

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

7:00 P.M. -- APRIL 23, 1991

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

Mayor Cox called on Councilor Bui to lead the pledge of allegiance.

City Recorder, Valerie Raglione, called the roll.

PRESENT: Bui, Cox, Fowler, Schmunk, Thalhofer [7:10], Thompson

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

PRESS: Web Ruble, Oregonian
Dave Pinson, Outlook

GUESTS: Joanna Moyer, Diane Whitehead, Keith Radford, Sheila Monagon, Jim Wakeman, Sally Wakeman, Shirley Prickett, Walt Postlewait

Mayor Cox asked City Administrator Christian if there were any agenda updates.

Christian stated that item 2.2 was a resolution to ratify a Council decision regarding support of the Oregon Department of Transportation report on I84-Sandy Boulevard Improvements. Council had, at the April 9, 1991 meeting, agreed to send a letter supporting the project. Christian stated that the resolution was stating the same comments as the letter but in a more formal fashion to meet ODOT's request.

ITEM #2: CONSENT AGENDA

Mayor Cox called this agenda item.

MOTION: Councilor Bui moved to approve the consent agenda as written [2.1 - City Council Minutes 4/9/91; 2.2 Resolution Supporting Oregon Dept. of Transportation Proposed Improvements to I-84 Between NE 181st and Sandy River Bridge and Requesting Further consideration of Sandy Boulevard Overpass. Councilor Thompson seconded the motion.

YEAS: 4
NAYS: 0
ABSTAINED: 0

Bui - Yea; Fowler - Yea; Schmunk - Yea; Thompson - Yea

ITEM #3. PUBLIC COMMENT:

Mayor Cox called for public comment on non-agenda items. There was none.

ITEM #4. APPROVE BUDGETS: Cable Access; Program in Community Television; Local Origination; Multnomah Cable Regulatory Commission [Tape 1, Side 1 2:00-20:56]

Mayor Cox called this agenda item and Councilor Bui introduced the representatives from the Multnomah Cable Regulatory Commission - Julie Omelchuck, Alec Quinn, Jack Shore that spoke to this issue.

Three budgets were presented for Multnomah Cable Regulatory Commission [MCRC]; Multnomah Community Television [MCTV]; and the Program in Community Television [PCTV].

Councilor Bui invited Council to any meeting to see the operations at the college. As the City's representative, he was very proud of the work that was going on in East Multnomah County at the Cable Access, Mt. Hood Community College. He also stated that work was being done on a Bill which would give authority back to the Commissions to regulate fees.

Alec Quinn stated that a weekly news program that started in January was going well - It was aired on Channel 21 on Fridays at 7:00 p.m. He stated that they encouraged news tips to be called to 667-7636.

Councilor Thalhoffer asked about contingency fund plan to liquidate soon [carryover Regulatory Commission). Omelchuck stated that a work session was held and the Commission realized the amount and decided that ideas would go to each Council through a public meeting process to take proposals back. Gresham asked that it be done in 90 days.

Councilor Thompson asked what "regulatory" meant. Omelchuck stated that the Paragon franchise allowed them to use public rights-of-way in exchange they would perform customer service standards [i.e., picture quality; technical standards] looking into installing fiber optics -- the user could not pick and choose where service would be. This would regulate these types of things. The balance of the franchise remained in tact.

Councilor Thompson asked if fees went to the Cities?

Omelchuck stated they did not. Subscribers would see the benefit from fee put back into cable related services.

Councilor Thalhoffer asked if Congress was considering rate regulations?

Omelchuck stated that franchises subject to rate regulation were not deemed effective competition and deregulation of all but 6% in the US. Rates had increased since 1989 by 50%, or 13% each year - largely since this franchise was in effect.

Councilor Bui stated that everyone should be communicating with their Congressman to support legislation for these franchises was a very good idea.

MOTION: Councilor Thalhoffer moved to approve adoption of the MCRC, MCTV, and PCTV budgets. Councilor Thompson seconded the motion.

