

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

7:00 P.M. - APRIL 28, 1992

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

Mayor Cox called the meeting to order at 7:00 p.m.

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

City Recorder Raglione called the roll.

PRESENT: Bui, Cox, Fowler, Schmunk, Thalhoffer, Thompson, Wakeman

STAFF: Christian, Cline, Collier, Gazewood, Ortega, Raglione

PRESS: Web Ruble, The Oregonian

GUESTS: Paul Kreider, Jan Shearer, Julie Omelchuck, Larry and Jean Torland, Robert, Dix, Sally Wakeman, Barbara Rutherford Crest

ITEM 2. CONSENT AGENDA:

Mayor Cox called this agenda item and read the Consent Agenda. He read two proclamations to the audience. A Proclamation for April as Community College Month and a Proclamation for May as Better Hearing and Speech Month.

MOTION: Councilor Bui moved to approve the consent agenda as read. Councilor Wakeman seconded the motion.

YEAS: 6

NAYS: 0

ABSTAINED: 0

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

Mayor Cox read the proclamations. Dr. Kreider, President of Mt. Hood CC and Jan Shearer, Vice-Chair of the Board at Mt. Hood Community College were introduced and came forward to discuss the Proclamation of Community College month.

Dr. Kreider was encouraged with the support that the City of Troutdale lended to the College. He stated he wanted everyone to know they were in the area and were willing to play a vital role on issues affecting the area. The roadway issue, as well as others, were important to the College and the area. He stated Troutdale was an important part of the district [Mt. Hood Community College].

Christian stated the College had been very helpful with employee training classes and had assisted the City with certifications that were necessary to the jobs performed within the City.

Mayor Cox stated the College had been very helpful with Cable Access also.

Kreider stated all organizations need a good policy organizing group and felt that serving the area and students were meeting government goals as well as public/private sector in setting goals for the students to meet. He was very proud of the City's support given with tax dollars in the community, the City staffing support, as well as individuals support.

Councilor Thalhofer stated people took the College for granted. The passage of Ballot Measure 5 was placing a burden on the Community Colleges since there were several 4 year colleges cutting programs. He stated Mt. Hood Community College had been doing good work in the area with the curriculum they offered the students.

Christian introduced Eric Sanke, Mt. Hood Community College. Sanke was present for another issue later on the agenda [Cable Budget].

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

Mayor Cox called for public comments. There were none offered.

ITEM 4. APPROVAL: Consideration of Multnomah Cable Regulatory 1992-93 Budget Declarations, Challenges, Ex Parte Contact Omelchuck

Mayor Cox called this agenda item and asked for declarations, challenges.

Councilor Bui stated he was the City representative on the Multnomah County Regulatory Agency. Julie Omelchuck and Barbara Rutherford were in attendance to discuss the Budget for 92-93 and respond to any questions.

Councilor Bui gave background information in the process of approving the budget. The budget indicated a 23% decrease from previous budgets which would be shown this year. Councilor Bui discussed goals of the Commission, what is being done, and what is planned for the future years. He

stated the Commission was responsible for 4 cities. There had been large growth in the area which had created a desire that the Commission move more locally [into the Gresham area]. Also discussed was the amount of votes Gresham had on the Commission and if it should be increased. There were 4 areas budgeted channel, educational television, community television station, campus of MHCC.

The City of Troutdale was the last of the 4 cities to act on the budget.

Crest stated there were 8 channels on Paragon and programming was still growing. The City Planning Commission and Council meetings were now being televised. East Metro Edition was news and issues specific to east Multnomah County. That programming had received a nomination for programming award which was unusual for a program as new as this.

Sanke was asked to comment on programming. He stated the college supported the program students which had grown from 6 to 11 to complete an associate of arts degree with the Cable Access programs. The education was solid and sound.

Councilor Bui asked if other cities had presented comments which would be helpful to Troutdale's Council in the deliberation?

Omelchuck stated there had been less discussion than in the past. She felt the reason was that the request was reduced from prior years. The Commission held a retreat in March [4 hrs.] reviewing the budget. Cable Access budget was 23% less than the previous year. Most jurisdictions questioned only minor issues - i.e., definitions. The budget had passed unanimously in the other three cities. She invited all elected members to attend a meeting on 5/14/92 for participation in a workshop.

