


AGENDA  
TROUTDALE CITY COUNCIL  
REGULAR SESSION  
AUGUST 25, 1981 7:00 P.M.  
TROUTDALE CITY HALL

1. Call-to-Order, Roll Call and Agenda Update: Mayor
2. Consent Agenda
  - (A) 2.1 Accept Minutes of 7/28/81 Regular and Executive Sessions
  - (A) 2.2 Accept Business License Report
  - (A) 2.3 Accept Bills for the Month of July, 1981
  - (A) 2.4 Authorization for Nancy B. Nixon, Finance Director/City Recorder, to act as Signatory Person for the City
- (NA) 3. City Park Parking Lot Expansion -- Discussion
- (NA) 4. State Department of Revenue Report
- (A) 5. Reappropriation of Federal Revenue Sharing Funds -- Ordinance
- (NA) 6. Department of Environmental Quality Landfill Permit -- Oral Report by Scott Pemble, City Planner
- (A) 7. Hearing to Determine Change of Conditions of Community Service Zoning
- (NA) 8. Departmental Reports
  - 8.1 Public Works
  - 8.2 Community Development
  - 8.3 City Engineer
  - 8.4 Police
  - 8.5 Finance & Records
  - 8.6 City Attorney
  - 8.7 Executive
- (NA) 9. Council Concerns and Initiatives
- (A) 10. Oral Communications and Adjournment



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R. M. STURGES, MAYOR

(A) = ACTION ITEM  
(NA) = NO ACTION NECESSARY  
(I) = INFORMATION ONLY



MINUTES  
CITY COUNCIL MEETING  
AUGUST 25, 1981

The Mayor called the meeting to order at 7:00 P.M.

ROLL CALL :

PRESENT : Dalton Williams, Helen Althaus, Sam Cox, Mayor Sturges, Frank Kaiser and Chuck Blanchard (Dan Lowe was absent per the approval from Mayor Sturges)

STAFF : Allen Perkins, Harry Parsi, George Haddock, Brian Freeman, Scott Pemble, Nancy B. Nixon, Pam Christian and Lois Howell

PRESS : Cassandra Burrell of the Gresham Outlook and Joyce Wydrzynski of the Oregonian

GUESTS : Mr. and Mrs. John Carlson, Don Oliver, Cherilyn Moss, Frank Windust Jr., Sharon Nesbit, Rev. Howard A. Fosser and Don Sipple

An agenda update was given by Allen Perkins. He indicated that 2.5 would be a reaffirmation of the red baron liquor license; 7 (a) Cherry Park Road improvement and 8.2 maple trees on Buxton Street.

AGENDA ITEM #2 - CONSENT AGENDA

- 2.1 : Acceptance of minutes of 7-28-81 (Regular City Council meeting) and 7-28-81 (Executive session)
- 2.2 : Acceptance of business license report
- 2.3 : Acceptance of bills for the month of July
- 2.4 : Resolution authorizing Nancy B. Nixon, Finance Director/City Recorder to act as Signatory Person for the City (442-R)  
Allen Perkins introduced Nancy to the council.
- 2.5 : Reaffirmation of Red Baron liquor license.  
Pam Christian told council that this liquor license was already granted but that because another partner was being added the formality of submitting this license again to council was required. Pam also commented that the Red Baron was going to try and open sometime in September.

Chuck Blanchard made a motion to accept the consent agenda 2.1 through 2.5. Sam Cox seconded the motion. Yeas 5 Nays 0.

AGENDA ITEM #3 - CITY PARKING LOT EXPANSION

Harry Parsi said that the costs involved for expansion would be at the minimum \$2,000.00 and at the outside \$4,500.00. Some alternatives to the problem are: we go ahead and get some gravel and rebuild the area or; we simply leave it like it is. If we were to apply for a permit to expand we have to go through about 87 agencies. Dalton Williams felt that it might be worth a try to apply. One application would go through all of the 87 agencies and would not require us to apply to each agency. The idea of island parking was addressed. Frank Kaiser felt that we wouldn't have enough money to build a road down to the island. The Mayor

felt that at least the brush should be taken down on the island to deter vandals, nude sunbathers, etc. The consensus from council was to let the matter rest for awhile.

