

AGENDA
TROUTDALE CITY COUNCIL
7:00 P.M. -- CITY COUNCIL CHAMBERS
104 SE KIBLING STREET
TROUTDALE CITY HALL

MAY 14, 1985

- (A) 1. Pledge of Allegiance
Call to Order, Roll Call and Agenda Update: Mayor
- (A) 2. Consent Agenda:
2.1: Accept: Minutes of 4/23/85 - Regular Session
2.2: Accept: Business License Report
2.3: Accept: Bills for month of April, 1985
2.4: Accept: Resolution accepting utility easement
FUGII
2.5: Accept: Resolution vacating and accepting a
Drainage Easement -- Sandee Palisades
- (A) 3. PUBLIC COMMENT:
- (I) 4. CAPITAL IMPROVEMENT PROGRAM
- (A) 5. ACCEPT: Engineering Report for Downtown Road
Improvements

SET: Public Hearing for Formation of L.I.D.
- (A) 6. ORDINANCE: Amending Chapter 6.X2.345 City of Troutdale
Public Right-of-Way Construction and Access
Code

First Reading
- (D) 7. DISCUSSION: Adult Foster Care
Greg Wilder/Jim Jennings
- (A) 8. DEPARTMENT REPORTS:
8.1: Public Safety
8.2: Finance & Records
8.3: Community Services
8.4: City Attorney
8.5: Executive
- (A) 9. COUNCIL CONCERNS AND INITIATIVES
- (A) 10. ADJOURNMENT.

SAM K. COX, MAYOR

vjr/02:50

MINUTES
TROUTDALE CITY COUNCIL MEETING
MAY 14, 1985 -- 7:00 P.M.

AGENDA ITEM #1: -- PLEDGE OF ALLEGIANCE, CALL TO ORDER, ROLL CALL
AGENDA UPDATE

The meeting was called to order at 7:00 p.m.

Ron Burgin led the Pledge of Allegiance.

PRESENT: Ron Burgin, Marge Schmunk, Marty Gault, Sharlyn Jacobs, Paul Thalsofer.

EXCUSED: Sam Cox and Gene Bui

STAFF: Pam Christian Nancy Nixon, Greg Wilder, George Haddock, Jim Jennings, Valerie Raglione

GUESTS: Joe Cartisan, Fire District 10
Mrs. Sandra Reed

There was an Agenda Update by Pam Christian adding 3A - Awarding the Food Concession Agreement; and 7A - Requesting participants from City on solar access project.

AGENDA ITEM #2: -- CONSENT AGENDA

Marge Schmunk moved to adopt the Consent Agenda.
Sharlyn Jacobs seconded the motion.

AYES 5 NAYS

AGENDA ITEM #3: -- PUBLIC COMMENT

Ron Burgin, Presiding Officer, called for Public Comment. There was none.

AGENDA ITEM #3A: -- AWARD FOOD CONCESSION BID

Pam read the proposals which were received for the food concession bid. Kathy Hamme and Sadie Riley, both members of the Parks Advisory Board, were asked to review the proposals and make a recommendation for the successful bidder.

The bids, in order of the recommendations, follow:

Mrs. Marlene G. Francis (Individual)
Robert & Maude Winning (Partnership)
W. Ray Chumley (Partnership)

Pam reviewed the proposals and pointed out that all three met the security deposit requirements; two bids met the 15% gross revenue

plus the guarantee to the City of \$500 at the end of the season. Mrs. Francis bid 16% of the gross revenues plus \$500 guarantee at the end of the season. Mrs. Francis was recommended based on the 16% gross revenue to the City.

Ron Burgin asked for questions from Council.

