

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

7:00 P.M. ~ DECEMBER 8, 1992

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

Mayor Cox called the meeting to order at 7:00 p.m. He then called on Councilor Wakeman to lead the pledge.

Mayor Cox called on City Recorder Raglione to call the roll.

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

ABSENT: -0-

STAFF: Christian, Cline, Collier, Galloway, Gazewood, Raglione
Jim Jennings, City Attorney

PRESS: Jennifer Brandlon - The Oregonian

GUESTS: Frank Windust Jr., Neil Handy, Sally Wakeman, Karen Burger-Kimber, Walt Postlewait, Gail Luthy, Fred Rathbone, Kris DeSylvia, Don Lloyd, David Ripma, Lou Nederhiser, James D. Zupancic, Greg Handy

Mayor Cox asked Christian if there were any agenda updates? Christian stated there were none.

ITEM 2. CONSENT AGENDA:

Mayor Cox called this agenda item.

MOTION: Councilor Schmunk moved to accept the Consent Agenda [2.1 Accept Minutes - 10/27/92; 11/10/92; 2.2 Business Licenses - Month of November, 1992; 2.3 RESOLUTION: Adopting the City of Troutdale Annual Waste Reduction Plan for Year Three [1992-93]; 2.4 RESOLUTION: Accepting the November 3, 1992, Certified Election Results from the Director of Elections, Multnomah County. Councilor Thompson seconded the motion.

YEAS: 6 [Bui, Fowler, Schmunk, Thalhofer, Thompson, Wakeman]

NAYS: 0

ABSTAINED: 0

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

Karen Burger-Kimber, 1675 SW Cherry Park Rd. invited interested persons to the Historical Society Christmas Home Tour, December, 1992. Homes on the tour were: Eaton House, Wilson House, Mantz House, the Administration House Edgefield; Hope Gardens; and the Cox Home was open for a drive through display.

ITEM 4. REPORT: Wastewater Management Negotiating Team

Mayor Cox called this agenda item.

Jennings gave the history of negotiations between the City and Wastewater Management. The Council had appointed a negotiating team to review and develop a new lease agreement that might be acceptable to both sides. [Thompson, Thalhofer, Galloway, Jennings for the City and Rathbone, Clineman, Mr. Harding, Jim Zupancic for Wastewater Management.] He stated if Wastewater Management agreed to meet the wastewater pre-treatment ordinance; meet normal SDC conditions and requirements; as well as normal lease language the negotiating team would take the recommendation back to the City Council for action. The last discussions by the negotiating team were that Wastewater Management would be interested in that type of lease language structure. They were expecting to meet again to iron out any differences of understanding.

Zupancic discussed the status of negotiations and gave history from his clients [Wastewater Management's] perspective. He stated the company needed approval to increase the discharge to 70,000 gals/week.

Councilor Thalhofer stated he understood the rationale for entering into the lease initially was that this would enable the city sludge to be treated by them and even currently there was a need for this service. The demand for the process was substantial by other users. He voiced his concerns in that they had made a substantial investment and he viewed the cancellation of the lease as a very serious issue. The relationship had deteriorated in the past, however, it was his opinion that there had been a marked change in attitude since the beginning of the year. He stated there had been evidence of good faith shown during the recent negotiations.

Councilor Thalhofer supported continuing negotiations.

Councilor Thompson stated he did not support continuing. Some reasons stated were that the company didn't show good faith during negotiations; the difficulty of trust in the relationship. He

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stated that they had gone into the negotiation meetings with different ideas and proposals every time. He didn't like the tone taken by Mr. Zupancic which he took as a 'threat' that if there was no suitable lease negotiated, the City would be liable for lawsuit. Councilor Thompson stated under the existing lease, they were allowed to discharge 14,000 gallons per week -- during the last negotiation meeting they stated they already had 80,000 gals/ of treatable material which couldn't be run through the system under the current terms for several weeks - but, they accepted the material anyway. It wasn't the City's responsibility that they couldn't get rid of the material. He felt that it wouldn't be in the best interest of the Council to enter lightly into a lease when the operation of the plant could be jeopardized by what was discharged into it. The lease was terminated because they were out of compliance with it - it wasn't the City's responsibility to ensure that private business could succeed.