YEAS: 5

NAYS: 0

ABSTAINED: 0

Bui - Yea; Fowler - Yea; Schmunk - Yea; Thompson - Yea; Thalhoffer - Yea

ITEM #5. APPEAL: SDC/Hearing per Ordinance 566 [530] Section 11 [Tape 1, Side 1 20:56-Side 2 21:39]

Mayor Cox called this agenda item.

Councilor Bui stated that he hadn't been present at the first portion of this appeal and would abstain from voting.

Jennings stated that Mr. McMenamin had filed an appeal which was before Council. The amount of SDC's to be levied and Council could 1) grant appeal entirely, levying no SDC's; 2) deny the appeal totally, levying all SDC's; or 3) levying SDC's in an amount different than what is called out.

Councilor Thalhoffer stated that after reading materials thoroughly it appeared to be a different use, substantially different than a nursing home, which had been abandoned. There should be no credit extended to any development or property for uses in connection made prior to the imposition of the ordinance which such use has been changed or terminated.". The use was terminated and the use by McMenamin is new and therefore subject to system development charges.

Councilor Thalhoffer stated that he also noted the McMenamin's had been given credit for some SDC's.

Jennings stated that in going through the calculations the proposed SDC's in Wilder's letter to McMenamin were for \$53,904 and for \$10,313 which aggregates all the SDC's for two separate units. In review of the calculations it was found that a credit should be extended for \$2,290 and \$989 for an aggregate total of \$3,979.

Councilor Thalhofer stated that was the amount recommended.

Jennings stated that was correct.

Councilor Thalhofer asked if instead of \$64,150 the total was \$45,929, correct? Wilder stated that was correct.

Councilor Thalhofer stated there was a substantial decrease in what McMEnamin was being billed from the first hearing to this hearing. He stated he was in favor of imposing the \$45,929 to McMEnamin for SDC's.

Councilor Thompson agreed with Councilor Thalhofer. Council was pleased to see that McMEnamin had extended business into Troutdale. However, in fairness to all users of the City services who pay their fair share, the City should uphold the ordinance. He supported the comments made by Councilor Thalhofer that the \$49,929 be imposed for the McMEnamin's SDC's.

Councilor Schmunk agreed with Councilors Thalhofer and Thompson. She stated the County had been trying to sell the property for several years. McMEnamin's bought 4 hookups that the County had. The County had considered that the jail would be staying on the property and therefore the hookups would have to stay with the jail. Moving the jail hadn't been considered at all. She felt that the use had completely changed and McMEnamin's would have to pay the SDC's on the property.

Councilor Fowler had a problem with the change of use. He knew it was in the ordinance but he thought it was wrong.

Jennings stated that in order to get to the \$45,929 figure there were specific assumptions made in ERU's allocated out among the various pieces of property. Specific decisions were made on a size basis to get to this calculation now. [Exhibit 3A]

Councilor Fowler referred to a letter dated October 1, 1971 stating that the total charge for Edgefield Manor of \$18,000 versus \$2,000 weren't those charges made of individual buildings at that time, for the connection charges? Exhibit 3A 10/1/71 summarized monthly sewer and service connections...appeared that whatever uses or charges were charged on the Edgefield complex.

Jennings stated that the Edgefield complex means all of the Edgefield properties.

Councilor Schmunk stated that this referred to sewer not water.

Councilor Fowler stated the correlation between sewer and water ERU that was similar. There was the same number using sewer as water. He asked if Mr. McMEnamin had a copy of the documents?

Christian stated he had received a full packet.

Councilor Thalhoffer asked when the jail was opened? Wilder stated 1963 and the jail was in operation.

Councilor Fowler asked why the charges varied for water and sewer? It was somehow based on individual dwelling units or beds. He stated Council was still off base on it.

Councilor Thompson, responded to Councilor Fowler's observations about change of use ...there was a different use in a brewery and in the use of the Manor. The analogy of a house that set vacant for several years and you rented it again would constitute a change of use is not true. The Manor was vacant for a long period of time and a brew pub, theater, et cetera is not in any way the same as the use it had when used as a Manor, it was basically a dwelling at that time. Fowler's analogy would be if you had a rental house that was vacant for two years and someone came and offered to lease it or rent it for use as a business, such as a brewery, that would be a valid analogy and that would constitute a change in use. A residential use cannot be compared to a business use.

