

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

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7:00 P.M. -- JANUARY 28, 1991

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

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

City Recorder, Valerie Raglione, called the roll.

**PRESENT:** Cox, Fowler, Schmunk, Thalhofer, Thompson, Wakeman  
**ABSENT:** Bui

**STAFF:** Christian, Cline, Collier, Gazewood, Raglione  
City Attorney, Jennings

**PRESS:** Web Ruble, Oregonian

**GUESTS:** Sally Wakeman, Earl L. Smith, Pieter VanDyke, Frank Windust

Mayor Cox asked City Administrator Christian if there were any agenda updates. There were none.

**ITEM #2: CONSENT AGENDA**

Mayor Cox called this agenda item.

**MOTION:** Councilor Thompson moved to approve the consent agenda as written [2.1 - City Council Minutes 01/14/92; 2.2 - Ratify Resolution Adding Signator] Councilor Fowler seconded the motion.

**YEAS: 5**  
**NAYS: 0**  
**ABSTAINED: 0**

Fowler - Yea; Schmunk - Yea; Thalhofer - Yea; Thompson - Yea; Wakeman - Yea

**ITEM #3: PUBLIC COMMENT**

Mayor Cox called for public comments to non-agenda items. There were none.

**ITEM #4.      DISCUSSION: Basketball Hoop Concern**  
**Declarations, Challenges, Ex Parte Contact**

Mayor Cox called this agenda item and asked for declarations, challenges, ex parte contact?

None were stated.

City Attorney Jennings stated there had been numerous complaints from residents about the ban on basketball hoops in Troutdale since early 1980's. The ban extended to any and all basketball hoops and other recreational structures [i.e., skateboard ramps, street hockey or soccer (with goals)] in the public right-of-way. Council had directed staff to review the ordinance and make suggestions as to how the City could relax the current 'ban'. Council requested staff review the locations of the basketball hoops that had been in violation of the nuisance abatement ordinance. Complaints before the Hearings Officer were pending Council review and decision.

Jennings stated that the ban could be relaxed by allowing basketball hoops to be placed on deadend streets and cul-de-sacs having the least traffic. Staff had drafted regulation felt to be the most prudent in terms of liability, however, there would always be some liability. No basketball hoops to be installed in the paved portion of any public right-of-way; no hoops must be installed on private property and the installer would be responsible for contacting utility companies so utilities in rights-of-way could be located and avoided; any damage to the utilities would be the installer's responsibility; hoops cannot be mounted on a utility or street light pole, and must be kept in good repair at all times and located such that the rim and backboard are not damaged by, or cause damage to, passing vehicles; hoops must be located to allow adequate sight distance for approaching motorists.

Jennings stated that the insurance and bonding company for the City had been contacted and told there would be no additional bond or insurance requirements anticipated for allowing the hoops to be erected in the designated areas. Permission to locate other recreational structures should be extended to the same areas with the proviso that no recreational structure be on the paved portion of the street.

Staff recommendation, should Council decide to make any changes was to amend the current ordinance to allow the structures, however, permit the City the absolute right to remove any structure where the standards of construction [as described] are not followed.

Discussion on where to place the hoops began.

Councilor Schmunk asked what affect would the changes have on the present ordinance?

Jennings stated the nuisance ordinance would be amended and any existing appeals which are pending decision before the hearings officer would be acted on by the hearings officer once the amendment was in place.

Councilor Thalhoffer supported the change as long as the hoops were on non paved portions of the rights-of-way, but still near the street -- not back to the sidewalk. He asked if anyone wished to speak that might be in the audience?

Earl Smith, 1436 SE 29th Ct. expressed his appreciation for reviewing the ordinance. He stated that the process of raising a family was not the job it was 30 years ago. It was the most important job parents could have and the kids were our future. Parents report cards on raising the kids wouldn't be known for years and then it could be too late. He enjoyed hearing and knowing his kids were in front of the house playing basketball. The City Council nor the Chief of Police could guarantee the safety of his 10 year old if he was at a park at 9:00 p.m. playing basketball. Gresham had the same concern before them recently and addressed the issue in favor of allowing the hoops. He hoped he could go home and tell his kids that the Council had heard their wishes and granted them.