Marty Gault asked where Mrs. Francis, or her business, is from. Pam gave the address listed on her bid. The location is the Fairview area. Marty asked if the bid intended to bring out a basically self-contained type of cart. Nancy stated that the Sister of the Grotto had sold the vending cart and Mrs. Francis had purchased it. Marty asked if there was any differences in the proposals as to what type of food would be vended or if there was any anticipated sales revenue out of any of the proposals. Pam stated the problems could be in the lists which were to be submitted and approved by the Community Services Department. Mr. Chumley's bid was based on a remodeled school bus which has full grill capabilities...anything that would normally come off of a grill (breakfast, lunch, dinner, also including snack foods). Troutdale Deli Mart submitted a list (sandwiches, hot dogs, beverages [non-alcoholic], cigarettes - rolling papers - tobacco, chips, crackers, nachos, ice cream, candy, suntan needs, frisbees, ice, ice chests, charcoal, pre-packaged baked goods, lighters, charcoal lighter fluid, and matches). Mrs. Francis had basically included what would be in the cart (hot dogs, ice cream, popcorn, peanuts, candy bars, that type of item). Pam also pointed out that part of the agreement is that the list be submitted and the City either approve, or disapprove it.

Paul Thalhofer asked if the RFP indicated the minimum percentage so that everyone understood that the 15% plus \$500 was the minimum. Pam answered yes, and further read the same requirements were in last year's proposal. Pam stated that any licenses that may be required, as well as the Health Department inspections are the responsibility of the Concessionaire. This too, was the same as last year. The areas of operation, responsibilities of cleaning up, in and around the area of the concession, liability insurance requirements, and a 'Hold Harmless Agreement' for the City are also Concessionaire responsibilities.

Marty Gault indicated that the difference was between 15% bids and the 16% bid; the wording in the RFP does state that the bid goes to the highest bidder.

Marty moved that the 1985 Food Concession bid for the City be awarded to Ms. Marlene Francis.

Pam requested that any feelings regarding what is, or is not authorized to be sold be passed on to Greg Wilder, Community Services Director before the contract is signed.

Ron Burgin said there was a motion and a second to award the contract. He then asked if there were any questions or further discussion. There were none.

AYES 5 NAYS 0

AGENDA ITEM #4 -- CAPITAL IMPROVEMENT PROGRAM

Greg passed out a flowchart to be attached to the memo which was already in the Council packet. Greg explained the process to set the mechanisms of a Capital Improvement Program. The three documents which need to be constructed are: 1) framework - which sets forth the general guidelines, procedures and overall timeframes; 2) a procedures document - which sets forth the methods by which the Committees, Council, and staff can put together requests for projects; and 3) standards documents - which we have the beginnings of in both the subdivision ordinances and public works ordinances. This document goes a step further in that it establishes guidelines for the design and guidelines for setting priorities on the projects. It also involves three basic groups of people: 1) policy makers; 2) staff; and 3) technical people. The assumption was that by motion staff would prepare the framework, procedures and standard document, June 11th -- establish by Resolution a Technical Committee and a Policy Committee. The makeup of people for the Policy Committee would be five persons consisting of 2-Council; 1-Budget; 1-City Administrator; 1-At-large individual. The Technical Committee would involve; 1 or 2 Staff members; 1 Planning Commission member; 1 Council Member. This should be made up of technical expertise knowledge. (An at-large person could also be added.) We expect to have the documents completed by mid-September. Prior to that time a needs assessment could be begun. This would address the needs of the City in relationship to the desires of the Council in their Goal-Setting. The technical Committee would be the one who would make project requests, they would go to Staff for review and prioritization and be based on the standards, procedures, and documents which Council would have already reviewed and approved. Once the priorities are completed and the budgets and timelines are established, it goes to the Technical Committee and to Council for review and adjustments. Staff would then prepare the CIP document, a public hearing would be set for early December, adoption of the CIP would also be set for early December and then it goes into the budget process.

Marge asked for clarification of one year versus the five year. Greg explained that the first year needs to have the basic groundwork done, and after that the goals, priorities and Council may change; or some unforeseeable emergency could re-set the scheduling of projects to be completed.

Ron expressed concern over the prioritization of projects being done before the budget being done. He stated that the budget

would be a concern to the Technical Committee in setting the priorities. Greg explained that it would be going back to Council and there would be time for changes to be made if the budgets didn't balance.

Ron called for questions. There were none. He then called for a motion to direct staff to prepare the documents. Paul Thalhofer so moved, Marge Schmunk seconded the motion.