Councilor Fowler stated he was talking three things. What is an ERU [equivalent residential unit] - 20 years ago a dwelling unit - and that was talking about a house a \$4.00 charge on a house and \$1. on a bed, or 1/4 of it. The ERU's are calculated basically as an equivalent residential unit. There is a measurement there like a gallon of gas or gallon of water. So, an ERU exists. If McMEnamin doubles the ERU's there is no problem of him paying the difference between what it was there. If he has the use, he doesn't get anything back. But, to say change of use is turning around again and the same identical thing that was taken out of the storm sewer ordinance that you change the use of the parking lot of Husky's and put from a parking lot into a 100 seat restaurant it would change the use and change the drainage fees. Yet, there was no more area covered, there was no more change covered. The amount of water and sewer that goes through that is going to be what the charged fees would be based on - if it was way off there are adjustments to be made. But, the question here is the language put in for the County, some other funds rather than the State - somebody calculated out what ratios were to be charged on that in 1971. Now, the use has changed but the calculations were paid for at that time, the main was built, everything was set in there for that many ERU's. Now, because somebody else is using three times what they were originally calculated for on a single family house that is the one that should be charged for the extra use. The use has changed, if you're into the terminology of your ordinance. The use has changed when you use four times as much water. Take a house and make four apartments in it, it should go up three more units. If using more, they should pay more but if using less - he shouldn't get stuck with that. An ERU is still an ERU.

Councilor Fowler stated that he read the effluent from a winery is too strong. It takes some sort of a treatment system prior to that. That is McMEnamin's job to bring it back to the standard that has to be put in the City. He stated the County was turning around and from George's letter they are denying they sold any of these and our ordinance states it goes with the property. If it went with the property in 1971 with 18 versus 2, 9 times as much ERU's on the Manor or the Edgefield complex than on the other ones then the County is the one doing the rip off here.

Councilor Thalhoffer stated that would be between the County and the McMEnamin's to hash that out and he hoped that would have been done in the interim period.

Councilor Fowler stated it was a question of whether our ordinance stated it goes with a piece of property or it is on a piece of property. We've had this in the City before and he stated he had it on the building on the corner. The sewer was prepaid and the next one was prepaid, not installed for several years -- I came back and it went from \$1,000 to \$1,800 and I had to pay the extra \$800. yet it was paid in advance before the sewer went in. That's immaterial to this. If our ordinance says it goes with the property it is on and it was dedicated out to these pieces -in 1971 by an engineer in a letter addressed to the City - what percentages were used, what the engineer calculated on that, it is 9 times as much as what there is on the rest of the dwellings.

Councilor Thompson stated that when the ERU's and SDC's go with the property it is the entire property. The County still has a portion of the property and they still own the majority of the property and it is therefore there proper place to allocate the ERU's to the SDC's which they have done by saying that none were set aside for the new owner of Edgefield Manor.

Discussion continued.

Jennings stated that Wilder's calculations do allocate that the McMenemy's have purchased SDC's from the County. Whether or not the County concedes that the allocations specifically calculate 13% of the purchased SDC's both water/sewer and appear as credits. That was based on total land area of the purchased property versus total land area of the unpurchased property. The City couldn't wait for the County to decide how much credit should be given to McMenemy's so Wilder assigned a specific credit based on land area.

Councilor Fowler stated that in 1971 CH2M Hill made the calculations so the City had it here. The ERU's that go with the Edgefield complex are spelled since 1971.

Jennings stated that the complex [267 acres was calculated as the complex].

Councilor Fowler asked why?

Jennings stated because the ordinance doesn't specify where on a piece of property the SDC will land - it has to be spread over every square inch of the total acreage of property.

Councilor Fowler stated that in 1971 the engineer picked out the places where the costs were arrived.

Councilor Thompson stated that the point was if an SDC to a particular property, the water gets used on the entire lot and therefore is allocated to the entire property.

