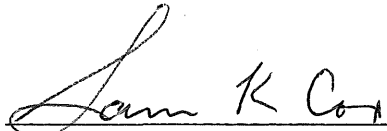


AGENDA  
TROUTDALE CITY COUNCIL  
7:00 P.M. -- City Council Chambers  
104 S.E. Kibling  
TROUTDALE CITY HALL

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April 10, 1984

- (A) 1. CALL TO ORDER, ROLL CALL AND AGENDA UPDATE: Mayor
- (A) 2. CONSENT AGENDA
  - 2.1: Accept: Minutes of March 27, 1984 - Regular Session
  - 2.2: Accept: Business License Report
  - 2.3: Accept: Bills for month of March, 1984
- (A) 3. ORDINANCE: Amending the Community Service District section of the zoning ordinance deleting explicit site/size requirements and adding an impact statement requirement
- (I) 4. PRESENTATION: Drainage Code
- (A) 5. ENCROACHMENT LICENSE
- (A) 7. DEPARTMENTAL REPORTS:
  - 7.1: Police
  - 7.2: Finance & Records
  - 7.3: Community Services
  - 7.4: City Attorney
- (A) 8. COUNCIL CONCERNS AND INITIATIVES
- (A) 9. PUBLIC COMMENT
- (A) 10. ADJOURNMENT

  
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SAM K. COX, MAYOR



MINUTES  
TROUTDALE CITY COUNCIL  
APRIL 10, 1984 - 7:00 P.M.

The meeting was called to order at 7:04 p.m.

ROLL CALL :

PRESENT : Ron Burgin, Marge Schmunk, Mayor Sam Cox, Dan Lowe and Gene Bui. Paul Thalhofer arrived at 7:05 p.m.

STAFF : Pam Christian, Nancy Nixon, Greg Wilder, Scott Pemble, Sgt. Bill Farr, Jim Jennings and Barbara Rossman

PRESS : Lori Callister of the Gresham Outlook

GUESTS : Marty Gault and Richard Franklin

AGENDA UPDATE

The Mayor said that 2.4, Obrist Agreement, should be added to the Consent Agenda.

AGENDA ITEM #2 - CONSENT AGENDA

Marge Schmunk asked about a business license issued for fund raising for the Cancer Society. Nancy Nixon replied that business licenses were issued so that the City knows who is out working or going door to door in the City. Nancy said the fee was waived. The Mayor said that business license fees for charities were waived. Dan Lowe moved to accept the Consent Agenda Items 2.1, 2.2 and 2.3. Gene Bui seconded the motion. Ayes 5  
Nays 0.

AGENDA ITEM #2.4 - CONSENT AGENDA

Jim Jennings said that Obrist vs. the City of Troutdale and the companion case, the City of Troutdale vs. Obrist suit, has been settled. It was settled by agreement which was entered in on April 2, 1984. He said that both parties agreed to dismiss their lawsuits. In exchange for that agreement, Don Obrist will continue to operate the Obrist Pit for purpose, and only for the purposes, of filling that pit. He is to fill the pit with material that will not degrade and which, when completed, will allow the City to use the pit as a natural uses park. The agreement will run for a period of up to five years, although it need not run for the full five years. During that time Mr. Obrist will be allowed to operate in the pit and have people bring in clean fill material and Obrist will grade it. When he is finished, Mr. Obrist will plant the pit in materials approved by the City of Troutdale. The plan for filling the pit is being developed; Mr. Obrist is working in cooperation with Greg Wilder in that regard. The fill plan must be submitted to the City on or before July 2, 1984. If Mr.

Obrist is unable to complete a fill plan that is acceptable to the city within that period of time, the City will hire someone to design a specific fill plan and Obrist must pay for the plan and follow it. Mr. Obrist must release the \$10,000 indemnity bond held since 1970 at the Oregon Bank in Troutdale. If Mr. Obrist fails to comply with the terms of the agreement, he will be assessed damages as follows:

1. The City will immediately assess where Obrist is in terms of filling it and will charge him for the amount of inert fill material which must be placed in the pit to complete the plan;
2. The City will charge Obrist for the amount of fill material to go into the Hensley Road extension site which is left remaining; and
- 3) The City will charge him for whatever topsoil needs to be brought in to complete the plan.

These are liquidated damages. The actual cost of each of those three items of materials will be based on the lowest bid that the City receives in putting the project out for bid. Also, Don Obrist is obligated to indemnify the City if anything goes wrong with the pit operation or with methane gas generation. Obrist shall appear on behalf of the City in all lawsuits, pay all legal costs, pay any judgments or settlements, up to the sum of one million dollars (\$1,000,000) and further, if it is required by any regulatory agency that any steps be taken in the pit in order to keep it in compliance with DEQ or federal requirements Obrist will undertake to do those. Obrist will cooperate with the City to minimize the impact of heavy equipment on Hensley Road and other access roads. Jim said that traffic flow patterns would be worked out. If this agreement is breached, Obrist will be liable for any attorney's fees and costs in the event the City has to file suit to enforce the agreement. In the event Obrist does not complete this agreement and assigns it to someone else, the City may hold them liable for their performance in this regard.

