



CITY OF TROUTDALE

"Gateway to the Columbia River Gorge"

AGENDA

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

REVISED

7:00 P.M. -- November 28, 2000

Mayor

Paul Thalhofer

City Council

Pat Smith
David Ripma
Bruce Thompson
Jim Kight
Paul Rabe
Doug Daoust

- (A) 1. PLEDGE OF ALLEGIANCE, ROLL CALL, AGENDA UPDATE
- (A) 2. CONSENT AGENDA:
 - 2.1 Approve Liquor License: Burns Bros, Inc.- Mr. B's Lounge, Winks Sports Pub & Pizza, and Flying J. Travel Plaza.
 - 2.2 Intergovernmental Agreement: Authorize the Mayor to enter into an Intergovernmental Agreement between the Cities of Gresham, Fairview, Troutdale and Wood Village for Mediation Services.
 - 2.3 Resolution: A Resolution declaring certain personal property as surplus and authorizing disposal.
- (I) 3. PUBLIC COMMENT: Please restrict comments to non-agenda items at this time.
- (A) 4. COMMITTEE APPOINTMENTS: Budget Committee, Citizen Advisory Committee, Planning Commission and Parks Advisory Committee. Mayor Thalhofer
- (A) 5. ORDINANCE (Introduction): An Ordinance adopting a new chapter of the Troutdale Municipal Code, 2.70, Compensation under Article 1, Section 18 of the Oregon Constitution, and declaring an emergency. City Attorney
- (I) 6. COUNCIL CONCERNS AND INITIATIVES
- (A) 7. ADJOURNMENT


Paul Thalhofer, Mayor

Dated: 11-28-00

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 - 2.3 **Resolution:** A Resolution declaring certain personal property as surplus and authorizing disposal.
 - 2.4 **Adopt Findings:** Adopt findings affirming the Planning Commission's decision to approve a variance for Space #1 of the Sandy Frontier Trailer Court.
- (I) 3. PUBLIC COMMENT: Please restrict comments to non-agenda items at this time.
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Paul Thalhofer, Mayor

Dated: 11-21-2000

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MINUTES
Troutdale City Council - Regular Meeting
Troutdale City Hall
Council Chambers
104 SE Kibling Avenue
Troutdale, OR 97060-2099

November 28, 2000 7:00pm

Meeting was called to order at 7:00 p.m. by Mayor Thalhofer.

1. PLEDGE OF ALLEGIANCE, ROLL CALL, AGENDA UPDATE

Mayor Thalhofer called on Councilor Rabe to lead us in the Pledge of Allegiance.

PRESENT: Smith, Ripma, Thompson, Kight, Rabe, Daoust, Thalhofer.

STAFF: Galloway, Faith, Kvarsten, Allen, Stickney

GUESTS: See Attached

Mayor Thalhofer asked are there any agenda updates?

Kvarsten replied we have no changes this evening.

2. CONSENT AGENDA:

- 2.1 Approve Liquor License:** Burns Bros, Inc.- Mr. B's Lounge, Winks Sports Pub & Pizza, and Flying J. Travel Plaza.
- 2.2 Intergovernmental Agreement:** Authorize the Mayor to enter into an Intergovernmental Agreement between the Cities of Gresham, Fairview, Troutdale and Wood Village for Mediation Services.
- 2.3 Resolution:** A Resolution declaring certain personal property as surplus and authorizing disposal.

Mayor Thalhofer called this item and read the consent agenda.

MOTION: Councilor Thompson moved adoption of the consent agenda. Councilor Kight seconded the motion.

YEAS: 7
NAYS: 0
ABSTAINED: 0

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

No public comment received.

4. COMMITTEE APPOINTMENTS: Budget Committee, Citizen Advisory Committee, Planning

Commission and Parks Advisory Committee.

Mayor Thalhoffer read the appointments and asked them to stand up and be recognized.

MOTION: Councilor Ripma moved to accept the recommendation of the Selection Committee. Seconded by Councilor Kight.

**YEAS: 7
NAYS: 0
ABSTAINED: 0**

5. ORDINANCE (Introduction): An Ordinance adopting a new chapter of the Troutdale Municipal Code, 2.70, Compensation under Article 1, Section 18 of the Oregon Constitution, and declaring an emergency.