Discussion continued.

Mayor Cox called for a motion.

MOTION: Councilor Thalhofer motioned to deny the appeal and assess SDC's in the amount of \$45,929 as recommended by staff. Councilor Thompson seconded the motion. Councilor Schmunk called for the question.

YEAS: 3

NAYS: 1 [Fowler]

ABSTAINED: 1 [Bui]

Bui - Abstained; Fowler - Nay; Schmunk - Yea; Thalhofer - Yea; Thompson - Yea

Councilor Thalhofer asked what the payment method was on this sum of money.

Wilder stated it was technically due at the time permits are issued. However, the ordinance had an inherent flexibility built in that the owner could ask be utilized which was they pay 25% and then the City meters and measures actual conditions and actual flow over two years and within that period of time bill them for the amount established by actual use. That has been in the ordinance about three years ago and no one to date had utilized that option.

ITEM #6. PRESENTATION: Wastewater Treatment Plant Expansion/Revenue Bonds [Tape 1, Side 2 21:47]

Mayor Cox called this agenda item.

Wilder stated time was close to seeking funding sources to construct the treatment plant expansion. It was hoped to be under construction late this construction season and to do that the Finance Director, as well as others, would need to prepare resolutions and other documents announcing the sale of revenue bonds or special public works fund bonds for the expansion.

Wilder stated it was before Council now as a status report of the \$3.2 million expansion of the treatment plant to meet pending and current developing needs.

Councilor Fowler asked if a revenue bond was subject to taxpayer approval?

Wilder stated no, not directly. They would be retired through a plan assembled primarily from the collection of system development charges.

Councilor Fowler asked about increases in sewer/water rates? That's where it's got to be from revenue what we're operating on now with the present water and sewer rates in covering the costs and expense and we're going to take another several million dollars in bonds we've got to increase them to pay the difference.

Wilder stated that capital revenue includes system development charges. The balance between the capital component of user fees [which is paid in monthly bill] and SDC's would have to be struck. At this point in time, with the current development trends over the period of the life of the plant would be retired primarily from SDC's. Those SDC's would be set based on the need for the plant. The people needing the capacity would pay for it, not the existing citizenry.

Councilor Fowler asked if this would be paid for based upon SDC already collected and saved, or those coming from future?

Wilder stated the charges collected and saved - current treatment plant has capacity to meet and little more. The City was reaching the point where the reserves plus current use was approaching plant capacity. The plant expansion would be primarily paid from SDC's from new housing, new development, new growth...not from existing development or growth.

ITEM #7. DISCUSSION: Sandy Drainage Basin Stormsewer [Tape 2, Side 3 3:34]

Mayor Cox called this agenda item.

Wilder stated that there was currently an SDC established for the North Troutdale Drainage Watershed and are still reviewing SDC's for the balance of the community based specifically on capital needs and operational needs for that balance. Fees and charges have been calculated for the Beaver Creek drainage which are less than North Troutdale. Less because the North Troutdale Drainage Basin requires expensive and on going pumping equipment and the Beaver Creek is a gravity system.

Wilder stated there would be a couple of options open to Council when the study was completed. Taking a look at how storm sewer user fees are dealt with in the future which will be mandatory by regulatory agencies soon and then balance them with SDC's. A single storm sewer user fee per month may be possible with different SDC's; or, it could be the same SDC's and differing monthly user fees. This would be dependent upon how you decide to deal with capital component of user fees. Keeping user fees separate from capital entirely and let the SDC's pay for expansion of needs based on capital needs of development and developer. That would allow the user fees to be reflective precisely of what it costs to operate the system. Water and sewer has been done that way for years and the suggestion to the consultant will be that same way.

Wilder stated a presentation would be before Council soon which would have a different SDC than the North Troutdale which would be less.

Councilor Fowler asked if the Halsey system was included in the Beaver creek?

Wilder stated that anything that drained into the Beaver creek or Sandy River wouldn't be part of the North Troutdale Watershed and was not part of the current assessment at all. He stated that the Columbia Crest subdivision had a line drawn where one neighbor would pay nothing right now since there wasn't a Sandy River Drainage fee established; and we did for the North Troutdale. Whoever had water that had to be pumped would pay the fee and if not pumped wouldn't be paying now.