Councilor Thalhoffer if the pre-treatment ordinance was in effect and what danger would there be of dumping something that would foul up treatment plant?

Galloway stated that with the pre-treatment ordinance in effect, the danger would still remain. The pre-treatment ordinance wouldn't prevent the possibility of potential harm to the Plant. It would still require a good faith effort and the technical capabilities that aren't there. If pre-treatment there it could help, but there are no guarantees.

Councilor Bui, asked if the taxes were paid?

Councilor Thalhoffer stated they were prepared to pay them. Councilor Thompson clarified that the taxes aren't currently paid. They were reduced but not paid and the terms of the lease were that the taxes be paid. In the currently lease it states that the taxes would be kept current.

Zupancic stated there was need to inform you what is needed to operate and that would be 70,000 gals/week to continue the operation. He stated that the City had a tourniquet [valve] which could be turned off if the City so desired. Their customers were relying on them to take their material for disposal. There were other industrial dischargers which likewise could impose problems for the treatment plant. They wished to be treated the same way as everyone else was. Zupancic stated that their intentions were to go forward in a positive way, not prolong the negotiations, and bring an agreement that would be acceptable which they too could live with. That agreement could be presented to the bankruptcy court which will solve the Chapter 11 issues.

Councilor Thompson stated that discharge was the business and the only business that Wastewater was concerned with. He was concerned with the amount of Chlorine gas on site that was in considerable quantities and stored - liability insurance up to \$10 million due to that. The gas which could escape, could be carried directly to the Factory Outlet stores easily by the east winds that Troutdale has. He stated the company should have more than \$1 million insurance due to the potential risks. This hadn't been address but was a major concern of his.

Councilor Thalhoffer asked if Fire Marshall inspected business?

Jennings stated yes, but there weren't any changes recommended. There was no violation of hazardous materials storage.

Councilor Bui had heard that if Wastewater Management was allowed to set up full capacity, the City wouldn't have to build a new lagoon. He asked if there were comments to that?

Holman stated when the lease was originally put together there was comment that Wastewater Management would treat some of city sludge and turn the water back to the City; they would use City water to purify without doing all the capitol improvements and we get water treatment since the City water treatment was better than theirs. That was also one reason why it was set up next to the City's plant.

Councilor Bui asked if that was factual information? If allowed to do 70,000 gals/ the City wouldn't have to build a lagoon which would save the City \$1 million?

Holman stated no, they would like to integrate the two plants; take the sludge from the plant and give water to our plant.

Zupancic stated their technology would be to the City's advantage, however, the City choose not to explore that opportunity. The offer had always been on the table to handle some of City sludge.

Councilor Schmunk asked if the purpose of this discussion was to ask the City to renegotiate and allow 70,000gal/week to discharge?

Zupancic stated it was to advise the perspective and status of the negotiations - and that they were prepared to move forward as described in the standard lease. The second request was to increase the discharge amount[s] to 70,000/gals/week to enable the company to continue in operation.

Councilor Schmunk asked Jennings opinion about restrictions under Chapter 11 - can they make demands and/or negotiations during that time?

Jennings stated whatever was done must be approved by the bankruptcy referee - no action can be taken without leave of that referee. Legally, the City should weigh if we are saying to other industrial users, you meet and you can continue to discharge - we can't prejudge whether they can meet or not the pre-treatment ordinance.

Councilor Bui asked what his recommendation was?

Jennings stated completing the negotiating process to determine whether a lease can be agreed upon. He was surprised to hear of the 70,000 gallon/week between now and when negotiations over. At a minimum, Wastewater Management would need to commit to meeting terms of pre-treatment ordinance now. Increasing to 27,000 gallons/week had been difficult for negotiating team to agree to.