Smith stated, from a personal point, that the scale of 110' would seem a long way and he would like the distance to be a little closer. He reminded Council of a recent article in the paper on Sandee Palisades as being the neighborhood of the month. He hoped everyone could feel the same way when the outcome of this Council decision was in the newspaper.

Councilor Thalhoffer asked if his hoop was more than 110' at the back of cul-de-sac would only get you out of circle area. If 50' radius would only take you 10' out of circle, which wasn't very far.

Discussion of 110' radius and where that might be.

Cline stated actual right-of-way was 50' radius, the paving is 32-37' radius, in looking at top of key back it would be 30' beyond a cul-de-sac.

Jennings stated Smiths' point was well taken. It was a possible solution to look more at distance from corner-end of cul-de-sac and be no closer than 40' [site distance established in highway traffic safety codes] need 40' back from line of site. 40' to count out from back in terms of playing area. Keep playing area out of 40' site area.

Christian stated Council needs to set flexibility [if desired] in terms of distances to accomodate various distances in cul-de-sacs. i.e., recognizing adequate site distance.

Smith stated that 40' back from cul-de-sac was a good figure.

Jennings wasn't sure that 40' measured back from corner would relieve players from the problem.

Councilor Thompson suggested a 60' set back .

Councilor Wakeman asked Jennings when establishing internal policy [though not permitting] where would the City be from a liability standpoint - when not permitted but okayed by policy how would a Court view?

Jennings stated that this was like an onion... Another layer to protect us because passively allowing activity but actively not allowing it. The City was trying to limit exposure by limiting it to specific streets, but the City would now be more liable than before. Is public benefit greater by allowing? Council must weigh.

Peter Van Dyke 1221 SW Hewitt. Thanked Council for reviewing the issue. Jennings proposal will fit needs and allow him to keep his hoop. In the big world it wasn't a big deal, but to area kids this was a very important decision affecting their lives. He could state that Council listened and didn't shut the kids out.

Christian: clarification of where to make change? 60' from curblineline of intersecting street?

Council consensus was Yes.

Staff was directed to prepare the language changes discussed to amend ordinance for action at the February 11, 1992 Council meeting.

Councilor Schmunk asked staff to rewrite paragraph #4 with 60' from curblineline of intersecting street. She asked how that would fit into the nuisance abatement ordinance?

Jennings stated it could be done quite easily and with only minor changes.

Councilor Thompson asked to delete the line of **private property** and replace it with **behind curblineline**.

**ITEM #5. REVIEW: Offer of Park Property/Dedication Mountain Vista Subdivision [2.6 acres] - Spikes/City Declarations, Challenges, Ex Parte Contact**

Mayor Cox called this agenda item and asked for declarations, challenges, ex parte contact?

None were stated.

Cline stated the lot in question contained an area large enough for construction of a new home plus a large area within the flood plain of Beaver Creek. In essence, when the Planning Commission approved the subdivision, no development of any kind was to occur on this property without their prior authorization. Spikes contacted Cline to discuss development limitations and marketing the property at fair value. Discussions included park land dedication and a proposal by the City to implement parks SDC's. Cline stated under the proposed SDC ordinance, no consideration would be

given to lower or credit park SDC's in exchange for park land dedication. Spikes was still interested in dedicating the area to the City and Cline suggested he write a letter of offer to Council for consideration.

Cline stated the offer was to dedicate approximately 2.6 acres of the lot to the City in exchange for City supporting the costs of partitioning, legal descriptions and filing fees. City currently maintains an access strip and 1/2 acre parcel adjacent to the Creek dedicated as part of the subdivision. Cline pointed out to Council the development constraints that are on the property. There was no development potential and would be required to remain in a natural state for which the City would be liable for the property and perpetual maintenance.

Councilor Schmunk asked who owned the adjacent property? Clien stated Fugii

Councilor Fowler supported the City accepting the dedication.