Mayor Thalhoffer read the Ordinance title and opened the Public Hearing at 7:08pm.

Marnie Allen stated item #5 on your agenda tonight is an ordinance that is intended to put in place a process for the city to follow when it receives claims for compensation under Measure 7. As you know Measure 7 was passed by Oregon voters just this past election. It takes affect on December 7, 2000. There are probably more questions than there are answers in terms of what the scope of Measure 7 means and what will be required under Measure 7. But because Measure 7 does not include a process, we advised the city that we thought it would be important to set forth how someone would go about making a claim with the city, what information the City Council would need to make a decision on that claim. The Ordinance before you sets out a process to try to accomplish that. It does require a public hearing and notice and a decision would be made by the City Council if someone files a claim with the city seeking compensation. The ordinance gives the Council a couple of options. You can either decide to pay the claim and award compensation or the Council can decide to release the application of the challenged regulation. I do want to point out a couple of typos that were in the Ordinance that was originally sent out to the Council. In the title of the ordinance and in the text of the ordinance it refers to the new chapter being 2.60, that should be changed to 2.70. The Troutdale Municipal Code already contains chapter 2.60. Also in section 2.60 now 2.70.090 subparagraph "A", the original ordinance indicated that written notice would be given to property owners located within 500 feet of the claimants property, that should be changed to 300 feet. Because the Council will not be meeting again before the effective date of Measure 7, we included findings and an emergency clause so that the ordinance can be adopted at tonight's meeting and can take effect immediately. I will answer any question that you may have.

Councilor Rabe asked as I read through this, 2.70.070 the release. It would seem that if such an imposition were found to be present that the applicant could apply for a release and the city could grant such a thing, is that correct?

Allen replied that is right.

Councilor Rabe stated I found that to be somewhat arbitrary. Wouldn't that be completely contradictory to the heart of the issue in that any city could say that we may be imposing some sort of restriction but we can release the applicant of that obligation. I guess I am having an interpretive problem.

Allen replied they are actually intended to be alternatives that work together to give the city the option of releasing the application of enforcing a regulation if the city's budget doesn't allow for you to pay the compensation that would be due if you are going to apply and enforce the regulation.

Councilor Rabe asked and you are thinking that it is going to be primarily the application of this particular section would largely be due to the lack of funds that the city might have to compensate.

Allen stated right, or a policy decision that that is not where you want to expend limited city funds.

Councilor Rabe stated so if we can't compensate them then we can not impose whatever regulation devalues the property, is that correct? Whereas as the condition stands now, particular zoning regulations, an applicant within a zone wants to do something that is not permitted within that zone, the city still has teeth to enforce that they adhere to that zoning regulation. Whereas now what we are looking at is a situation in which if we can't compensate them, we have no recourse but then to permit them to do that or we have to change the regulation?

Allen replied right. That is in general terms what Measure 7 does. It says from now on a regulation that causes a loss in the fair market value of property can't be enforced or applied against that property if that property owner comes in and files and makes an appropriate claim for compensation.

Councilor Daoust stated the League of Oregon Cities has done quite of bit of research on this. Is this ordinance that we have in front of us one of the draft ordinances that the League of Oregon Cities had on their web site or is it similiar to it?

Allen replied it is similiar to it. It is a draft ordinance that our office prepared based on our research and analysis of what the different options were and that is being provided to the cities that we represent as well as others that are interested. Most local governments are adopting a ordinance of some form or another that provides a process. Some are adopting a ordinance that is classified I guess as more general and less specific then the draft ordinance that you have before you. Other cities are adopting an ordinance with a lot more process and requirements and restrictions that might apply. We felt like this ordinance struck the right balance of providing some clarity for the city and creating an opportunity for the city to get the information that you need but also implementing and complying with the intent of Measure 7.

Councilor Daoust stated Governor Kitzhaber has asked the State Attorney Generals Office for an opinion on how this measure should be interpreted, they expect it in about a couple of weeks. If there is an interpretation that comes out that is different than some of the stuff we have outlined, would we have to adopt another ordinance?