Galloway stated the question of 70,000 had ended in deadlock at the last session. Wastewater should be dealt with the same as with any other discharger - any other discharger wouldn't be granted until the minimum SDC's were paid. That should be taken into account. They City had accepted that approximate quantity with no noticeable problems to be attributed to the increase. There was some degree of risk, however. Accepting the increase during the next 30 days - whether Council would require compliance regarding SDC's and pre-treatment, there was no guarantee an agreement would be any closer than where it was right now, that was a concern.

Jennings stated there was an outline of an industrial pre-treatment ordinance. It was possible to ask Wastewater Management to bear the cost of having material sampled to see how it complies with a pre-treatment ordinance. He was unsure whether or not they had the technology to meet the standards and asked if tests could be taken?

Galloway: Yes, it was possible to draft the form to see if the if the criteria could be met.

Zupancic stated if the City was imposing the requirements now, prior to City hearings/due process - the same restrictions should be imposed upon other industrial users in City. Wastewater Management would otherwise be discriminated against and that would be inappropriate.

MOTION: Councilor Bui moved to allow 27,000 gallons/week, continue negotiations based on that amount and schedule January 26 to be before Council with results of the negotiations. Councilor Fowler seconded the motion.

YEAS: 3 [Bui, Fowler, Thompson]

NAYS: 3 [Schmunk, Wakeman, Thalhoffer]

The vote was tied which required Mayor Cox vote to break the tie.

Cox vote - YEA

YEAS: 4 [Bui, COX, Fowler, Thompson]

NAYS: 3 [Schmunk, Wakeman, Thalhoffer]

Jennings stated he and Zupancic could meet to deal with the simple language and he would be responsible for contacting Zupancic.

[Councilor Thalhoffer wished to have a copy of the 1984 lease information available to him.]

(A) 5. STATUS REPORT: Kendall Street Parking

Neil Handy, 2202 W Columbia, Greg Handy, 705 SW Halsey resident. Handy was before Council at this time to request an application to vacate Kendall St. a length of 1 block, gravel street between two businesses to provide parking alongside or in front of his building. He stated it would provide for an atmosphere/environment where development could be outlined in the downtown Troutdale area.

Cline added 1] misconception that if re-zoned subarea A to B it wouldn't relieve the problem of the conditions on Kendall Street. The desire would be to pave a parking lot on Kendall, however, that couldn't be done without owning property. Rezoning in subarea A doesn't address the problem. The CAC had reviewed this issue and took into consideration therefore, subarea B. There were justifiable reasons for zoning into subarea A but it wouldn't address the problem.

What an affected area is: before applying Handy would have to have signatures of owners of property [two-thirds] owners. For a Council initiated process, there would have to be a type of public benefit. Cline stated he wasn't comfortable doing that and requested Council direction on this issue.

Jennings: If a citizen request to vacate it would require 2/3 of the affected property owners. If Council initiated it required a majority [51%] of affected property owners to be in favor of it. In this case, 2/3 or 51% of majority would make difference in the outcome. Parking considerations: Mr. Handy wants to use property that has been in his family for a considerable amount of time and was located across Kendall. Concerns discussed were: if designated as subsection A of the central business district there was no requirement for off-street parking. 1] Pavement of Kendall [if improved at some time]; -- deed restriction would require Handy to pay half of improvements. City can't extract promise of nonremonstration in a commercial district. Finally, would Kendall ever be turned into a real street and who should pay for it?

Frank Windust, 36039 E Crown Pt., Corbett. co-owner of 5 acres behind the Handy property. Windust discussed issue of isolating the property from access [i.e., 257th]. He stated there wasn't access off of Buxton, the City had fenced off 4th street. Windust stated opposition to a request to vacate and stated reasons. He wouldn't be able to develop it as commercial property if there was no access. Handy had approached him regarding the concern of vacation, however, Windust believed it should be studied, in fact a planning group should study the entire area. There wasn't a parking problem since there was .46 acres of property, there was all kinds of room to park. It was a dollar and sense issue. The City would be asking him for 20,000 sq. ft. He asked if the City would give him \$100,000 worth of real estate. It would down grade his property if vacated. It would mean a quarter million dollar loss to him due to the lack of access.