AGENDA ITEM #4 - STATE DEPARTMENT OF REVENUE REPORT

Allen Perkins again introduced Nancy B. Nixon to council and also added that he and Mrs. Nixon had to go to Salem to meet with Renee Wentela of the Local Budget Unit on Nancy's second day of work. Nancy told council that this was a matter of interpretation concerning the serial levy and the computations for the levy. A recent opinion on the application of the tax laws specifies that non-capital construction serial levies approved by the voters must be included as part of the operating levy in computing the portion of the levy which will be partially financed by the State. Consequently, the 1980-81 operating levy, as defined by the opinion, exceeded the tax base and resulted in an incorrect computation of the 1981-82 tax levy eligible for partial financing by the State. This ultimately required a reallocation of the levy between the portion partially funded by the State and the portion funded by the taxpayer. Nancy concluded by saying that the legislature has taken last minute action to provide us time to make any adjustments, which we have.

AGENDA ITEM #5 - REAPPROPRIATION OF FEDERAL REVENUE SHARING FUNDS - ORDINANCE (354-0)

Nancy reported that we have been notified by the Tax Supervising and Conservation Commission that the 1981-82 Federal Revenue Sharing Fund Budget as adopted on June 23, 1981, does not comply with ORS 294.435 (2). This statute limits the adopted budgeted expenditures for any fund to an increase of 10% above that certified by the Commission. The adopted budgeted expenditures of \$114,350 for the Federal Revenue Sharing Fund exceeds the 10% limitation. We now have to go back and reappropriate those funds. This information will be submitted to the Budget Committee and a supplemental budget drawn up. The Mayor read by the title. Dalton Williams made a motion to accept the ordinance. Chuck Blanchard seconded the motion. Yeas 5 Nays 0. The vote was unanimous.

AGENDA ITEM #6 - DEPARTMENT OF ENVIRONMENTAL QUALITY LANDFILL PERMIT

Scott Pemble reported to council that they will be before the EQC on August 28th to hopefully acquire the permit for Obrist Pit. Allen Perkins indicated that he thought that some of the members of council should be at the meeting on the 28th to give the staff some moral support. A landfill contract selection committee has been suggested. It would consist of Brian Freeman, Harry Parsi and Dave Lee. This committee would go around and visit the sites of potential landfill operators and talk with them and then report back to council at a later date. A suggestion was made that one of the council members also be on the committee. Dalton Williams indicated he would like to be on the committee.

The Mayor indicated that we would move to Item #8 because not everyone had arrived for the Item #7 discussion.

AGENDA ITEM #8 - DEPARTMENTAL REPORTS

8.1 : Harry Parsi reported to council that we weren't having any problems with the water. A few reports on Well no. 3 but he assured the citizens that the water was healthy to drink. It did contain a little bit more iron and magnesium than was normal in water. Harry also reported that the sludge truck had broken down. Evidentially, the transmission went out. He indicated that we should have the truck back to us by Wednesday, August 26, 1981. Harry reported that the Obrist Pit has been reopened for Don Obrist. Don came to the City and wanted to use the pit to dump some fill dirt. The City is working hand in hand with Don Obrist's soil engineer, a Mr. John McDonald, in order that inert material only be placed in the pit. The City has requested that Don take out all of the dirt that has been improperly compacted and recompact it so that it will support the bank. Harry said that soil samples have been taken on a regular basis and the feeling was that the soil being dumped in the pit right now is satisfactory. Dalton Williams wanted to know if DEQ was aware of this and if this would cause some problem with us obtaining a permit. Brian Freeman said that because this is inert material that this would not be in DEQ's jurisdiction. Harry said that Mr. John Carlson had expressed some concern that this soil was not good and that we weren't supporting the bank satisfactorily. Harry indicated that he assured Mr. Carlson that the City was doing everything in their power to make sure the soil was good and also that the soil would be compacted in order to fully support the bank.