Dan Lowe asked if the cost of putting the fence around Obrist Pit was a cost that would be absorbed by the City. Jim Jennings replied that it would. Dan Lowe asked about the expense incurred in the lawsuit with Carlson. Jim replied that in the terms of the settlement the City acquired 13 lots in Sunridge and the insurance company had paid a fair portion toward the cost of those lots. When the lots are sold, the overage can be used to defray those expenses. Also, Obrist filling the pit hastens the sale of the property and probably enhances the value of the property.

Mayor Cox asked what clean fill was. Greg Wilder answered that it was fill that contains no biodegradable materials.

Paul Thalsofer commended Greg Wilder, Jim Jennings and Don Obrist for reaching this agreement.

Gene Bui moved to accept the City attorney's report. Paul Thalsofer seconded the motion. Ayes 5 Nays 0.

AGENDA ITEM #3 - ORDINANCE: AMENDING THE COMMUNITY SERVICE DISTRICT SECTION OF THE ZONING ORDINANCE DELETING EXPLICIT SITE/SIZE REQUIREMENTS AND ADDING AN IMPACT STATEMENT REQUIREMENT

Pam explained that this ordinance was the same one discussed at the March 27, 1984 meeting with the difference being that Alternative #5 had been rewritten at Council's direction and was now the Exhibit A referred to in the ordinance. Pam said that Marge Schmunk had had a question on the vote and Jim Jennings explained that there were 3 ayes, 1 nay and 2 abstentions. The question was whether this was effective to result in passage of the amendment. He said he believed it was not because of the peculiar nature of an abstention. In calculating the total number of votes cast, abstentions must be counted as part of the total, not either for or against. He said the only alternative to abstain from a vote, is to disqualify yourself from all portions including the discussion in that regard and you would then not be in consideration of that particular vote. If you think it would be inappropriate for you to participate in the vote itself, you should probably disqualify yourself when the item first comes around. Ron Burgin asked if the Mayor only voted in case of a tie. Jim Jennings said that was correct as the Mayor is not a council member and only participates in case of a tie. Jim explained that the vote of 3 yeas, 1 nay and 2 abstentions was not a tie as the abstentions were not counted as yeas or nays, but only in the total. Marge Schmunk asked if they wouldn't start all over again. Jim replied that yes they would start over with a first reading at this meeting.

Mayor Cox read the ordinance by title. Marge Schmunk said she was urging the Council to vote no on this amendment to the ordinance. She said when it was written it was to cover the addition of some trailers at Troutdale Elementary School and they had now agreed to a conditional use permit. She said that in the next fiscal year when the zoning ordinances are reviewed would be the time to make necessary changes. Marty Gault, Planning Commission member, explained that several zones, including the Community Service zone, are overlay zones and must meet requirements of both the underlying zone and the overlay zone. Ron Burgin said that the particular interest he raised last meeting in protecting the interests of churches or other religious type organizations was not as much a statement in opposition to the Development Impact Statement as in protecting the churches from the first part of that statement. He said that if, in a reasonable period of time, an alternative to the Development Impact Statement was prepared, he would vote with Marge to vote this ordinance down. Mayor Cox said that within a year these ordinances will be looked at again and rewritten. Pam Christian said this was the parameters that the Council was allowing the staff to work within and there has been enough discussion on this issue so that she could see the implementation of this ordinance becoming a real problem as there is not a clear body of support for this ordinance. Dan Lowe agreed that it should be looked at in more detail. Ron Burgin said that he hoped that the key groups in the area who would be affected by this ordinance would have ample notification to be able to contribute to the process.

Dan Lowe moved to table the ordinance until staff can come back with an appropriate description of the ordinance. Marge Schmunk seconded the motion. Marge Schmunk said she didn't think they should table it, she suggested they cancel the amendment. Jim Jennings suggested that Dan's motion be amended to say that he was moving to withdraw this ordinance from consideration before the City Council then the staff can bring it back when it is appropriate. Dan Lowe changed his motion to withdrawal. Marge Schmunk withdrew her second. Dan Lowe made a motion to withdraw the ordinance from the Council consideration at this particular time and that it be brought back when the ordinances are reviewed in due course. Marge Schmunk seconded the motion. Ayes 5 Nays 0 .

Pam Christian asked that Agenda Item #5 be moved ahead of Agenda Item #4.