Councilor Bui asked if he had been contacted regarding this issue?

Windust, stated no. He stated he would fight this issue tooth and nail.

Councilor Bui any plans for shopping center?

Windust stated the area not quite ripe yet. There would be need for more population and more apartments to be built.

Councilor Bui asked when 257th was constructed wasn't there some turn off onto your property put into the design?

Windust with an extension of 4th Street then 2nd street would access off of 257th as well as dedication of 1/2 acre property to allow the southern part of downtown area to be opened up.

Handy stated he and Windust talked about this on more than one occasion over the past one year. In those conversations it was a consensus agreement that when his property developed, most likely the developer would buy all the property to Columbia Highway. If that scenario plays out this is an argument that didn't need to occur. However, currently he was affected to enable him to do something with his property, and not behind the 7-11 building.

Greg Handy stated Oregon law didn't require the property owner to pay for a vacation. If we develop separately from Windust, Kendall would split it in half. An access road would more affectively be on the western part of our property - between us and Plaid Pantry property. The parking problem was an immediate concern. issue regarding vacation of Kendall. Information within Downtown Implementation Plan that Troutdale should it develop into town referred to with pride rather than ghetto do it on a step by step basis.

Councilor Fowler asked if there was a separate tax lot for that building?

Handy stated it was doing two things on west side of Kendall. He would refurbish the Kendall home and rent out if there was no other option than to use property for parking on the west side of the Kendall property or south side of where the Chicken Inn had previously been located. That wasn't the preferred because it wouldn't enhance the Kendall property.

Councilor Fowler asked what business would be done with the house?

Greg Handy stated something like a silk screen tee shirt business.

Councilor Fowler stated there was 139' frontage

Neil Handy stated it would destroy the integrity of Kendall House. Parking lot up to depth of building 80-90' would need to be wide. The present turn around driveway would be gone as well as half of the bank, which would create a need for something like concrete walls in there.

Greg Handy stated the plan provided the vision to deal with these. Gives enough information and thought to use the property effectively. We are asking to use a portion of Kendall Street for parking.

Councilor Fowler stated that the statement was made two weeks go there was no other place to park. There is a place to park on the property. Talk about vacating other side of Shirley's to use for parking.

Greg Handy stated there was need to temper this with common sense.

Councilor Fowler stated if your request is to vacate the street, go through the Planning Commission.

Cline stated there would still be the process of public hearings before the Planning Commission and City Council there would be no waiver of any requirements. The question was whether the vacation would be Council initiated or not?

Windust stated when the 2nd between Kibling and Third was requested for vacation, he got signatures of adjacent property owners, then took to Council. It was posted, ran ads in the Outlook -- the process was done the way its suppose to be done. Council told him if you want it you do it.

Lou Nederhiser, property owner on 2nd and Buxton known as Kendall Building. Owned since 1965. If Kendall is blocked off it would form a lot of congestion in the future for our property and for Frank Windust's property. Another neighbor is also very concerned about another street going into 2nd. He would support if there was an access further west. He stated keeping an access the street whether it was Kendall or further west 100 or 150'. Each one of us aren't here to pick a fight, just concerned about the best interest for downtown Troutdale. In parking and flow of traffic from Windust as well as our property and the old post office property. Kendall Street is a must or 100 or 150' west and provide another access up to 2nd Street. Either way I am for that but there must be an access from Columbia up to 2nd Street.

Councilor Thalhofer asked if Council had the authority to make an exception to the Development Code?

Jennings stated No. However, the issue of parking on Kendall could be different if zoned in subarea A where there was no requirement for off street parking.

Councilor Thalhofer stated the main concern of Handy's was to have parking along Kendall.

Handy: First requested not to comply and use parking area now used - transfer privilege to Florist Shop. To vacate should be meaningful public benefit. Re-zone area to subarea A where there is no off street parking required. People free to park.

Cline again stated just rezoning did not address the problem of Kendall. Allowed to occur - in violation of last 3 years. Have a definitive use that must come into compliance. If Council waived provision of parking it still didn't address the Kendall Street issue.