Allen replied you would likely need to amend this ordinance. But I think all local governments are going to have to amend their ordinance as we get more clarification on what the scope of Measure 7 is. This particular ordinance, the definitions that are in this ordinance come directly from Measure 7 and the ordinance is drafted broad enough that you are not proposing something that is clearly going to be a conflict of Measure 7. I wouldn't anticipate that the Attorney Generals opinion would cause a need to amend this ordinance. It might provide clarification when you get a claim on how you decide whether to pay it or not.

Councilor Daoust stated I realize this applies to a property owner before and after a city ordinance

is implemented, could this apply to adjacent property owners. For example some development the city pursues adjacent to existing property owners such that the adjacent property owners claim that their property values have been decreased because of the new development that we are allowing next door to them. Does this apply to the property owners adjacent to, do you know what I mean?

Allen replied I do know what you mean. I think what I purpose that we do is rather than having me speculate on broad interpretations of what kinds of actions might be covered under Measure 7, it might be better to wait a couple of weeks until we get the Attorney Generals opinion, maybe even wait some time to see, there was some litigation today filed challenging Measure 7. Some of the finer points of what Measure 7 applies to should be flushed out over the next month. We could perhaps hold a joint work session with the Planning Commission and the Council and go over all of those kinds of questions in that format or we could issue an opinion to the city. I am a little uncomfortable commenting on broad speculative conclusions that are just not all that clear. Having said that what I will say is that our bias will be to advocate for an interpretation of Measure 7 that is narrow and literal so that Measure 7 can practically be applied and carried out if it is interpreted to broadly in essence no regulation from any government is going to be able to be adopted or enforced and I don't think that is what was intended.

Councilor Daoust asked on the appraisal requirement, the claimants appraisal offered to support a claim for compensation. In 2.70.050 under the appraisal requirements that a claimant is to submit for compensation, under part "D" it says that the appraisal must expressly consider the effect a release under Measure 7, that means we release there property from some kind of regulation, as applied to the claimants. And then it goes on to say and similarly situated properties. That is the part I don't understand, why does the appraisal requirement have the claimant submit information on similarly situated properties in addition to his or her own. I didn't understand that.

Allen replied what that subsection is intended to get at is in the appraisal it will be helpful for the city to have information that gives a fair market value of property based on the assumption that other properties may be released from that regulation. It is particularly important if the fair market value of a property is based on the scarcity of that property. So if you have a limited supply of commercial property in Troutdale and you have a residential property owner that wants to put a commercial use on their property and the city decides to release residential zoning so that they can put that commercial use on the property. You don't want an appraisal taking into account or assigning a fair market value based on the assumption that there is only a limited supply of commercial property when in fact all the residential property, if releases were granted, could become commercial property. So it is intended to try and reach a balance.

Councilor Daoust stated so if one person along the Sandy River claimed that we reduced the value of their property due to the streamside regulations in place that we just adopted, they would have to evaluate the affect on their property plus every other property along the Sandy River in the same situation as them.

Allen replied well they don't need to necessarily do an individual analysis of the value of all those properties but they need to not in there appraisal assign a market value that is inflated based on a scarce resource. So lets say that river front property was valued higher because there is not much of it and we are assuming that all these other properties are subject to those setback requirements. So if this property were released, then your worth a lot more because now you can build right up to the river, if that was more valuable and these other properties arguably could not under the same regulations. You don't want the appraisal to be based on that assumption, you want it to be based

on the assumption that similarly situated properties could also get that same release.

Councilor Ripma asked many city and other state regulations that are imposed on property for the benefit of the surrounding properties. In other words people don't want a gas station built next door to their residential house in a residential neighborhood. Everybody benefits by having it restricted to a use like housing for example. I am trying to understand the way this ordinance reads, if someone proposes, next door to your house, to build something allowed but for the regulations lets say mineral aggregate extractions or something that would pollute the air and make a lot of noise. It would be otherwise allowed but for city regulations, that the value of the property owned by the person that wants to extract aggregate might be higher if they are allowed to do anything they want, but they would subject themselves to a lot of nuisance claims or something. Or lets say they pollute the ground water and all the wells around them or something. The value of the property itself does not include all these negatives, like they might be sued for example, by the people who were harmed by the activity. How does that factor in. In other words, the value of the property is actually higher, regardless of what they are going to do. Are they allowed to put in a claim to the city and ignore all the detriment to the neighbors, or is it just restricted to the land itself?