The Mayor indicated to council that John Carlson would like to speak. Mr. Carlson addressed council: Mr. Mayor, Members of the Council, I am here tonight out of curiosity because I'm never notified of what the City of Troutdale does that affects my property but I do read the Gresham Outlook, God bless the reporters for that publication. I'm also here tonight under instructions from my attorney that I should keep my mouth shut unless there is something with which I completely disagree. And unfortunately the report you have just had I do disagree with and I want this a matter of public record and I want every member of council to appreciate my comments. On four separate and distinct occasions I have made it very clear to the City of Troutdale that the problems that you had with the Obrist Pit, I would like to solve on a cooperative and non adversary basis. However, the City of Troutdale has rather consistently conducted themselves in a manner that would appear to be deliberate concealment from me as the adjacent property owner. You have in essence ladies and gentlemen two projects. Number 1 is the one that this gentlemen here reported on and that's the operation of the landfill which is under the supervision of MSD and DEQ. Now, the matter of restoring lateral support to my land or in other words, bank stabilization, is strictly a responsibility of the City of Troutdale and Don Obrist. The problem is that we seem to have a problem, a really serious problem, of communication. That bank stabilization where you dig a 85 foot hole with a vertical bank next to my property and completely remove lateral support and I will point out on the side that it was really the City's responsibility to enforce a uniform building code which

caused the 2 to 1 slope and you failed to do so inspite of the fact that I asked you to. Now, the problem is how do we stabilize that bank? So you people ask Don Obrist to get the soils engineer. Now what Mr. Obrist has hired is a civil engineer and I don't know if this is critical in as much as this is a public record but in my view Mr. John McDonald lacks considerably in education and experience in soils mechanics & geology. There are a few outstanding companies in the State of Oregon, one is Dames & Moore and the other is Shannon & Wilson who are considered to be thoroughly expert in soil engineering and the manager of Shannon & Wilson is my consultant. Now, your project up there and I just went by about 15 minutes ago and its perfectly obvious that Mr. Obrist with his bulldozer is putting in a haul road. In other words, he's run down the north banks down to the bottom and then he's in the last two days cut a haul road going up the south side and that haul road, Gentlemen and Miss Althaus, on both the north and south side sits on the improper fill which you permitted Mr. Obrist to put in there last August, a year ago and at that time I protested that that fill should never be put in there because the critical point of support is at the bottom of the original cut which was 10 feet from my property line and it was at that point that you people must insist that the fill be taken out completely and put back in on a compacted basis. That compaction must be to AASHO standards to 95% dry density. Now, your original plan that Mr. McDonald submitted and which is apparently approved by this City called for 85% compaction which is perfectly silly. That's the equivalent of what you dump out of a backend of a dumptruck and let your dog walk over. There is no compaction. I don't know quite what has to be done so that you people and me as a property owner can understand each other because I have tried to make it clear for over a year and a half that that soil at the foot of the original excavation must be taken out and must be compacted and yet you're permitting Mr. Obrist, you guys are getting in bed with Don Obrist again which really intrigues me and let him put a haul road in and dump all of this dirt and he is never going to compact that critical area. In fact Mr. John McDonald in my discussion with him made it very clear that he didn't want to do that. I don't blame him. It's the cheapest way to do it. Don Obrist cut out about \$325,000.00 worth of sand which he did in violation of the uniform building code. You people permitted him to do it. Now, you're going to let him go ahead and dump some more dirt in there and you're never going to restore that lateral support to my land. What I can't understand is that this coming Thursday at 1:30 in Multnomah County Courthouse there is going to be a hearing before Judge Riggs in which my attorney has filed violent objections to the way you're permitting Mr. Obrist to conduct that operation. I don't know why you people aren't aware of this lawsuit. You are named as a party defendant. One of the things that is requested and will be discussed with Judge Riggs is why haven't you people given us prior notice of the activity up there. Number 2, why haven't you given us copies of your engineering plans and specifications so that we can tell you whether we will let you off the hook for your liability and I've been trying to do this on a cooperative basis.

Dalton Williams asked if John had made a formal request to the City Attorney for that information?

Carlson: We have and I have written four letters and they are in the record in which I have made it very clear that I would like to do this in a cooperative, non adversary basis. You people fail to do so and that's why you ended up being named as party defendants.

Helen Althaus said that you were apparently well aware that Mr. McDonald was doing this because you say you talked with him about it.

Carlson: We expressed some doubt as to Mr. McDonald's competence.

Helen Althaus said you are well aware, you said you didn't know what was happening but you have talked to Mr. McDonald.