AGENDA ITEM #5 - ENCROACHMENT LICENSE

Richard Franklin, attorney for Mr. Garner, property owner, thanked the Council for taking the time to resolve this problem. He said that after meeting with the appropriate people an agreement was reached in which the property owner would pay the city \$1,500 within 45 days for an irrevocable license. He asked that the wording in the third "Whereas" clause be changed from "Whereas, Owner has constructed" to "WHEREAS, Owner has had constructed". Scott Pemble said that as part of the motion the Council might stipulate that payment be made within 45 days or by May 25. Jim Jennings suggested that the license be amended in #3 to read: "FEE: Owner shall pay City a fee of \$1,500.00 for the rights herein granted to Owner, such fee shall be paid within 45 days from the date of execution of this document.

Paul Thalhofer so moved that the license be granted with the provision that the amendment be made for payment within 45 days from execution of this document and the insertion of the word had in the third Whereas clause. Dan Lowe seconded the motion. Ayes 5 Nays 0 . Mayor Cox thanked everyone who sat in on the meeting for this agreement.

AGENDA ITEM #4 - PRESENTATION: DRAINAGE CODE

Greg Wilder explained the proposed drainage ordinance that will come before Council for discussion at the first meeting in May. He said the drainage structure needed to be established as a unique and separate utility and operated as a utility. He said that we need to develop and establish standards by which drainage facilities are constructed, connected and standards and fees that are assessed to businesses and residences so that maintaince funds that we expend can be recovered. Greg went over the intent and scope of authority of the code. He said that fees collected under this code would be used only for the stormwater system, but would remain in the street fund. Ron Burgin asked if the auditors would not want it to be separate. Nancy Nixon replied that it would be acceptable to the auditors this way. Dan Lowe asked if the business Greg said the fees would be collected along with the water and sewer fees. They would be calculated as single family dwelling for residential and industrial and commercial areas with large parking lots would have to be dealt with in the same way that we now do with wastewater and SDCs. Marge

Schmunk said that some people did not know the difference between sewer and storm drains and we will need to educate the public about the difference. Pam said there would be a discussion in the May newsletter. Paul Thalhofer expressed concern over another fee for citizens. Dan Lowe asked how many cities the size of Troutdale had such an existing fee. Greg replied that two did and that seven or eight had this type of fee ready to adopt. Ron Burgin said he would like to see a firm number as to what costs are now and also if Clark County has a similar fee.

AGENDA ITEM #6 - DEPARTMENT REPORTS:

6.1 Sergeant Farr reported that the new police officer had graduated from the academy last Friday and was #1 in her class. Dan Lowe asked about the burglaries that had been occurring in Troutdale and the Sergeant said there were no suspects at this time.

6.2 Nancy Nixon had nothing to add to her report.

6.3 Greg Wilder had nothing to add to his report.

6.4 The City Attorney had no report tonight.

Pam Christian asked if the Council members had all received their Ethics Commission Reports. Everyone had.

She said that the Economic Development Commission had been changed to East Multnomah County Cities Economic Development Commission and the Mayor signed the intergovernmental agreement with the Economic Commission.

Pam said the first meeting of the Road Consortium was last Friday and they have agreed to meet every Friday morning until the parameters are set up. Pam said she had expressed her feeling that Portland not be a voting member of this consortium. She said she had done so with the feeling that the Council would agree. She said she would like the Council's agreement that she is the representative with Greg Wilder as an alternate. Marge Schmunk so moved. Gene Bui seconded the motion. Ayes 5 Nays 0.

Marge asked how the turnout from the other cities was. Pam said there were representatives from the other cities with the exception of the unincorporated area.

AGENDA ITEM # 7 - COUNCIL CONCERNS AND INITIATIVES

Marge Schmunk asked how the water on Jackson Park was. Pam said there had been no big problems.

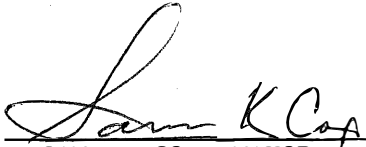
Marge said she was concerned about the article in the paper about Multnomah County Correctional Institute work release people working in our parks. Pam said that MCCI had been changed to MCCF, Multnomah County Correctional Facility. Pam said they had decided they would give it a try and if the Council had a problem or the citizens did, they should let her know.

Gene Bui asked about cable, as he had seen workers in the area lately. Mayor said that by September 1 cable should be in place throughout the area.

The mayor wanted to thank the attorneys, staff, Greg Wilder and Scott Pemble for the work done on the Obrist agreement.

Marge Schmunk moved to adjourn. Ron Burgin seconded the motion.

The meeting was adjourned at 8:23 p.m.

  
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SAM K. COX, MAYOR  
DATE SIGNED: 5-10-84

ATTEST:

  
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NANCY B. NIXON  
FINANCE DIRECTOR/CITY RECORDER