Councilor Thalhofer supported the need for a staff study. This was before Council without Council knowing if we have authority to make decision. Now we are in position where rezoning subarea A doesn't solve problem. What is the problem as far as parking on Kendall St?

Cline stated the public right-of-way used by a private property owner because it has always been that way. How would you come back and resolve that issue? 1] Vacate street if 2/3 signatures of affected property owners; 2] see if Council would go with that or initiate the process itself? This was not an issue of Development Code or for me to ...

Jennings: Rezoning subarea A would remove Handy from having to find other parking. That has been for 53 years. There have been no citations issued for parking there. Kendall was a dedicated street forever. Is City directing staff to begin enforcement or not? Can he or can he not park on Kendall after he starts his new business and what happens to the people that park there if they do?

Councilor Thalhoffer asked can you park on both sides or not?

Jennings: Transfer parking from one side to the other.

Councilor Thalhoffer asked if that could be done if rezoned to sub area A?

Cline stated that was a separate issue. The ratio wasn't applied in subarea A meeting a specific parking ratio.

Nederhiser asked if 50' would allow ingress and egress on either side?

Cline stated no most are 60' - 30' paving section with 5' sidewalks either side.

Nederhiser suggested a variance for consideration. Sidewalk on one side, parking either side with ingress and egress up to 2nd Street. Start with a street which has been there for several years.

Greg Handy stated there was already an existing use of that street. He stated items that could be done were a traffic count to determine traffic patterns and the safety of entering onto Columbia from that street if it was used to its fullest extent.

MOTION: Councilor Thompson moved to deny any request to vacate the street at this time and directed staff to explore other options further. Handy could work with City staff to explore other options. Thalhoffer seconded the motion.

YEAS: 6 [Bui, Fowler, Schmunk, Thalhoffer, Thompson, Wakeman]

NAYS: 0

ABSTAINED: 0

Mayor Cox called for a 5 minute recess.

Mayor Cox reconvened the meeting at 9:00 p.m.

6. RESOLUTION: Requesting an Engineer's Report Concerning Construction of Access Road Adjacent to Wastewater Treatment Plant

Galloway

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

Galloway gave a brief status report. Previous planning had assumed that the road would be funded by special assessments against the benefitting property owners. As per the Troutdale Municipal Code,

the process would call for an engineer's report as the first step. Estimated costs and recommended methods for assessing those costs would be the purpose of the engineers report.

Councilor Fowler asked what other properties would be benefitted by this road?

Galloway stated that was in part the purpose for the engineer's report, however, the City mostly coming in from NE corner of mall property and proceeded south on the western side of the property east which served the Bennett property and the City leased property [currently Wastewater Management].

Councilor Fowler asked westerly of the ponds?

Galloway: Yes.

MOTION: Councilor Thalhoffer moved to adopt the resolution as written. Wakeman seconded the motion.

YEAS: 6

NAYS: 0

ABSTAINED: 0

7a. PUBLIC HEARING/ORDINANCE: Manufactured Dwellings as InFill Developments in Single Family Zoning Districts **Cline**

PUBLIC HEARING:

.1: Open Public Hearing - 9:05 pm

.2: Declarations, Challenges, Ex Parte Contact

.3: Summation by Staff - Cline stated the City was required to come into compliance and the City did. The second piece was in-fill. The City was required to allow manufactured dwellings in at least one single family zone. DLCD sent technical bulletin out on how to address this to ensure compatibility with conventional housing. Aesthetic controls i.e., skirting, placement, set back requirements. There have been at least 5 meetings, including a public hearing, and developed an ordinance which was now before the CAC and the Planning Commission last month. There was one issue remaining which was controversial. Ordinance prepared. Shaded areas are actual changes. In contact with Manufactured housing, building codes agency, DLCD. Allowed to impose additional restrictions as long as no more than any other conventional type home. Condition #8 - extraordinary requirements in Troutdale for stick built homes. State building codes agency says cannot impose this restriction. Is that a violation of federal - no written response had been received from LCDC. Cline stated he had attempted to get additional information. The State contention was federal standard for manufactured dwellings enforced uniformly throughout country. Oregon doesn't have the right to inspect manufactured dwellings. State tags if able to occupy. If we apply that restriction, we are overstepping bounds. Extraordinary

