

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

FEBRUARY 26, 1991

ITEM #1: PLEDGE OF ALLEGIANCE, ROLL CALL, AGENDA UPDATE

Mayor Cox called the February 26, 1991 Regular City Council meeting to order at 7:00 p.m. and called on Councilor Fowler to lead the Pledge of Allegiance.

City Recorder, Raglione, was asked to call the roll.

PRESENT: Bui, Cox, Fowler, Jacobs, Schmunk, Thalhoffer

ABSENT: Thompson

STAFF: Christian, Cline, Farr, Gazewood, Raglione, Wilder

PRESS: Web Ruble, Oregonian

GUESTS: Ron Opitz, N.W. Natural Gas, Joanna Moyer

ITEM #2: CONSENT AGENDA

Mayor Cox called this item and asked if there were any Council comments. There were none.

MOTION: Councilor Bui moved to approve the Consent Agenda [2.1 Accept Minutes 2/12/91 - Regular Session]. Councilor Jacobs seconded the motion.

YEAS: 5

NAYS: 0

ABSTAINED: 0

Bui - Yea; Fowler - Yea; Jacobs - Yea; Schmunk - Yea; Thalhoffer - Yea

ITEM #3: PUBLIC COMMENT

Mayor Cox called this agenda item. There was no public comment offered.

ITEM #4: PUBLIC HEARING/ORDINANCE: Granting a Non-Exclusive Gas Utility Franchise to Northwest Natural Gas Company, and Fixing Terms, Conditions and Compensation of such Franchise.

Mayor Cox called this agenda item.

- .1: Open Public Hearing: Mayor Cox opened the public hearing at 7:03 p.m.
- .2: Declarations, Challenges, Ex Parte Contact: Schmunk and Cox stated they had natural gas in their homes. There were no other comments.
- .3: Summation by Staff: Christian stated that in the franchise expired this year. NW Natural had submitted an agreement for re-approval to the City. This was basically a license giving them use of public right-of-way within the limits of Troutdale. Staff had made only two changes 1) Section 4 the franchise period recommendation was for ten years instead of 20 years. This was done for ease in making adjustments to the franchise at its normal elapsing period due to changes that might occur within the 10 years. 2) The second change was the amount of the franchise. At the time this was originally issued it was 3% [ORS limit]. The statute was changed to allow a maximum of 5% franchise fee. The 5% was recommended as the franchise fee.

Christian stated during the recent Budget Committee, the reason City was recommending an increase in the percentage was due to passage of Ballot Measure 5 - utility companies had seen an increase in their profit margin because their property taxes had been reduced. She stated that this would help the City offset the loss in revenue in terms of tax revenue. It was, therefore, staff recommendation that Council adopt the 5% franchise fee.

- .4: Public Testimony: Proponents - City of Troutdale.
- .5: City Council Questions:
- .6: Public Testimony: Opponents - Ronald K. Opitz, Northwest Natural Gas Manager spoke in opposition. Opitz stated it was his job to negotiate franchises with the 101 cities they had franchises with in Oregon and Washington. The impact of Measure 5 was well understood. However, the Company didn't support an increase in the franchise. It was felt that an increase from 3% to 5% was discriminatory. Natural gas was a choice rather than a necessity. Gas customers were also electric customers and would therefore double the franchise fees paid. Straight electric customers would pay one franchise fees. There were other sources in the field. Alternative fields weren't

paying franchise fees - [i.e., propane, oil, hog fuel, wood products, solar] which were free from paying franchise fees and were in direct competition to the gas company.

Opitz stated they were aware Measure 5 created problems. However, it was also a message that this was a time of tax adjustment or tax revolt in the State of Oregon. Everyone was saying they didn't want higher taxes which was why Measure 5 was brought to light.

.7: City Council Questions: Councilor Bui asked how many cities were requesting an increase in fees of the 101 cities?

Opitz stated that right now, 93 of the franchises were in the State of Oregon. Of the 93 cities, 92 were at 3%; 1 had passed a utility ordinance for 1% business user tax. They had received a number of inquiries from the other cities regarding their options and what the franchise fees mean and he was in communications with those cities at the current time. Opitz stated that the City of Portland didn't have a franchise. NW Natural was a gas company before they were a city and they had been at 5% for a number of years. Franchises weren't negotiated with Portland.

Councilor Thalhofer asked Opitz to explain about the 1% utility tax in lieu of an increase in franchise fees. Opitz stated that was in lieu of a franchise. The City of Eugene had passed a 4% business tax and credited the Gas company back with 3% that was paid in franchise fees and came out with a 1% net increase to all levels of customers.

Councilor Thalhofer stated there may be other companies that weren't paying a franchise fee and maybe the City was missing a bet.

Opitz stated propane, oil, wood product fields and alternative sources of energy [i.e., solar].

Councilor Fowler stated that gas rates were programmed according to costs. Wouldn't that mean that if the City raises 2% the customers fees would increase slightly greater than the 2% - correct?