Councilor Bui stated that the City of Gresham was interested in assuming the Cable effort and operate the Cable Regulatory. He didn't support breaking up the consortium. Gresham had a representative on the CDBG advisory board but were on their own as far as the other cities. Bui stated the charge of fees was the only thing not under the jurisdiction of the Regulatory Board. This change would require legislative action. Monthly reports were presented to the Commission. Bui recommended passing the budget, as the City's representative to the Commission.

Councilor Schmunk stated the budget was easier to read and very understandable. She stated her appreciation for the effort in formatting and changing it to read easier.

MOTION: Schmunk moved approval of the Multnomah Cable Regulatory 1992-93 Budget, as presented. Councilor Thompson seconded the motion.

YEAS: 6

NAYS: 0

ABSTAINED: 0

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

Councilor Bui thanked the guests for attending.

Christian asked how Paragon would respond to providers - identifying subscribers per jurisdiction? How would they solve that?

Omelchuck stated the system was set up so that the Company managed 1 billing unit. All subscribers east of 205 were 1 unit. It was under review to base payments to jurisdictions for revenue fees to each jurisdiction. There would be 6 different areas. In March they attempted to run it through but had run into glitches, thereby delaying this project. Paragon promised it would be in effect June 30. The new fiscal year the number per subscriber per jurisdiction would be broken out. The Commission would follow up and have a financial consultant do spot checking and an audit of it after it switches over.

Christian was interested in what jurisdictional lines would be used in the East Metro area. There were lots of things impossible to identify by jurisdiction [i.e., BOEC] Nothing distinguished one jurisdiction from another in the area. It would be helpful to the City to know what method was used and to know how the area[s] was distinguished.

Omelchuck suggested this could be included an informational agenda item at the May 14th workshop.

ITEM 5. RESOLUTION: Waiving Requirement for Property Located at 1090 SE Troutdale Road to Connect to the Public Sewer System Until such Time as Adjacent Property to North is Developed or, in Two Years.
Declarations, Challenges, Ex Parte Contact Ortega

Mayor Cox called this agenda item and asked if there were declarations/challenges. There were none offered.

Ortega presented graphics to depict the property affected. He discussed possible future development of the Dix property and the existing structure affected. He stated Dix was present to address the Council regarding this issue.

Ortega stated that the City of Portland had called it a gray water surface and the City of Troutdale concurred that the matter should be concluded within 30 days. If a sanitary sewer line exists within 300' of any property the Code stated they are to connect and abandon the septic system. The line was repaired in accordance with Portland regulations. The City's ordinance stated the 300' limit. The septic system wasn't leaking any longer but was not connected to the sanitary sewer line as stated by Code. This concern was brought to Council attention for a decision regarding the property owner requesting an appeal.

Councilor Wakeman asked if the repaired line was serviceable for another two years? [Two years was the maximum time limit which was stated in the resolution before Council.]

Ortega stated that it should be.

Councilor Wakeman asked if adopting the resolution would mean that the City would be liable, since it allowed the extension of time?

Christian stated the City of Portland had the authority by Multnomah County, as well as the Oregon State law, and the property owner was currently in compliance with the County and State. If it failed in the future, replacing the septic tank would in all probability be mandated.

Councilor Wakeman asked if it failed again....

Christian stated he would have to hook up at that time and the property owner would be responsible for the costs of all hookup charges. She stated the two years wasn't mandated, however, it did allow enough time if there would be development within that time - in terms of other people involved in this issue, it would be better to wait due to upcoming development or adjacent properties that would have their properties torn up and costs of replacing/returning them to the current state would be increased.

Ortega stated there were well established lawns/fence that would be disturbed in order to hook it up now. Additional costs of cutting the street, sidewalk, curb, asphalt etc. which could run as high as \$5,000 - 6,000. Staff was well aware of the costs of hooking up now and therefore had included in the resolution to Council, the opportunity to allow for an extension of time to this property. Demolishing the house would also be consideration of no need to hook up. The house wouldn't, in all probability, be there for the life of the line and therefore the line would eventually be plugged and abandoned.