Councilor Schmunk stated it was like a sore thumb sticking out and saw no advantage for City to retain as part of parks property. It couldn't be used as recreation and the City would be responsible for taking care of the property. She stated the Planning Commission had done their homework and did good job.

Councilor Thalsofer asked if it was a piece that could be used as a nature walk through? through? Cline, yes the same system the City had running through the Beaver Creek Canyon area - a natural park.

Councilor Thalsofer stated kids and adults could enjoy the nature walk and it could serve a purpose enabling people the opportunity to enjoy a natural setting.

Mayor Cox asked if Council wanted to view the property on site and make a decision after visiting the site?

Councilor Thompson stated he favored the City taking the property as a nature trail.

Councilor Fowler stated the area would preserve whatever animals were in there and it could stay as is with no problems regarding maintenance.

Cline stated in the future [as had happened in the past] yard debris could get thrown in the area and the City would need to maintain and control those types of things - all three sides would be a maintenance problem because of the developable property on lots 5, 6, and 7.

**MOTION: Councilor Fowler moved to proceed with the necessary documents for the City to accept the dedication of property. Councilor Thompson seconded the motion.**

**YEAS: 3**

**NAYS: 2 [Schmunk, Wakeman]**

**ABSTAINED: 0**

**Fowler - Yea; Schmunk - Nay; Thalhofer - Yea; Thompson - Yea; Wakeman - Nay**

**ITEM #6. RESOLUTION: Authorizing the Call for Bids for Wastewater Treatment Plant Expansion Project. Ortega**  
**Declarations, Challenges, Ex Parte Contact**

Mayor Cox called this agenda item and asked for declarations, challenges, ex parte contact?

Councilor Fowler stated he would stay out of it .

Christian briefly reviewed this was authorization to advertise and call for bids for the Wastewater Treatment Plant Expansion project. The initial approval had been received from DEQ and the project engineer would have the specifications ready for bid next week.

Mayor Cox read the resolution by title.

**MOTION: Councilor Thompson moved to adopt the resolution. Councilor Wakeman seconded the motion.**

**YEAS: 4**

**NAYS: 0**

**ABSTAINED: 1 [Fowler]**

**Fowler - Abstained; Schmunk - Yea; Thalhofer- Yea; Thompson - Yea; Wakeman - Yea**

**ITEM #7. ORDINANCE: Imposing Water, Sewer, Street, Storm Water and Parks System Development Charges and Repealing Ord #566. Second Reading**  
**Declarations, Challenges, Ex Parte Contact**

Mayor Cox called this agenda item and asked for declarations, challenges, ex parte contact?

None were stated.

Christian and Jennings reviewed the changes that had been discussed by Council at the December 10th meeting to be incorporated into the final ordinance before Council. Christian stated this would repeal portions of existing code language and changed language to meet ORS in requirements relating to SDC's as part of development costs.

Mayor Cox read the ordinance by title.

**MOTION: Councilor Thompson moved to pass the ordinance as written. Councilor Schmunk seconded the motion.**

**YEAS: 4**

**NAYS: 1 [FOWLER]**

**ABSTAINED: 0**

**Fowler - Nay; Schmunk - Yea; Thalhofer - Yea; Thompson - Yea; Wakeman - Yea**

**ITEM #8.      DIRECTION: Request by F. Windust to Transfer 22 Sewer Reservations from  
Tax Lot 20 to Tax Lot 159, Section 25 T1N, R3E, W.M.  
Declarations, Challenges, Ex Parte Contact**

Mayor Cox called this agenda item.

Cline stated that Frank Windust had requested a transfer of 22 prepaid sewer reservations from one of his properties to another [T.L. 159]. The property [T.L. 20] has been sold and the potential own doesn't want to purchase the reservations. Transfer of the reservations would enable him to retain ownership of those reservations. The Council only has the authority to authorize a transfer of the reservations. Cline stated a transfer of reservations would not involve an increase or decrease in the number of reservations currently on the books, simply a transfer of credit from one property to another. Staff recommendation was to approve of the Windust request for this transfer.