Allen replied that is a really good question and I think that is one of the key uncertainties of Measure 7 is how it is that these appraisals, a loss in value are going to be performed and what the proper scope of those appraisals are going to be. That is one of the reasons we included subsection "E" so that the City Council can ask the appraiser to address other information, and that might be the kind of information you want an appraiser to address. At that time we have to evaluate whether or not a claim could appropriately be denied or you could find that there wasn't a loss in value given all these other competing negative affects. A couple of things that come to mind. One is historically recognized nuisances or regulations that control that are exempt from compensation under Measure 7. So, if you had truly what we could classify as a nuisance being proposed on property and you wanted to enforce a regulation to prevent that nuisance, then we would be exempt from paying compensation under Measure 7. The other thing is that part of the reason for notifying nearby property owners of a claim is so that those property owners are aware of the proposed use and the requested release so that in certain situations property owners may decide to come together to pay the compensation that the city would have to pay in lieu of releasing a regulation to preserve their property values.

Councilor Ripma asked one other thing along those lines, polluting the stream for example is currently prohibited by regulation. I don't know of anything else that prohibits it, common law you were allowed to dump anything you wanted in the rivers, yet that would harm lots of people down stream. On the face of it, it seems like a regulation that prohibits you from dumping pollutants into a river would be compensable under this. You could make a claim that I am allowed to have my sewer dump into the river because you can't force me not to.

Allen stated the other exception for claims under Measure 7 are regulations that are adopted to implement the minimum requirements of federal law. The Clean Water Act and the Species Act, there are a lot of federal statutes that would set some minimum limits that if the city regulations were enforcing those federal limits we would be exempt from paying compensation.

Councilor Ripma replied good.

Councilor Thompson asked I assume that these regulations are prospective and not retroactive

right? That is any change that takes place from December 7th, any regulation from that period forward would be covered under this regulation but not anything that had gone before?

Allen replied that is one of the unanswered questions. A claim and an argument can be made that they only apply prospectively but an equal argument can be made that they apply retroactively. That may be one of the issues that is addressed in the Attorney General's opinion. That is one of the issues that is going to have to be flushed out. There is a lot of discussion about the legislature referring an initiative to the voters next election to clarify some of these issues in Measure 7.

Councilor Thompson asked in there anything in the regulation that would pay the city for increasing the value of property?

Allen replied no, but I think that is one of the things that would be appropriate to take into account when you have an appraisal.

Mayor Thalhoffer asked we just passed regulations, Title 3. Title 3, we assume, will adversely affect the property owners along the river and perhaps along Beaver Creek. If one of them comes to the city with a claim, this is not federal as I understand it.

Allen replied correct.

Mayor Thalhoffer stated so that person files a claim and the city decides to release them because we don't have the money to pay the claim, then the other property owners are going to be in the same position and they could say we will file a claim and the city will release us. It is like a domino affect. So, we virtually have no regulation then, is that correct.

Allen replied it is possible.

Mayor Thalhoffer stated with Title 3, it is entirely possible that everyone will be released from that regulation, that could happen if we don't have the money to pay.

Councilor Kight stated I am really surprised that this is being adjudicated at the City Council level. I would think this would go to the circuit or district court system and then there would be the two parties, the municipality and the individual making the claim. What you are saying is that they are going to make this claim before the council, is that correct?

Allen replied yes.

Councilor Kight asked what is the next point of appeal if we make a decision and they are not happy with it, where do they go next?

Allen replied it depends on part what your decision is and whether or not a court or a land use board of appeals determines that your decision is a land use decision or whether it is not a land use decision, in which case it might be reviewed in circuit court.

Councilor Kight asked and at that point we would ask the City Attorney to represent us, is that right?

Allen replied sure.

Councilor Kight stated as far as the taxpayers are concerned, this could be a very expensive process for the city to adjudicate. You talked about releasing the claim. Lets say they make a claim against the city and lets say we don't have the money, does that claim still stand. In other words is that an outstanding claim, and outstanding liability on the part of the city and at some point and time we will have to pay?