Opitz stated no. If the fee went up over 3% it wouldn't be in the form of a franchise tax. The City would have to pass its own ordinance and there would be a line item on the bill for the City of Troutdale. The gas company would collect it and pass it to the City but, it wouldn't be an actual franchise fee it would be an energy charge for customers in the City.

Councilor Fowler stated this was similar to what the City did with the phone company increase?

Mayor Cox asked of the 93 cities, how many had gone to Opitz regarding fees?

Opitz stated of the 93 in Oregon he had had 6 contacts.

Councilor Fowler stated that Opitz stated the law stated a 3% fee and the rest would be established by the City on the gas which would be passed through.

Opitz stated that the Public Utilities Commission had a 3% limitation on the franchise tax.

Councilor Thalhofer stated that the windfall due to Ballot Measure 5 this increase wouldn't be coming out of that?

Opitz stated that the gas company would realize reductions in property taxes but they had already discussed this with the utility commission and they may pass back those savings in property taxes in their rate structure.

Councilor Fowler - revise the rate structure downward?

Opitz stated possibly, it was being discussed.

Councilor Thalhofer stated it was interesting because it was passed through to the consumer. If you use part of the windfall to reduce rates...

Opitz, if that happens.

.8: Rebuttal - Gazewood stated that state law had permitted a 5% franchise fee for the past three years. He recommended the increase from 3% to 5%. At the recent Budget Committee meeting a presentation was made for 91-92 the figures finalized showed a \$240,000 reduction in property taxes due to Ballot Measure 5. There were substantial cuts to the City that extremely affected capital outlay. There was only \$14,000 shown in Capital Outlay in the preliminary budget for the General Fund. This figure was down from FY 90-91 from in excess of \$100,000 for capital outlay. This affects maintenance of City buildings it took 5 years to come back to a maintenance level for the City facilities. The City must look at alternative methods of revenue. There would be a reduction of taxes whether or not this was a pass through.

.9: City Council Questions: Councilor Fowler had a problem with making a decision. He stated one person said one thing and another person said another. Both couldn't be correct.

Opitz stated that in the 1989 ORS there was a limit placed on non franchised utilities. It was 3% on the franchise fees, as quoted by the legal department of the gas company.

.10: Recommendation by Staff: Recommended as above to increase from 3% to 5% and set 10 years for franchise agreement.

.11: City Council Questions

.12: Close Public Hearing Process Mayor Cox closed the public hearing at 7:21 P.M.

ITEM #4a ORDINANCE: Granting a Non-Exclusive Gas Utility Franchise to Northwest Natural Gas Company, and Fixing Terms, Conditions and Compensation of Such Franchise. [Tape 1, Side 1 22:18] **First Reading**

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

MOTION: Councilor Bui moved approval of the ordinance as written. Councilor Schmunk seconded the motion.

DISCUSSION: Councilor Fowler stated that he would vote no on it as it stands now. He asked when the franchise was expiring?

Christian stated that it expired January 11, 1991.

Councilor Fowler wanted it clarified whether or not it was being passed on to citizens or where?

Christian stated it was operating without a franchise agreement for the last thirty days as it falls within the statutes. It could be held over to the next meeting [March 12, 1991] if Council wished.

Councilor Thalhofer asked if it was a serious problem that there was operations without a franchise?

Optiz stated it wasn't a problem. He had been in communication with Gazewood and negotiations sometime take considerable discussion. It would remain status quo until through the renewal of the franchise.

Councilor Schmunk stated that in the interest of clarification it should be tabled. She withdrew her motion to second.

Christian suggested first reading by title which would make the process continue on or table the whole thing and not have reading of the ordinance. It was already known it wouldn't pass unanimously and Council could make a declaration that it is not to pass and be effect tonight, have a second reading and debate on the issue.

Christian stated there could be allowances made for this at the next meeting.

Councilor Thalhofer stated he too would vote no on it tonight.

Mayor Cox stated there would be no vote, it would be read only.

Councilor Bui withdrew his motion.

Christian stated the response would be prepared and it would be on the agenda for the March 12, 1991 meeting for second reading.

ITEM #5: RESOLUTION: Authorizing the Award of a Construction Contract for the Purpose of Constructing Public Facilities [LID 91-002 -- Mountain Vista 878-R [Tape 1, Side 1 27:33]

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

Wilder gave background information stating that the bid opening for construction of the public facilities was February 25. There were ten bidders ranging from \$850,000 to a low of \$656,000. The three low bidders were very close. Contractors were reviewed and qualified and pre qualified through the State of Oregon. Wilder stated it was staff recommendation to award the bid to Emery Brothers of Stayton who was the low bid and requested that Council authorize the Mayor to enter into a construction contract with Emery Brothers. The project was expected to begin mid March and be completed by the end of June, 1991.

MOTION: Councilor Bui moved approval with the name CREST changed to VISTA in the title of the resolution. Councilor Fowler seconded the motion.