Questions arose regarding 'why the need for Council authorization each time this issue came up?'

Cline stated that the Council minutes would provide recordkeeping as to any transfer, using this procedures. It could be done as a Consent Agenda item to make the process less formal but allow the minutes to reflect the authority to transfer.

Councilor Wakeman asked if there was any costs involved?

Christian stated only bookkeeping [\$575 purchased as down payment for SDC have those reservations to go with a piece of property.] The reason restrictions were placed was so it was not dealt as commodities at time between developers largely due to the finite amount during development occurring at that time.

Cline stated the property purchaser would be responsible for paying the SDC's when development occurs.

Councilor Thompson stated the reservations were not assigned before at the time of purchase - it was only that they were purchased on the best guess at the time of what they might use.

Cline stated requests didn't come up that often but because of bookkeeping and possible problems of responsibility he would prefer to not have staff alone responsible for them. As stated before, the Council minutes would be a record of the transfer when and how they were transferred.

**MOTION:** Councilor Thalhofer moved that requests for transfers of sewer reservations be an item on the Consent Agenda rather than a separate agenda item. Councilor Wakeman seconded the motion.

**YEAS: 4**

**NAYS: 1 [Fowler]**

**ABSTAINED: 0**

**Fowler - Nay; Schmunk - Yea; Thalhofer - Yea; Thompson - Yea; Wakeman - Yea**

**ITEM #9. COUNCIL CONCERNS AND INITIATIVES**

Mayor Cox called this agenda item.

Christian advised Council of the Boundary Commission decision to continue the withdrawal from Fire District #10 hearing due to the Gresham Outlook's failure to print the required amount of public notices. The hearing was continued to February 13, 1992 and no specific time was known due to the amount of applications ahead of City's.

Councilor Fowler asked the status of the vacant position of the Director of Public Works? He stated he had worked with Jerry and Scott and would support hiring Jerry to the position 100%. Discussion ensued between Christian and Councilor Fowler. Jerry Ortega was currently the Acting Public Works Director and didn't currently meet the described requirements of the position. Ortega had recently discussed the 'overload' of the position and his uncertainty with the long-term ability to handle the workload and diversity that the position required.

Councilor Thalhofer talked to the Pauline Anderson letter included in the packet and the reference of the 'afternoon meetings from hell'.

Councilor Thompson discussed RGC testifying before Metro Charter Review Commission about what the members thought the Charter should include. He stated the results from these meetings would be something everyone would live with for a long time -- in a new regional government. It was prudent to give as much input into what Metro does as possible. RGC [RUGGO] if metro wants to take on additional planning then it should be required to have approval of R-Pact; if new service delivery it shouldn't be able to do so without 2/3rd [R-PAC] and Metro Council 2/3 majority it would automatically start or go to vote of people if 2/3 majority wasn't received. R-PAC advising could accommodate each other. Oregonian came out stating that Metro shouldn't be influenced by local governments. If the Metro Charter passed then it should have support of cities. Voters won't approve new government - without structure - the Metro Charter won't pass but, a regional government is needed. Metro needed to be workable with local governments. He urged attending the Charter Review Commission meetings. The issue would be on the ballot in November 92.

Cline gave brief statements regarding the recent Gorge Commission meeting he had attended. He stated the vote was 11 against to 1 for at the Gorge Commission meeting for removal of Troutdale from the National Scenic Area. There was now, at least, an understanding of some of the concerns and issues.



**ITEM #10. ADJOURNMENT.**

**Mayor Cox called this agenda item.**

**MOTION: Councilor Schmunk moved for adjournment. Councilor Thompson seconded the motion.**

**YEAS: 5**

**NAYS: 0**

**ABSTAINED: 0**

**Schmunk - Yea; Fowler - Yea; Thalhoffer- Yea; Thompson - Yea; Wakeman - Yea**

The meeting was adjourned at 8:32 p.m.

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Sam K. Cox, Mayor

Dated: \_\_\_\_\_

**ATTEST:**

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**Valerie J. Raglione, CMC**

**City Recorder**

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