

Christian didn't have the figures to know the administrative costs involved. By law, the administrative fees are actual costs.

Councilor Fowler stated that there appeared to be a lot of bureaucracy to pass two other levels for being historical and all City had to do was declare it historical and the \$500 seemed like a lot to do that.

Councilor Schmunk stated that there was a lot of work required for any zone change.

Councilor Bui stated that there was a letter on file and it could be considered at a later date.

Councilor Schmunk stated that a letter had been received and the fee paid - could it be ignored?

Christian stated that it could be scheduled for the August 14 meeting.

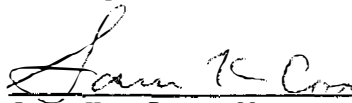
ITEM 9. ADJOURNMENT.

MOTION: Councilor Bui moved to adjourn. Councilor Burgin seconded the motion.

YEAS: 6 NAYS: 0 ABSTAINED: 0

Bui - Yea; Burgin - Yea; Fowler - Yea; Jacobs - Yea; Schmunk - Yea; Thalhofer - Yea

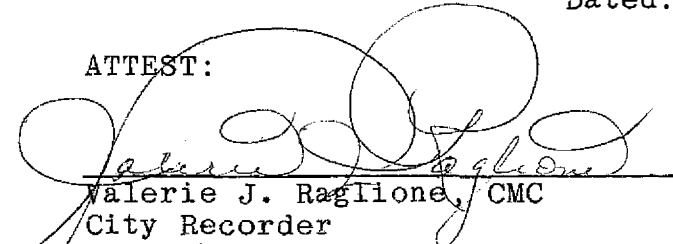
The meeting adjourned at 8:40 p.m.



Sam K. Cox, Mayor

Dated: 8/7/90

ATTEST:


Valerie J. Raglione, CMC
City Recorder

CC9[3]