requirements two fold: CABO - 1] full exposure [C] over 90 mph - generally double wall construction; 2] shingles installed for high wind load areas by manufacturer. State required in factory they maintain wind load of 15 lbs. per sq. ft. The larger the unit the stronger it has to be. Requires heating of all shingles in factory. City has no jurisdiction over that.

The Planning Commission recommended #8 and with additional information Council may wish to review that.

Don Monnahan Oregon Manufactured housing association #3: no more than 12" above grade and since recommended jurisdictions increase to 16". Basis is concrete block two would be 16".

Thompson asked for legislative history.

Cline 1989 legislature attempt to define needed housing. To many jurisdictions excluding manufactured dwelling and should provide affordable housing. January 1, 1991 to be in compliance.

Thompson asked if any other laws which give no rights as in this case? Cline, not that he is aware of.

Jennings: Early 80's troutdale had a requirement of double wall construction. Up and down to Supreme Court of Oregon and told Troutdale can not require. City won and he wasn't ready to concede on #8. Three issues to decide: 1] federal law pre-empted action by city; 2] state law and whether state paramount issue; 3] home rule - do we have right because we have unique needs to inspect and put stiffer standards.

Mayor Cox asked if it might be better to hold this over?

Jennings stated there was public hearing and would start all over because of different Council sitting. Can't continue since will be new deliberative body. Can act tonight or start again.

Councilor Fowler: If accepted would you challenge afterwards?

Jennings: If passes, up to State to challenge. Scott raises issue of land use issue. Regular courts or LUBA. Mobile homes, regulation of mobile homes and appropriate forum to decide those issues.

Councilor Thompson asked what other cities had done?

Cline responded they ignored it. As far as imposing additional restriction, not aware of any other city imposing it.

Jennings stated there was no where else in the Metro area that had the unique wind load issue.

Mayor Cox stated this could change the whole issue.

Schmunk; Hurricane in Florida and manufactured homes that were destroyed #8 should be #1 in Troutdale.

Jennings stated Council could study how to impose the wind load restriction and advertise a public hearing with the new Council.

MOTION: It was moved to table this item and set it again for initial public hearing January 12, 1992. Fowler seconded the motion.

YEAS: 6 [Bui, Fowler, Schmunk, Thalhoffer, Thompson, Wakeman]

NAYS: 0

ABSTAINED: 0

7b. ORDINANCE: Manufactured Dwellings as InFill Developments in Single Family Zoning Districts
Cline

TABLED TO JANUARY 12, 1993

8. REQUEST: Council Direction -- Martin Luther King Day

Mayor Cox supported declaration of Martin Luther King as a holiday thereby adding another day to City workers. Another option, since the Mayor designates the floating holidays [3] was to designate one of the three floating holidays as Martin Luther King Day.

Christian stated the budget impact city-wide would be \$8,067/general fund \$5,800 enterprise fund to add another holiday.

Councilor Thalhoffer was willing for the City to take any heat. There were several very important people in history and aware of Martin Luther King contribution in this country. He didn't support a paid holiday every time there is a person who accomplished something of this magnitude in the society. Honoring them in other ways was more important than taking the day off. He supported employees receiving a brochure outline the accomplishments and recognizing the important work King did; a program in City hall. To have a paid holiday for his accomplishments...he didn't support. Flag Day was an important day but there wasn't a holiday for it. In view of Ballot measure 5, it would need review.

Councilor Bui asked if the employees were polled? Christian stated three years ago and when given a choice chose President's Day.

Councilor Schmunk asked for an explanation of the floating holidays.

Christian: Credited to accrued holiday Thanksgiving/Christmas - as designated by Mayor. Not enough staff to cover each department so there was a skeleton crew. The Council voted to close day after Thanksgiving using one of the floating holidays. That sometimes left two of the floating holidays un-designated.