Carlson: You bet because I go by there, I've got a lot of money involved Miss Althaus and I go by that project at least once a day and if I don't go by then one of the members of my family does because we feel that it is essential that we try to keep track of what is going on because we are never officially notified. Now, the other thing to say just as an off hand comment, somebody said that the dirt Mr. Obrist hauled in there last week was satisfactory fill. According to my geologist, it was about 30% organic. If you took a clod of it in your hand, it smelled like it was taken out of the bottom of a pig pen and organic materials should not be put in the bottom of a compacted fill. The other thing that I'd like to call to your attention to which I completely disagree with and that is that Mr. Parsi said that it's going to take 20,000 yards to restore lateral support to that bank. Your own engineer, Mr. McDonald, calculated that it would take 89,000 yards.

Brian Freeman interrupted by saying that he didn't think that that was what Mr. Parsi said. He continued by saying that he didn't think tonight was the night to try the case, this is not the proper forum and that these things have been called to the attention of our office and discussed with our engineers. The court room I'm not even sure is the best place to decide which technical expert is right. But there is a difference of opinion between technical experts here and I think that's what John is bringing up.

Carlson: This is my problem Mr. Freeman and I emphasize again, can't we please work together instead of ending up arguing with each other and running up attorney bills. Mr. Freeman is getting paid by someone else, I don't care but my attorney's not cheap.

Brian Freeman said he knew for a fact that what Mr. Carlson just said was true. His attorney is not cheap and I know that that is probably the least of his expenses and believe me our office has made a concerted effort to try to resolve this thing in a way that is not just fair to Mr. Carlson but in a way that is fair to the City. I don't want to take the next two hours to explain some of the comments John has made, just simply say that I am aware of every one that he has made and we have either responded to his attorney or I think each one of these we aren't always in agreement with but we will continue to try to work in a way that is going to resolve it with the least problems and least expense. The judge will probably base a decision as to what's happening. I do want to make one simple comment thought and that is that that property is still right now the ownership of the City of Troutdale and we do not need to get the consent of Mr. Carlson, his attorney or the judge or anybody else in order to do with that property what's appropriate unless it's sanctioned go govern a regulation. We do take the risk that if we do do it wrong we bear the risk of it and we have consulted with technical experts first to make sure we are not doing it wrong.

Carlson: I agree thoroughly with your last statement and I appreciate the way you made it. Thank you. I think we see eye to eye and we understand the problem.

Brian Freeman said we will review again our technical experts opinion as to what was done and what is actually being done to toil that slope.

Carlson: This is what is worrying me, because it would appear at this point it is not receiving the attention that it's entitled to.

(Carlson's comments taken down verbatim)

AGENDA ITEM #7 - HEARING TO DETERMINE CHANGE OF CONDITIONS OF COMMUNITY SERVICE ZONING (443-R)

Brian Freeman reported to council that he had talked to Bill Davis, attorney for the American Lutheran Church and it was decided that we would extend until this evening the opportunity for the church to meet the conditions of the zone change. A conditional zone change is where the zone does not come into existence until the conditions are met so in essence this area that the church has had never changed from the SR zone and the conditions still have to be met. Brian presented to council a resolution wherein it states that the church has not dedicated an easement to the City for right of way and that the Church has not commenced construction of a church on the property and that the conditions precedent to the CS zone change have not been met, therefore, the church shall remain zoned as SR and shall not be a Community Service Zone unless approved by Common Council. The Mayor read by the title. Dalton Williams made a motion to accept the resolution. Helen Althaus seconded the motion. Yeas 5 Nays 0.

AGENDA ITEM #7(a) - CHERRY PARK ROAD IMPROVEMENT

Scott Pemble reported to council last month that there was a possibility of the City receiving Federal money for the Cherry Park Road construction which would also include a storm drain system down Buxton Road. It now appears that we have a 35% chance of receiving those funds. We won't have any idea of whether we're going to get them until sometime in October, 1981. We are in the process right now of trying to obtain a dedication agreement from some gentlemen in Idaho so that we will have all of the necessary material available if we do receive the funds. This would allow us to proceed with the project.