YEAS: 5

NAYS: 0

ABSTAINED: 0

Bui - Yea; Fowler - Yea; Jacobs - Yea; Schmunk - Yea; Thalhoffer - Yea

ITEM #6: RESOLUTION: Authorizing the Award of a Construction Contract for the Purpose of Road Reconstruction -- Sweetbriar Lane Reconstruction - Phase II

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

Wilder gave explanation that due to an error in sending out plans, this item would be delayed to allow the time to bid on correct plans. The bids would now be opened March 11 and bid award would be scheduled for the March 12, 1991 regular Council meeting.

Mayor Cox stated this item would be Tabled to the March 12, 1991 Council meeting.

ITEM #7: ORDINANCE: Modifying 530-0 (System Development Charges) and Imposing Storm Sewer System Development Charges 566-0 [Tape 1, Side 2 00:00]

Mayor Cox called this agenda item and read the ordinance by title. Mayor Cox stated that this was second reading before the Council.

Wilder stated that the recommendations of the previous hearing and discussion were incorporated and Section 7 included new language to define "change in use". There were no other recommended changes.

MOTION: Council Bui moved to pass the ordinance as presented. Councilor Jacobs seconded the motion.

YEAS: __4__
NAYS: __1__ [Fowler]
ABSTAINED: __0__

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

ITEM #8: RESOLUTION: Setting Storm Water System Development Charges [879-R]

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

Wilder stated this was carried forward due to the Ordinance requiring new language and second reading. The ordinance authorized the imposition of system development charges and the resolution sets the amount.

Wilder stated that this resolution sets out storm water system development charges at \$331.00 per equivalent resident unit [ERU]. The ERU was established for Troutdale and shall mean 2700 sq. ft. of impervious surface area \$.123/sq.ft.

MOTION: Councilor Bui moved to adopt the resolution as written. Councilor Schmunk seconded the motion.

YEAS: __4__
NAYS: __1__ [Fowler]
ABSTAINED: __0__

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

ITEM #9: MOTION: Authorizing Mayor to Enter Into Agreement with Multnomah County/Signal Agreement @ Cherry Park and 257th. [Tape 1, Side 2 6:46]

Mayor Cox called this agenda item.

Wilder stated that as the increasing traffic on 257th with new access for current and pending development required signalization at 257th Avenue and Cherry Park Road. The Troutdale Planning Commission, as a condition of development approval for the Columbia Vista subdivision, also set forth the signalization requirement.

Wilder stated that the signal maintenance/construction proposed agreement was attached for review and consideration. It was staff recommendation to authorize the Mayor to execute the agreement in anticipation of the signal construction project. The signalization would hopefully slow traffic on

257th and provide for increased safety at an existing intersection with some visibility and safety problems.

Councilor Schmunk asked about the timeframe. Wilder stated that it would be by the end of July, 1991.

Councilor Fowler asked what fund would be paying for this? Wilder stated that 1/4 roads and recapture the balance from the benefitting developer. The City would collect from Oakley and the developer when it was constructed.

MOTION: Councilor Thalsofer moved to authorize the Mayor to execute the agreement. Councilor Schmunk seconded the motion.

YEAS: 5

NAYS: 0

ABSTAINED: 0

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

ITEM #10: COUNCIL CONCERNS AND INITIATIVES

Mayor Cox called this item.

Councilor Schmunk reminded everyone of the March 7 meeting at Reynolds Middle School, 201st Halsey from 5:00 p.m. - 10:00 p.m. an Open House with ODOT staff and members of the Citizens Advisory Committee to review proposals for the Kane Road and Hogan/Burnside routes for the Mt. Hood Parkway. This was opportunity for public to exchange information and get answers to questions and discuss concerns.

Councilor Thalsofer asking questions regarding the Columbia Vista development infrastructure. He stated that it appeared to be taking a considerable amount of time. He asked about the infrastructure bankroft bonding?

Wilder stated that paving would depend on the weather conditions and the project was only running 1 1/2 weeks behind schedule.

Gazewood responded to the bankroft bonding and stated that the only problems with collection was RMAC property. Second and Third notices were being sent for collections. All other LID's were progressing well with payments and collections.

Councilor Bui addressed the issue of Ethics which had been previously discussed. He asked that the declarations, challenges or ex parte be added to each agenda item once again.

Christian stated that the franchise agreement for Ege Sanitation required reports to Council. The report in the packet would be an agenda item for a later meeting and was included now for information only.

ITEM #11: ADJOURNMENT:

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

YEAS: 5

NAYS: 0

Bui - Yea; Fowler - Yea; Jacobs - Yea; Schmunk - Yea; Thalhoffer - Yea

The regular City Council meeting of February 26, 1991 was adjourned at 7:45 p.m.

Sam K. Cox, Mayor

Dated: _____

ATTEST:

Valerie J. Raglione, CMC
City Recorder