Councilor Schmunk asked why the two years was chosen?

Christian stated it was an arbitrary timeframe and was up to Council discretion. The possibility of future development had been considered, as well as the cost.

Councilor Wakeman asked if it would be before Council again at the end of the two year timeframe?

Ortega stated yes.

Robert Dix, 13930 SE 268th Court Boring, Or. Dix stated the house was built in 1949 and would probably be destroyed by the end of the two year timeframe.

Councilor Wakeman asked how the line broke?

Dix stated just age. It was a gray water line coming from the utility not the septic tank itself.

Councilor Bui asked if Dix owned the property that was going to be developed?

Dix stated yes.

Councilor Bui asked if it might be less than two years before development occurred?

Dix stated it wasn't listed and he didn't know when it would sell.

Christian suggested that if Council chose to approve an exemption with a lesser timeframe and/or addition of a caveat if the septic tank failed, it be connected at that time. She didn't feel it would be possible to replace the septic tank by Multnomah County if it did fail.

MOTION: Councilor Fowler moved to adopt the resolution.

Councilor Wakeman asked if that condition could be included in the resolution?

Christian stated two years, or if development occurs within two years, whichever comes first and/or unless there is failure of the septic tank they would be required to abandon or connect to the sewer.

Councilor Wakeman asked to make a friendly amendment to the motion?

Councilor Fowler agreed to re-state the motion with the amendment Thompson seconded the motion.

MOTION: Councilor Fowler moved to adopt the resolution with an amendment to include language "or should the septic line/tank fail" following "two years". Councilor Wakeman seconded the motion.

**YEAS: 6
NAYS: 0
ABSTAINED: 0**

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

ITEM 6. RESOLUTION: Supporting the Application for Community Block Grant Funded Projects. Declarations, Challenges, Ex Parte Contact Ortega

Mayor Cox called this agenda item and asked for declarations.

Councilor Bui stated he was the City's representative on the CDBG task force.

Ortega stated the City had presented 2 projects by the March 31 deadline. They were 7th [Buxton to Harlow] which would entail a new street with new subgrade sidewalks, curbs, etc. and #2 entailed improvements to 2nd St. between Buxton and Dora improvement to Harlow and Dora between 2nd and 3rd Streets.

There was to be \$165,000 available for distribution among Wood Village, Fairview and the City. A meeting was scheduled for May 1 with the Policy Advisory Board and a public hearing to be held on May 14. The Commissioners would make their decision on May 21. The City staff was satisfied that both projects would be considered.

Ortega recommended accepting the resolution for the funding for projects through the Community Development Block Grant.

Councilor Bui stated there was an increase in available funding from \$164,000 to \$199,000 which was due to savings of previous projects and, there was a possibility that another \$74,000 might be available to add to the \$199,000 figure.

MOTION: Councilor Schmunk moved to approve as presented and stated that the City of Troutdale had been very fortunate with the CDBG funded projects in the City. Councilor Thompson seconded the motion.

YEAS: 6

NAYS: 0

ABSTAINED: 0

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

ITEM 7. CONSIDER: Sullivan/City Lease of Gas Station
Declarations, Challenges, Ex Parte Contact

Mayor Cox called this agenda item and called for challenges. There were none stated.

Christian stated this item was in response to the Council request for the City Attorney to send a letter allowing 10 days for a response. [Copy of letter included in packet materials.]

Cline had discussed this issue with the City Attorney and Jennings stated he had spoken with Sullivan. It was relayed that Sullivan had contacted Jennings and stated he couldn't afford to do the project, in part due to the bonding requirement. Sullivan was submitting a letter confirming the telephone discussion to Jennings formally withdrawing his proposal.

Councilor Bui asked if Sullivan was willing to do the project if the \$40,000 bond wasn't a condition?

Cline stated Jennings had indicated it was as though he couldn't afford to do so with or without the bond.

Mayor Cox stated there may be other interested persons now.

MOTION: Councilor Bui moved to withdraw the tentative agreement for the City to do business with Sullivan at the old gas station property located next to the Sandy River at the Community Park. Councilor Thalhoffer seconded the motion.

YEAS: 6

NAYS: 0

ABSTAINED: 0

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

Christian asked if Council wished to advertise a Request for Proposals?