Harry Parsi said that he had received a letter from Lee Engineering wherein it stated that the City of Troutdale was directed to move, adjust or replace their facilities so as to comply with the plans for the Cherry Park Road project. Existing mains on certain streets are presently undersized. It was explained that 8" to 10" mains would have to be replaced by larger diameter mains. The cost of such a project as projected by Lee Engineering was around \$90,000.00. Harry told council that he felt the price was too high and would like the consent from council to look elsewhere. Allen Perkins told council that the budget would allow us to spend \$60,000.00 on this project. It was decided that a committee of 4, Mayor Sturges, Harry Parsi, Pam Christian and Duane Lee has been set up to go over the project in detail and perhaps negotiate to see what kind of fee is reasonable and then the committee would come before council for the approval of their recommendation. Frank Kaiser made a motion to have a committee look into the Lee Engineering fee for this particular project. The committee would include Dalton Williams and Chuck Blanchard in addition to the people already named. Helen Althaus seconded the motion. Yeas 5 Nays 0.

AGENDA ITEM #8 - DEPARTMENTAL REPORTS CONTINUED

8.2 : Scott Pemble gave the Community Development report. He noted to council that there were a few corrections to be made on the report. They were as follows: Section II - Planning & Engineering (A) 5 - the developer of Spice Mountain was Bob Spikes rather than Bob Dix;



(C) - 83 sewer connections rather than 85 connections as listed; and (D) - the date for the EQC hearing on our application will be August 28th rather than August 21st.

8.3 : Lee Engineering was absent from meeting.

8.4 : George Haddock indicated that his report to council referred to the fact that the department was in the process of obtaining a new officer and community service officer. Since the report was written the two positions had been filled. He introduced to council, Mr. Don Oliver, the new police officer. He said he had just moved from Riverton, Wyoming and is somewhat familiar with the area because his mother has been a long time resident of Troutdale. Also, George introduced Cherilyn Moss, the community service officer, and said that she scored 6 points above everyone else during the interviews and was sure to be a big asset for the department. George went on to say that August had been an extremely bad month for the City in terms of crime. Because of the heat wave that hit the City during the first part of the month, we experienced more accidents, vandals, parking problems, etc. on the beach than we have in a long time. He expressed that with the addition of Cherilyn the problems on the beach should be minimized.

Council went back to agenda item 8.2 - Maple trees on Buxton

8.2 : Council was presented with a letter from Sharon Nesbit, historian for Troutdale's Historical Society which the Mayor read aloud. It indicated that Frank Windust Jr., the present owner, of the old Buxton/Spence house located south of Columbia street opposite the railroad overpass has applied for a demolition permit to tear the house down. Sharon's concern was for the trees that are located in front of the house. She wanted to know if there was anyway that the trees might be saved and a marker of some type be placed nearby indicating that this was the site of the David Buxton home, one of Troutdale's earliest settlers. Scott Pemble explained to council that as part of the comprehensive plan process the local jurisdictions are required to identify sites of historical significance. Based upon that, we identified the Buxton house as a house of historical significance. The question raised now is the interruption of "development process". In looking at the comprehensive plan, it states that during the development process no more than 40% of the existing 6" or longer trees shall be removed from any site without specific approval by the City. The maple trees are 6" greater in diameter. We also consider that the demolition activity constitutes the initiation of the development process. Frank Windust stated that he felt this was not part of the development process. He reiterated that he was not developing the property but merely acting on the wishes of the City. He said that Ken Prickett, one of the City's building inspectors had originally come to him in regards to the condition of the house. He indicated that if this was going to be declared as part of the development process then he would let the house stay. Dalton Williams asked Mr. Windust if he had any real objections to leaving the trees on the property. Frank indicated he didn't care about the trees. The matter was resolved by Dalton Williams who indicated that if Mr. Windust had no objections a letter would be written to the fire department asking them to please save the trees while they were burning the house. Mr. Windust had no objections. Dalton Williams made a motion

to write a letter to the Fire Department requesting that the trees be saved during the burning of the house. Chuck Blanchard seconded the motion. Yeas 5 Nays 0.

8.5 : An oral report was not given by the Finance & Records department.

8.6 : Brian Freeman indicated that everything which his office was dealing with had already been discussed during the evening. He did add that the Obrist Pit matter should be concluded in October.