Councilor Fowler asked about the Halsey Street Drainage?

Wilder stated those that are currently in place are not subject to assessment. There are two components to capital 1) specific to need and, 2) pump stations, treatment plants, etc. If you are affected or benefitted by a treatment plant - even though you paid for an LID in front of your home, you are bound and required to participate in a capital facility which you also benefit from - which is the treatment plant, or pump stations. How you allocate SDC's for local improvement districts that were already paid and will be up to Council when the information is before Council. They would only go to components that affect, whose capital construction affects and betters the entire drainage, if not bettered by it they wouldn't pay anything.

Councilor Fowler was again asking about the Halsey Drainage system out of this?

Wilder stated that if at the end of the Halsey Interceptor - DEQ comes to City and says this storm water has to be treated - Councilor Fowler stated then that would be a different story.

Wilder stated you don't have to now, but you may and that's what SDC's would cover.

ITEM #8. RESOLUTION: Authorizing Project Management/13 Lot Subdivision -- Sweetbriar Meadows/ - Private (Bank) Funded - Other Funding [Tape 2, Side 3 3:37]

Mayor Cox called this agenda item, read the resolution by title and asked for declarations, challenges, ex parte contact.

Wilder stated that this had been discussed with the City Attorney in that it was quite unusual. The Clackamas County Bank agreed to lend money to a developer to construct 13 lots in Troutdale conditional upon the City managing all public improvements. It would be a 30-45 day work project. There is adequate staff to do the inspections. The project is designed and ready to begin. Gazewood had suggested that vouchers be submitted to the bank by the City and the bank would make payments directly to the contractor. Staff time would be paid for accordingly.

Councilor Bui asked if Council decided not to approve this would that mean that the bank would not lend the money?

Wilder read #7 from the bank. The bank conditioned lending the money as long as the City of Troutdale handled all management of development improvements. Wilder stated the big difference was a private source of money to fund our LID process instead of bonds or our own sources. Wilder didn't know why the bank chose to do it this way. It was the developer's first development. Also, the Public Works inspection and management staff does these very well and very right. This wasn't the first time a bank and developer had asked this be done, however, it was the first time it was put to paper.

MOTION: Councilor Fowler moved to approve the resolution. Councilor Thompson seconded the motion.

YEAS: 5

NAYS: 0

ABSTAINED: 0

Bui - Yea; Fowler - Yea; Schmunk - Yea; Thalhoffer - Yea; Thompson - Yea

ITEM #9. RESOLUTION: Authorizing City/County Road Maintenance Agreement [Tape 2, Side 3 11:03]

Mayor Cox called this agenda item, read the resolution and called for declarations, challenges or ex parte contact.

Wilder stated this had been very worthwhile for the City. He had taken the liberty of including the 'report card' where all roads are evaluated. It was through this evaluation and planning process that City worked with County in establishing ensuing year projects. This coming FY, City was asking that the agreement be approved in the amount of \$46,303 [exhibit A]. There were projects listed that were scheduled for this year in exhibits A and B and the City had budgeted the amounts in the current budget process in order to accomplish this. The work isn't done until after July 1.

MOTION: Councilor Fowler moved to approve the resolution. Councilor Thalhoffer seconded the motion.

YEAS: 5

NAYS: 0

ABSTAINED: 0

Bui - Yea; Fowler - Yea; Schmunk - Yea; Thalhoffer - Yea; Thompson - Yea

ITEM #10. REQUEST: Approval of Special Event Permit (84-91-074 Ritchie Brothers) [Tape , Side 3 14:06]

Mayor Cox read this agenda item and called for declarations, challenges and ex parte contact.

Christian stated that the auction would be May 21st.