Councilor Thompson affirmed.

ITEM 8. ANIMAL CONTROL REPORT AND DISCUSSION Declarations, Challenges, Ex Parte Contact

Mayor Cox called this item and asked for declarations. There were none offered.

Cline stated the recent news article reporting Troutdale as allowing and issuing permits for exotic animals was incorrect. Obtaining permits from the County to obtain licensing from the City was incorrect. He stated there was latitude in interpreting the Code and he hadn't been contacted by anyone asking for the interpretation prior to the article. It was his opinion that those types of animals had been a result of the recent mauling of a child by an animal a few weeks ago. That type of animal would not have been approved in the City. Wild and dangerous animals wouldn't be permitted. That type of animal was not livestock nor domestic as defined by the Code.

Councilor Fowler asked about a letter received from Mr. Torland?

Cline stated he was looking to clarify the City's position but needed direction from Council before proceeding.

Councilor Wakeman asked if he had spoken to Animal Control?

Cline stated Animal Control had sent a summary of the code. However, Troutdale doesn't regulate nor issue permits for animals. The County's interpretation is that if it is not regulated then it is allowed. That much has been clarified.

Christian stated this matter was brought to Council for re-affirmation of the current City position to exclude via the development code that particular activity. That still stands. Staff recommendation to Council was to allow more specificity in the development code relating to animals other than domestic. Any animal that can be classified as wild or dangerous wouldn't fall in the classification [ie. a peacock wasn't wild or dangerous, however, a bobcat could be considered wild/dangerous.]

Christian stated the Code section leaves the interpretation to the Community Development Director. That was the reason staff was asking Council for direction on the staff interpretation of the code. The Code adopted the County code and did meet the criteria of the definitions.

Christian asked if it was Council intent to apply the Code based on the definitions in the Animal Control Code definition section?

Councilor Wakeman stated, as an example, bobcat -- If Council re-affirmed the language, then anybody could come in with definition and again be before Council. Would each animal require Council approval?

Cline stated the definitions needed clarification - and inclusion in the Code - in order to disallow so much 'interpretation'.

Councilor Wakeman stated he didn't want to sit on each individual case and decide whether it was allowed or not.

Cline stated a clear definition would be domestic or domesticatable animals - he drew the distinction on wild or dangerous. The Multnomah County Animal Control had definitions in one grouping under the facilities issue. There were guidelines, or criteria, in the Animal Control standards and an inspector would go out to ensure that the facility met requirements of cleanliness, security, openings allowed, as well as the size of the facility itself. If so, then the County would license the facility.

Christian stated the issue was the constraining area which houses the animal and whether it is adequate to handle the animal. An assurance you are providing minimum standards of care for the animal. This had nothing to do with land use regulations. Christian stated that kind of use of the land [wild, exotic animals, cages, pens, or keeping wild, dangerous exotic in residential zoned areas was inappropriate. It wasn't explicit in denoting the prohibitions.

Christian stated amending the Development Code definitions would solve the interpretational concern.

Councilor Wakeman asked if there was need to direct staff to repeal the current language and adopt Multnomah County Animal Control Code?

Cline stated Council could direct staff to modify the definition section of the Code to clarify issue.

Wakeman to go in ad bolster section of Code. Not going to allow it. Further expand and delineate types and kinds of wild and exotic.

Cline stated the issue was whether it is distinguished as wild or dangerous not whether it can be domesticated. You may be looking at allowing pot bellied pig - that might not create same problems as a Siberian Liger.

Councilor Thompson agreed that it was difficult to define what was wild or dangerous whereas a Bobcat can be domesticated and not wild or dangerous.

Councilor Schmunk stated the definition was in the eyes of beholder.

Christian stated the City had the highest rate of cat registrations of the three cities and the City had excluded cat registration. Christian stated her favor would be to bring to Council optional language to review at a later meeting.

Council concurred.