8.7 : Allen Perkins directed council to the memorandum from him regarding medical leave from duty. Allen said that he had gone through a series of tests and that his doctors had recommended that he admit himself into the hospital for open heart surgery. It would entail him being out of the office for about a 5 to 8 week recuperative period. He said that he would work on three projects while he was away. They are: purchasing procedure, personnel rules and regulations and the revised salary and classification plan. He also said that he would like to borrow his remaining available vacation time, combined with his accumulated sick leave and compensatory time so he could keep as close to full salary as possible. He wanted to have the council's concurrence on this. Helen Althaus moved to accept the report. Chuck Blanchard seconded the motion. Yeas 5 Nays 0.

#### AGENDA ITEM #9 - COUNCIL CONCERNS AND INITIATIVES

The Mayor brought up the rental of the park bldg. Evidentially, a group of people would like to rent the building this coming Sunday. The mayor indicated that there is always a fee charged for the rental. He felt that in order to follow policy that we should go ahead and charge them and then we could refund them the money at a later date. Sam Cox made a motion to refund the McFac people the rental fee. Dalton Williams seconded the motion. Yeas 5 Nays 0.

The Mayor wrote a memorandum to council in which he stated certain items which were of concern to him. One of which was that the City Administrator's probationary period had ended on July 29th and the council needed to decide whether his performance to date was satisfactory. The next item was the Business Men's Association. This group of people would like to meet with council at Nendel's on the 26th of August to discuss some concerns that they have. The Mayor felt that everyone should attend if at all possible. The Mayor also asked council what their feelings were regarding Chuck Swanson moving from the Community Park up to the Carow House. Chuck would be living in the trailer. Council felt that there wouldn't be a problem with that. Pam Christian explained to council the next item. It concerned the prospect of buying tools from CETA which was left over from their projects. She said that they had planned on storing the tools down at the Carow House and with Chuck Swanson living down there now it would be an extra security measure. She also indicated that she had talked CETA down from \$1,200.00 to \$800 which she felt was very good. Council concurred that that was a very good deal and that we should buy the tools from CETA. The next item was the Reynolds offer involving the land east of Lewis & Clark Park. This land was discussed at the last council meeting and after some discussion from council it was decided that we should go ahead and

take this offer. Dalton Williams made a motion to accept the land. Chuck Blanchard seconded the motion. Yeas 5 Nays 0. Brian Freeman brought up the matter that taxes would be due and owing on this piece of property. It was decided that a stipulation should be presented to Reynolds wherein they pay the taxes before the transfer of the land to us.

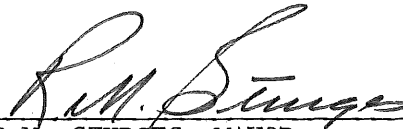
Chuck Blanchard - at the last council meeting Allen Perkins indicated that he would be getting together with Commission Shadburne to see where he stood in relation to House Bill 2996 (jail site). The question directed to Mr. Perkins was did he do so? Allen reported to Chuck and council that he had indeed met with Mr. Shadburne. Chuck was also concerned as to whether or not Allen had monitored the mastercard problem. Allen indicated that he was doing so. Chuck felt that perhaps we should look into contracting out for the work done in the parks. Allen said that we couldn't contract this year because we had not budgeted for such an item. But we could look into the matter for the coming fiscal year.

Dalton Williams - wanted to know how the comprehensive plan was coming. Scott Pemble told council that hopefully we would have everything ready by the first of December. If we didn't get it into LCDC then the result would be that our building department would not be able to issue any building permits, plumbing permits, etc. Dalton felt that the reason Scott was having a hard time moving with the comprehensive plan because of the lack of manpower in the department. His feeling was that because we have a position available in the department that we should perhaps fill it and alleviate some of the build up in the work load which has culminated since the leaving of Ed Murphy.

A discussion ensued concerning the comprehensive plan and the effects it would have if not done.

Sam Cox made a motion to adjourn. Chuck Blanchard seconded the motion. Yeas 5 Nays 0.

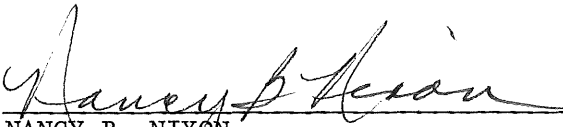
The meeting was adjourned at 9:35 P.M.



R.M. STURGES, MAYOR  
September 9, 1981

DATE SIGNED

ATTEST:



NANCY B. NIXON  
FINANCE DIRECTOR/CITY RECORDER