Cline stated they had submitted additional information, had a pre-application conference with the Dept. of Community Development, submitted additional information which included the letter. Staff had circulated the site sketch and letter describing the proposed activity. That activity was to be conducted to various City departments for comments and response. That had developed into a recommendation from City staff that if the event was approved by Council it should be restricted to ten conditions. A condition not indicated [April 19, 1991] **#10. All materials collected be removed in accordance with applicable laws and regulations.** That would pertain to an area where potential cleaning of equipment to be sold.

Cline stated that the conditions would be mandatory, if the request was approved by Council.

Councilor Bui asked what types of equipment would be auctioned?

Cline stated that it would be an auction lasting one day, May 21st - they would like to occupy the site as early as Council authorized it. The equipment was heavy equipment and machinery and all equipment would be sold on that one day, making at least minimum bid, so that after the 21st there would be no additional equipment to be moved off other than shipping it off to the purchaser.

Councilor Thompson asked about a date by which it would have to be moved?

Cline stated it was specified in the recommended conditions was May 25, when all equipment, signage, etc would have to be removed. He stated that Wayne Brown, Ritchie Bros., was in the audience if Council wished to question him.

Councilor Thalhofer asked if Mr. Brown had agreed to all conditions listed?

Cline stated that the conditions were proposed for that type of operation to begin with and were addressed in Brown's letter.

Wayne Brown, Ritchie Brothers Auctioneers, 13905 NE 7th Circle, Vancouver, Washington.

Councilor Thalhofer asked if he had seen all conditions?

Brown stated he had and had no objections other than #9 - being gone by May 25 would create a certain amount of hardship. Normally they ask all successful bidders to have the equipment removed within seven days but it would be easier to extend that to the first week of June. An additional comment was in response to Councilor Bui's question of what type of equipment to be auctioned - it would be large equipment. [Brown passed around a brochure showing the types of equipment.]

Brown stated that since Marine Drive was a major artery and Ritchie would like to control off-site parking, instead of a maximum of 6 directional signs - they would like to have as many as 25-30 no parking signs right along Marine Drive to help facilitate problems in that area.

Christian stated that Marine Drive wasn't a City street, the City right-of-way would be okay. She stated that the road belonged to Multnomah County and they would need to talk with the County.

Discussion of a date to vacate the site ensued.

Brown stated that they provided their own security to take care of parking.

MOTION: Councilor Fowler moved to allow the event with the ten conditions recommended by staff and amending the date to June 1 on condition #9. Councilor Thalhofer seconded the motion.

YEAS: 5

NAYS: 0

ABSTAINED: 0

Bui - Yea; Fowler - Yea; Schmunk - Yea; Thalhofer - Yea; Thompson - Yea

ITEM #11. COUNCIL CONCERNS AND INITIATIVES [Tape 2, Side 3 23:39]

Councilor Thompson asked if a motion was in order to address the concern of the election of City Council vacancy be rescinded.

MOTION: Councilor Thompson moved reconsideration of a motion for election. Councilor Thalsofer seconded the motion.

YEAS: 5
NAYS: 0
ABSTAINED: 0

Mayor Cox asked if there was a date set to interview applicants to fill the vacancy. It had been a discussion item at the April 20 work session. The Charter specifically stated that vacancies be filled by appointment of the Council.

Christian stated that a date of May 18 was set for interviews. The deadline for the ad to be placed in the Outlook would be April 24. The time was set at 9:00 a.m.

Councilor Thalsofer stated that although the majority of the Council voted to have an election process to fill the vacancy, the Charter prohibited it. That wasn't known the night it was voted on by Council to submit it to the voters. Council was now proceeding by direction of the Charter in the steps toward appointing a member to fill the vacancy.

Councilor Bui stated that the Fire Task Force would be meeting in Wood Village City Hall at 7:00 p.m. on April 24 to make a decision about the proposal from the City of Gresham to take over fire service, replacing District 10's fire service.

ITEM #12. ADJOURNMENT.

MOTION: Councilor Thompson moved to adjourn. Councilor Fowler seconded the motion.

YEAS: 5
NAYS: 0
ABSTAINED: 0

The meeting adjourned at 8:28 p.m.

Sam K. Cox, Mayor

Dated: _____

ATTEST:

Valerie J. Raglione, CMC

City Recorder

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