AYES 5 NAYS 0

AGENDA ITEM #5: -- ENGINEERING REPORT/DOWNTOWN ROAD IMPROVEMENTS

Greg informed the Council members that there would be a substantial delay in the Buxton Project as well as other CDBG projects. We had expected to be under construction mid-May, however, the soonest it would be under construction would be approximately August 17, 1985. It is impossible to construct those projects and still provide the detour routes. The decision was made at staff level with Pam, to delay the LID's in deference to the construction of Buxton. We may be able to do 3rd late this year. Advantages: Curb returns will probably be done out to the property line which may reduce our construction costs on the 2nd and 3rd Streets projects by up to 20%; our CDBG applications are in final stages, they must be submitted by the end of May -- again we will be submitting these projects as part of our Grant Application process and if successful...we won't have to form an LID.

Pam said we had to make a choice, and that was the choice which had been made. She felt rather than have the entire downtown area torn up all summer long, this was a good compromise.

Paul Thalhofer stated that he hoped that if the decision was to go ahead with 3rd Street and it required an LID, and if it was too late in the year he felt we should not even pursue that so we don't have a situation such as the one we had this past year.

Pam also stated that (3rd) of which a portion is called Sandy, is the only ice route out of Troutdale during inclement weather.

AGENDA ITEM #6: -- ORDINANCE: AMENDING CHAPTER 6.X2.345

Greg stated that a method by which we can control the location of powerpoles within sidewalk areas had been discussed at a prior Council meeting. After discussing with other jurisdictions, specifically the County, it would be better to specify the location of poles rather than to restrict them. This allows us to be within the precise Federal standards. It makes a simple addition to our excavation and right-of-way code. Pam stated that PGE has reviewed this and they don't have a problem.

There were no questions. Ron read the Ordinance by title. Marge moved that the Ordinance be adopted. Marty seconded.

AYES 5 NAYS 0

AGENDA ITEM #7A -- ADULT FOSTER CARE

Greg spoke regarding a Business License request that came in. It was a home occupation. Some of the things looked at are: amount of square feet used in the home, amount of outside employees (must be 2). This was what flagged the application. It was determined that it was for an Adult Foster Care Facility. The concern was the possibility that these facilities could be located and the City and would have no control whatsoever. Greg's concern was that house after house after house being purchased by one person basically creating an institution in a residential or other zoned area. He did review it with the Attorney, the City Administrator, and Mike Wheeler, a letter was sent to Mrs. Reed which denied her business license application and, at this time, We need to have Jim Jennings address the legal implications.

Marge asked if UBC had something to do with single family dwellings. Greg replied that the facility does indeed meet the requirements of the Uniform Building Code. It is the zoning question and our business license provisions that are in question.

Pam stated that this issue brings together different pieces of legislation, bringing to mind when the Ordinance allowing Multnomah County to regulate Adult Foster Care throughout Multnomah County was passed. The State Fire Marshal and fire codes have to be met, UBC addressed their portion, the City zoning, and State law all come into play. It is difficult for us to determine where we stand with all of these agencies.

It was brought out that the concern isn't with this particular facility, but the potential problems we could be facing with other similar types of institutions.

Jim Jennings stated that it is axiomatic that the State legislature controls what the cities can do. He gave background about the definition of group homes with 'handicapped' individuals. 'Individuals who have a physical or mental impairment which for the individual constitutes or results in a functional limitation or one or more major life activities'. You can read that as those people who are developmentally retarded or slow. Ron stated, but not limited? Jim responded... not limited, no. These are people who can effectively mainstream into...Ron, but not the elderly. Jim stated that Ron hit on the key, it does not talk about elderly. That is going to essentially be the policy question. When the Act was passed, it ended with 'a City or County may impose zoning conditions on the establishment or maintenance of a residential home in an area provided that the conditions are no more restricted than any conditions you are going to impose on any other residential dwelling in the same zone'. But, they also said, and this is really the key, 'no City

or County shall enact or enforce any zoning ordinance prohibiting the use of these residential dwellings in an area zoned for residential habitation'. That essentially means that the City of Troutdale cannot zone in such a fashion to keep these residential houses out of any residential area. They are to be free to put a residential home for these type of people in, and we cannot restrict it. Absolutely cannot restrict it.