Councilor Schmunk felt that the day after Thanksgiving was normally a business day and someone could answer phones at least.

Councilor Thompson agreed, however, he had no problem polling staff if they want to take one of the other holidays.

Christian stated the Mayor designates floating holidays and could assign one of the floating holidays as Martin Luther King Day.

MOTION: Councilor Thompson moved to authorize the Mayor to use a floating holiday as Martin Luther King Day, but not to add another separate holiday day. Councilor Fowler seconded the motion.

YEAS: 6 [Bui, Fowler, Schmunk, Thalhoffer, Thompson, Wakeman]

NAYS: 0

ABSTAINED: 0

9. SETTLEMENT OF LITIGATION: Summary of Costs

Mayor Cox stated this item required no action and was for information only.

10. DEPARTMENT REPORTS:

- Finance - Gazewood discussed the LIDs. Summary 266 lots have been sold which meant those subdivisions carried assessments of \$2m - out of a \$3.3 m. bond issue which meant \$2m had been paid off. That meant the City had tremendous success and timing was correct in terms of growth of the city.

Councilor Thalhoffer - commented on the gamble that was taken and it did pay off.

- Public Safety - Christian stated the department had paid for and received a sign permit, and went through the site and design review.

Christian added that the Gresham Optimist Club raised nearly \$500 and donated it to the City to help defray costs of sending O'Grady to Florida. The money had gone back into the Helping Hands fund.

Councilor Bui stated it was a great gesture on behalf of Gresham Optimist Club.

Jensen stated part of the money came from employees of Hartman Building and Lumber.

It was suggested that a letter be prepared for Jensen.

- Executive - East Metro mediation program. Participate in Grant and ready to train community mediators to resolve disputes. Notify that City taking applications if want to be trained, call Christian and will give information. There was room for 16 people and training was scheduled for January 19, 23, 26, 30 and 2 days in February. No advertisement but have dealt with substantial number including Troutdale and proved successful before it was even kicked off.

City Recorder Raglione asked for Council direction regarding scheduling a training session for Parliamentary procedure. Council consensus was to schedule during the month of February, if possible for a three hour session only.

11. COUNCIL CONCERNS AND INITIATIVES

Councilor Wakeman read his letter of resignation from the Council due to a change in location of employment which had just occurred. He stated his support for filling his vacancy was to Walt Postlewait who had been President of Planning Commission, member of Planning Commission, a recent candidate for a Council position. He hoped that Postlewait would be the appointee to fill his position on Council.

Mayor Cox accepted the resignation and stated Walt Postlewait was a good recommendation.

Councilor Thalhofer asked Jennings what the procedure was for filling a vacancy?

Jennings stated Jim must resign and the resignation be accepted. Wakeman could participate in the discussion but not vote. Then Council mandates under state law must fill vacancy. If appointed now, the appointee would serve until the new Council appoints the position or until the next general election [2 years]. Can be appointed now, would be on Council until new Council - which could then be filled by new appointee.

Councilor Fowler asked if they could be appointed next year as well as now?

Jennings stated the vacancy was created tonight.

Mayor Cox called for a motion to accept Wakeman's resignation.

MOTION: Councilor Thompson moved to accept the resignation of Jim Wakeman from his Council position. Councilor Schmunk seconded the motion.

YEAS: 5 [Bui, Fowler, Schmunk, Thalhofer, Thompson]

NAYS: 0

ABSTAINED: 1 [Wakeman]

MOTION: Councilor Bui moved to allow the new Council time to review eligible applicants for the position. Postlewait should be interviewed as well as other applicants. Councilor Fowler seconded the motion.

DISCUSSION: Councilor Schmunk asked if position should be replaced since someone was recommended to replace. She was under the impression the Mayor made the recommendation. Christian with approval of Council and Mayor recommendation.

Jennings clarified stating the language was Charter and state law 'shall appoint'. If appointed tonight and new Council wants to change they may do so. There would be a sitting member in the process.