Larry Torland, 14843 NE Sacramento, Portland. Owner of 5th generation Bobcat, which had been declawed. Definition of wild/dangerous - how they behave as they mature. Photos available. Cited by Multnomah County. Multnomah County and City of Portland dealing with the same issues. He had spent the morning in Court and was not guilty not having facility - payment of fee, application submission 60 days to accept or deny application it is approved for current year. By default has permit and will fight issue. Being lay citizen accepted word of Multnomah County Animal Control officer as authority, that Troutdale did permit located in proximity.

He stated Stuart Ridge development was what he thought to be an ideal location, and believed that they would be able to keep their cat. It wasn't until he contacted the City Attorney that he was aware he wouldn't be allowed to keep the animal. He further checked out Troutdale which said no, the Mayor would have to take the issue to Council. How animal raised dictates behavior. 20# Bobcat is considered wild and dangerous. Can't conclude this animal is wild or dangerous. Going to move before cited. [Questionnaires to 24 neighbors; 17 responded 15 a joy.] As result of liger incident he stated he had become a more responsible pet owner - he had stopped taking the cat for walks. He agreed that the language in the law needed more interpretation/definition. He stated he was pleading with Council to allow him to keep his cat. Consideration so he knows what he has to do, whether to move or go to Clark County or whatever would enable him to keep the cat.

Mayor Cox stated that Council would review the photos at the earliest opportunity. Staff had enough information to provide optional language to address this concern.

ITEM 9. COUNCIL CONCERNS AND INITIATIVES

Mayor Cox called this agenda item.

Councilor Fowler addressed a letter he had submitted regarding Planning Commission meetings and suggestions for additional rules and duties of the Planning Commission. The letter also addressed the length of meetings and deliberation; as well as proper questions that were within the purview of the Commission in order to make a decision relative to land use ordinance. Their decisions should be based on use of land not on design, hours of operation, etc. It was Councilor Fowler's opinion that it was the Director's job to get the Commission back on track when they go too far afield from the decision-making process.

Christian agreed with Councilor Fowler. The scope of the Planning Commission jurisdiction did need clarification [decision making]. However, all staff had been criticized on more than one occasion, for 'driving' Council decisions, running meetings, leading the Planning Commission, or City Council decisions. When staff had responded that a particular something isn't within that bodies purview and then stated why not.... That has been done in the past and caused considerable outcry from the affected individuals/bodies - that anybody has the right to look at anything before public.

Christian stated Staff was charged to enforce the codes, and ordinances of Council. The Development Code applies, as does an ordinance from Council. Staff has been timid at times, particularly in public reviews, to not try to curtail or limit discussion because it costs applicant time, money, frustration.

Councilor Fowler stated the issue before the body [Commission or Council] should be visited by the members prior to the meeting where it would be deliberating a decision.

Christian stated that isn't within staff purview to tell Council or Planning Commission what they can and can't do. They are an advisory board [legislative type advisory board], if Council chooses, which the City had done, to have a Planning Commission body. Statutes do not require a City to have a Planning Commission, the Council can act as that body. City Council sets outline of Planning Commission performance, not the staff.

Councilor Thompson stated it was a responsibility of the Chairman or Presiding Officer to maintain course of discussion on hand. He was aware that it was difficult to do but nonetheless, their responsibility. He also agreed with Councilor Fowler that members should view site before making decision. It was his opinion that maintaining order at a meeting was the job of Officer not staff.

Councilor Wakeman agreed. Education be given to the Chairman of that Commission.

Councilor Thompson stated his support for a work session to review how a meeting should go and how Roberts Rules of Order applied, and how they should be used. He stated the Council could also use a review.

Councilor Wakeman stated he had been involved with the roadway issue[s]. He had provided Fairview with a copy of the MOU road transfer. They stated that they would read and review the document. He stated there was some resistance, but they stated they would review it.

Councilor Thalhoffer discussed participation from some of City staff in a donkey basketball game at Reynolds High School gym to raise money for the high school senior party [Collier, Cline, Ortega]. They were good sports and played hard.

Councilor Bui thanked the Budget Committee, on behalf of the Council, for getting the budget readied and reviewed.

ITEM 10. ADJOURNMENT.

Mayor Cox called this agenda item.

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

**YEAS: 6
NAYS: 0
ABSTAINED: 0**

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

Sam K. Cox, Mayor

Dated: _____

ATTEST

Valerie J. Raglione, CMC

City Recorder

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