We have a zoning ordinance 3.037 which says, among other things, you can't put any businesses in a dwelling if you use more than 25% of the gross floor area, or if you have any employees other than family members. Obviously, this Ordinance that we have now conflicts with State law. We are going to have to amend our Ordinance, at least as to these residential facilities. However, it doesn't say anything about Adult Foster Care. It doesn't say that we have to let them in. What bothers all of staff, and myself, there is no rational distinction between a residential facility for five or more handicapped people and a residential facility for five or less elderly people.

Ron recognized a contributor to the discussion from the audience. Mrs. Sandra K. Reed, the applicant in question. There are two separate systems for homes within the State. 1 for mentally or psychology more problematic and another for Senior Citizens. Those homes are separately certified. They do, occasionally work together, but they are separate. Just because you have one, you may not necessarily have the other. She stated that there are so many different agencies regulating these people already that, in truth, the problematic thing is 'is it a business'? I got into hot water because I have my people employeed. Other people sub-contract and don't have to pay SAIF contributions. I try to run mine where we are all a group where we have people come into so I can go out once in a while. That's the only time they come in. We work there 24 hours a day, we have to sometimes go away. We live there with these people, it's our home. We've made it their home. They don't have any other home, or other family.

Ron asked Mrs. Reed to describe the kind of people in her care home. Mrs. Reed said they have a 43 year old lady with Multiple Sclerosis; a 69 year old man with some mental deficient who got run over by a motor cycle and has orthopedic problems; a man with several different diseases, a man who is within days of death. Sometimes we take people who are very ill, but usually only one at a time because of the time concern. I am a registered nurse and I do take patients like that because they don't have any family and don't want to die in a nursing home, or hospital. I do work with the social workers and the doctor and we take care of them. We take a varied group, but try to stick to the elderly. There are strings of them about, however, as far as I know I don't know of any here. We haven't had complaints, I don't believe it has caused any disruption, the home doesn't look any

different from any of the other homes. I don't think it affects any of their property values. I have tried to keep that in mind. We have become one of the best rated homes in the County. If you didn't collect fees, you couldn't run the place. So we have to collect fees. We make about .10c/ an hour.

Jim reiterated that the City must amend our zoning ordinance to allow the residential facility now, we have no other option. There is concern about the impact that these homes will have on the property value of residential neighborhoods. There is also concern at the staff level about people buying a string of these homes in an empty area. Sandee Palisades has 25 vacancies, someone could come in and buy a string of those and have a devastating effect on the property values of the remainder of houses that are in Sandee Palisades.

Jim also stated that Council needs to give staff some direction as to how they want to go. This will be a very lengthy process to get into conformance with state and federal laws. This is a very sticky situation. We need to give serious thought to this and don't need to act on it at all this evening.

Marge indicated that she, where she lives, could take civil action against a neighbor with the deed restrictions that they have. Jim stated it would be at her expense, and could be a long costly battle. These type of deed restrictions may single out unfairly a particular class of people who should not be discriminated against.

Pam stated that it was obvious now what the concerns of the staff have been. The Council had acted in good faith when the original ordinance was passed. However, we know of people now who have earnest money down on houses who own one or two already in Troutdale, and because this issue came up they wanted to know if they should continue with a purchase of another house. We need to know how the Council feels.

Ron asked to relinquish his presiding officership for the remainder of this discussion. He stated he had a conflict in that his business does some business in medical supplies of some of the facilities. He wished to completely remove himself from the discussion. He was concerned because Council will be directing staff to prepare something for Council to consider.

Ron then relinquished the Chair to Marge Schmunk.

Marge asked if the City could legally request or specify how many per block. Jim, again expressed the concern for caution in this type of proceeding. It will require a legal opinion, and Jim indicated a need for direction from Council to further explore this question and to come up with a series of proposals for possible restrictions, or ways of bringing these people into the

community and not destroying the integrity of every residential neighborhood, and then, we will probably have to enact a specific ordinance for this specific issue and amend the ordinance which is 410-0. Right now we have an ordinance which is in violation of State statute. There is some urgency, due to Mrs. Reed and others. We do have to consider they are in violation of our ordinance. We have no intention of taking any action at this time against Mrs. Reed.