Councilor Thalsofer favored waiting until the new council was seated. Mr. Postlewait would certainly be considered.

Councilor Thompson saw no problem in postponing, however, Mr. Postlewait only one that expressed his interested in running for the position. If appointed this evening he could take place in the process. Also he would be sworn in with rest of Mayor and Council and give him some time to speak.

Postlewait stated there was obviously a difference of opinion on this Council and it would be better to carry over the appointment.

MOTION: It was moved and seconded to postpone until the January 12, 1993 meeting.

YEAS: 4 [Bui, Fowler, Schmunk, Thalsofer]

NAYS: 1 [Thompson]

ABSTAINED: 1 [Wakeman]

MOTION: Councilor Thompson moved to officially cancel the December 22, 1992 Council meeting due to Christmas week. Councilor Fowler seconded the motion.

YEAS: 5 [Bui, Fowler, Schmunk, Thalsofer, Thompson]

NAYS: 0

ABSTAINED: 1 [Wakeman]

Mayor Cox invited all to the Chamber Open House as well as the announcement made by Karen Burger-Kimber to the Historical Society Open Houses.

Councilor Thalsofer voiced his concerns regarding the Marine Dr./Sundial Rd. - ATC issue. It had been a real embarrassment to the City, as well as him as a Councilor. It was his opinion that there wasn't enough control exercised and wasn't convinced that he had received adequate information to make a responsible decision. He was aware that the Council was ultimately responsible as the policy

making group. The comments in the paper regarding a weak Council was largely due to that occurrence. He wanted to ensure that steps would be taken in the future to prevent a like outcome. For that reason, he requested copies of the meetings from the Executive Sessions that pertained to the project. He wanted to be able to track the events and decisions made; and what part the Council had in how the decisions were made regarding obtaining the legal services.

Mayor Cox in defense of it - the present Council attended those Executive Sessions, other than Councilor Thompson. This occurred during the time Greg Wilder was here, and Wilder had clearly explained the events throughout the default process.

Councilor Thalhoffer stated he was not in favor of an Executive Session lasting only 30 minutes and getting only a brief overview of issues of this scale. He suggested setting a period of time that allowed a complete examination of the issues without rushing to get into a regular Council meeting at 7:00 p.m. Allowing the time to fully understand and question the decisions may prevent errors in the future. He also suggested that goal setting sessions be set more frequently. Council should be concerned with whether or not everything was working the way it should and was everything being done in the proper order. Councilor Thalhoffer stated that the staff was working efficiently and believed that Pam was doing an excellent job. He would like to see his concerns addressed soon and make the necessary improvements to ensure things were being done in the best possible manner.

Councilor Thompson agreed with Councilor Thalhoffer's statements. He suggested that more be done in the way of the process, however, rather than spending time trying to find out if someone was to blame. He was more concerned with isolating the process that allowed it to happen and discuss that in goal setting sessions. He wanted to be comfortable knowing that the City had a responsible Council in that there wasn't criticism of each other, even though there may be disagreements on some issues. He didn't want to see that change. He don't agree that 'picking on each other, as well as staff', was a method that would encourage making the process healthy. He stated even though the City lost, the City did get a settlement. Each time there is litigation someone loses as well as wins. In the conclusion that the City was wrong because it cost us more money, it needs to be considered that there were extenuating circumstances.

Mayor Cox was more concerned about the comments regarding the Council than about himself. Consideration should be given to the fact that the population had more than doubled; there was nothing on Frontage Road when this Council began; Troutdale was dealing with building permits nearly as high as Gresham for the past year.

Councilor Bui voiced agreement in that the press hasn't been fair not only to the Council but the Mayor as well. He was sorry to see that Wakeman was resigning. The only reason there would be no recommendation on a replacement at this time was this would be the last meeting of the year.

12. ADJOURNMENT.

MOTION: Councilor Bui moved to adjourn.

Sam K. Cox, Mayor

Dated: _____

ATTEST:

Valerie J. Raglione, CMC

City Recorder

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