Marty asked if Jim was looking for input from Council regarding the issue of whether we are just talking about one group rather than another, or are you comfortable that it is going to be necessary for us to address both of those two separate issues in one revised ordinance. Jim responded with the statement that it is a policy determination for Council to make. Jim explained that at this time it doesn't matter if both issues are in the one ordinance or not. This will be put on an Agenda in the near future. It must be addressed.

Greg again pointed out that the business license application of Mrs. Reed is not in any way the problem. It only served to 'flag' the problem. George Haddock added that the Police Department didn't even know that the facility was there. So, that was a plus.

Mrs. Reed stated that the process of having to obtain a business license was also a question, other areas didn't have this process. Pam Christian pointed out that until the State legislature takes action, licensing is still required. Jim indicated that if the State legislature steps in and says...We think that adult care facilities are just as neat as residential care facilities for mentally handicapped folks and we're going to tell the cities that they have got to allow them in. Legislature hasn't done it, I'm not aware that they are considering it, but until that happens it is an issue we have to wrestle with.

Paul Thalsofer stated that he saw no reason we shouldn't include them at this time in a draft proposal. He also stated he saw no reason why Senior citizens shouldn't be able to live in residential areas with 5 or less people. He didn't see any differences with any 5. Paul would like a draft proposal at the next meeting.

Jim asked if the Council wanted a draft proposal of an Ordinance. He would also include both facilities so the Council can confront the problem directly.

Marge indicated the need for this to be able to identify the problems and issues.

Greg indicated we were hard pressed 'morally' to see a distinction between the two issues. Pam closed with saying that

we are bound as staff persons to follow the standards and criteria that are set out in ordinances adopted by the Council. It was not denied for any other reason.

Jim stated that he would prepare a draft proposal and sit down with Greg to specify as many problems as they can see. They will then present the memorandum to Council. The Council meeting of June 11. Jim will also present a legal opinion at the same time.

Marge relinquished the Chair back to Ron Burgin.

AGENDA ITEM 7A -- SOLAR ACCESS

Pam brought out the questions about Solar Access Resolution supporting a grant request to research and develop Solar Access Ordinance. The Department of Energy is asking that we appoint two people to serve on an Advisory Group (which includes six governments: Washington, Clark County, Vancouver, Beaverton, Gresham, and Milwaukee) appointed at 2/27/85 introductory meeting. Since the City passed a Resolution, the Department of Energy is asking for two representatives from Troutdale to serve on the Advisory Board. One liason to be an elected official; one to be a staff person. The commitment is to be 8 hours for the staff liason and four hours per month for the elected liason. This time will be considered as 'soft match'. It helps to demonstrate our commitment to BPA and improves our chances of funding. This would also give us a chance to raise any questions, or concerns we may have with the program.

Item #7 was set aside for Departmental Reports.

AGENDA ITEM #8: -- DEPARTMENTAL REPORTS

8.1 PUBLIC SAFETY

George said he would be happy to answer any questions Council had on the Public Safety report.

Ron congratulated George on the burglary rates, and asked about the signs at BeaverCreek Lane. George said that he felt another division had implemented the signs. The speed has been checked going through this area. It averaged 19-23 mph. Ron called for other questions. There were none. Marge commented on the lack of persons showing up for the City-wide crime prevention meeting. George said it could be looked at two ways. However, apparently the citizens were not terribly unhappy with the job the Police are doing in Troutdale.

8.2 FINANCE & RECORDS

Nancy said she would be happy to respond to any questions or concerns. She did say that the copiers had been installed and everyone was very happy with them. She also stated that CONTEL was scheduled for installation June 4. The utility billing

process was cumbersome due to the current computer system. There haven't been a lot of telephone calls, so the public information put out must have been fairly good. Marge commented on her surprise at the amount of inquiries received at City Hall.

8.3 COMMUNITY SERVICES

Greg pointed out that charts found attached to the departmental reports were now being generated through the new computer system and that the next packet would contain less verbage and more graphics. This should make it easier to read and understand. Greg also asked if Council had a preference as to format, please let him know and he would add or change as necessary. He pointed out that in having the plotting capability, he found a surge release valve had popped off and we were loosing a tremendous amount of water. The street and utility system development charges and fees should provide Council with an economic scale indicating what's happening with development as opposed to the building section which only provides permits issued as they relate to commercial and residential but not the values associated with the permit. This gives a good indication valuation wise. Marge then asked about funds in the downtown area and asked how high on the priority list. Greg stated that it only mentioned because he would be looking at it from a quick budgetary standpoint to see if it would be worth considering. Greg felt it would not be. Marge didn't feel it would fit the criteria. Greg stated it was a goal statement in the Downtown Plan and due to that we should look at it. The CDBG grant funds would not be used for that unless it could be related to the mod-low income, restroom facilities, etc. Greg didn't feel it would show much of an impact.

AGENDA ITEM 7A: -- SOLAR ACCESS ...CONTINUED

Pam stated that in the materials she had, there was no specific length of time the proposal would require. Pam indicated that Council could specify a time limit and it could be figured in as a soft match.

It was decided that 48 hours or 6 months was reasonable. It could then be re-considered, if necessary. Sharlyn Jacobs volunteered as the elected liason, the anticipated staff person would be Mike Wheeler.

A motion to participate with a limit of 48 hours staff time and 24 hours elected official time was moved by Paul and seconded by Marge.

AYES 5 NAYS

Pam stated that when these types of requests come up, we will have an estimated dollar amount attached to them, as well as dates.

8.4 CITY ATTORNEY

Jim stated he hadn't prepared a report, however, it looked as though he would be doing more of the Council meetings. He would prefer to at least inform Council on a routine basis what litigation is being contemplated or prosecuted on behalf of the City. Also, he preferred not to go into detail, unless in Executive Session. Litigation has been filed on behalf of the City of Troutdale against Bensmiller Computer Company of Whitset, Texas because they failed to deliver to the Police Department the computer that they promised they would deliver to the Police Department. It is an unworkable piece of equipment, an unworkable piece of software. Through no fault of the Police Department Jim was privy to the promises that Bensmiller made and they are not even close. The litigation is anticipated to take 13-15 months, and we anticipate being able to recover attorney's fees from Bensmiller so we hope the cost to the City will be zero. We are talking about \$8,000.

8.5 EXECUTIVE DEPARTMENT

Pam discussed a license agreement between the City of Troutdale and the softball league. This is the same as last year. There was a comment from Paul saying that he was happy the field was being used after the work that had been done a couple of years prior.

There was a letter that Sam Cox wanted brought forward which was asking Council to take a stand on the Ellensburgh, Washington Hazardous Waste Disposal Facility. Pam stated it could be on the June 11 agenda. It was discussed and decided that due to the holiday, Memorial Day, and people being out of town the Council meeting for May 28 be cancelled.

Paul commented on the letter in question. It was felt that what happens upstream from us could affect us directly as well as indirectly. The Hazardous Waste Disposal Facility will be on the June 11 Agenda as a discussion item.

Pam added that maps, at the request of Council, are available and ready for Council to take home.

AGENDA ITEM 9: -- COUNCIL CONCERNS AND INITIATIVES

Marty informed Council that Paul, Gene Bui, and himself had been meeting to review the revisions to the Sign Code. Additional work has been done since it involves a policy statement as well as revision. A draft version, which will be presented to staff, covers up through 11.060 which is the basic framework of the document. Specifics begin at 11.076 and continue on regarding how many signs, how high, and how wide. This document should be ready for Council to consider at the June 11 meeting.

Marge stated that the Economic Development Commission task force was looking at ways of providing review and recommendation on EDA grants and an Advisory Commission in Multnomah County. The County can't provide future alternatives to County staff and committee restructuring.

AGENDA ITEM 10: -- ADJOURNMENT


The meeting was adjourned at 8:47 P.M.
6-5-85 Wed 6:18:32



SAM K. COX, MAYOR

DATE SIGNED: June 13, 1985

ATTEST:



VALERIE J. RAGLIONE
CITY RECORDER