Allen replied no, what the release does is it releases the application or enforcement of the regulation. So what Measure 7 says is if someone files a claim for compensation the city has 90 days to either pay that claim or adopt a decision. What we are proposing in this ordinance is that you release it and have them enter into an agreement with the city. Once they have entered into the agreement you are not applying the regulation and their claim for compensation no longer exists.

Councilor Kight stated appraisals can vary dramatically. I have had two or three appraisals done on one piece of property and you would think that they were not talking about the same piece of property. If they bring a claim before the city, does the city then have to get an appraisal for the same piece of property?

Allen replied the city doesn't have to but the city may choose to for the very reason that you have pointed out.

Councilor Kight stated so there is a tremendous potential on the part of the claimants to the city, if they go to LUBA or the court process, it is going to be very expensive to the city just to adjudicate the process, do you see that potential?

Allen replied yes, the potential cost of Measure 7 is enormous.

Councilor Rabe asked under filing a claim it says an application fee in the amount established by resolution, so it has not yet been determined what the application fee will be?

Allen replied that is correct. We will be bringing back before you an amendment to your current resolution that establishes all of the fees.

Councilor Rabe asked lets just say we were dealing with this hypothetical situation, a particular setback that we are imposing on a particular property and lets say it is along a creek. The claimant suggests that it causes a reduction in value of the property because they will never be able to sale it because nobody will be able to build within so many feet from the creek and that devalues the property in there opinion. Is it possible then for us to provide them a release, but not a release within the entire property area but only a partial release. For instance if they argue that a 50' setback devalues their property, lets say \$5,000. Is it possible to provide a release but say that the release is only good for the 25' which would either appeal to them and they would say we don't need compensation that is fine with us, or we have some sort of prorated compensated. As this is written do you see us being able to do such a thing so that we have some kind of regulation?

Allen replied I do and I think the thought behind the release provisions and the requirement that the person enter into an agreement with the city in a form acceptable to the city attorney was to be able to negotiate those very things.

Councilor Rabe asked we are aware that others may have different appraisal figures regarding a

piece of property. Are we the city going to be liable to hiring our own appraiser if we disagree with the appraisal that the applicant has provided us?

Allen replied I think there are a couple of things. One is kind of a catch all requirement in the appraisal requirements that say that the appraisal shall address any other matter the city determines are reasonably necessary. So if there are specific factors that you want the claimants appraiser to address that haven't been addressed then you can specify that they shall address this in the appraisal. That doesn't get at the potential bias. Nothing in this ordinance prohibits the City Council from deciding to obtain its own appraisal. There will be some costs associated with that and whether the city wants to try to recoup the cost of appraisals in the application fee that is paid for filing the claim will be one of the things that you will have to consider.

Councilor Daoust stated we have two options as I read through this. Our first option is to pay the claim and our second option is to release the property from the regulation. Do we have a third option of denying the claim?

Allen replied you do have that option. If you look at 2.70.090 paragraph "C", this is where I think the Council's options are addressed. The first sentence talks about the council determining whether or not the claim complies with the criteria in 2.70.100. Those criteria are basically what Measure 7 states in terms of when someone is entitled to compensation. Then it goes on to say if the Council determines that the claim complies with these criteria then you decide whether or not to pay. If the claimant doesn't bring forward to you what you believe is a proper Measure 7 claim, they haven't shown that there has been a loss in the fair market value of their property or the regulation that they are challenging you believe is implementing the minimum requirement of federal law or regulates a nuisance, then they haven't complied with the criteria in which case you would deny the claim. If however, you find those criteria are satisfied then you have the two options of paying or releasing the regulation.

Councilor Daoust asked the domino affect of releasing properties from regulation that the Mayor talked about. I realize that this an emergency ordinance but there doesn't seem to be anything that we can use for criteria to address cumulative resource impacts, you know like the domino affect of releasing property after property after property along the Sandy River from any kind of stream protection. We don't have any tool to address cumulative resource impacts of doing that. It looks like we are stuck. One example, the McMenamins Pig Farm property, in addition to reduction in fair market value being the difference between the market value of the property before and after, it also shall include the net cost of a land owner of an affirmative obligation to protect wetlands. McMenamins, they are just an example for illustrative purposes, the city may be requiring McMenamins to "protect wetlands" as an example. Could they come back and say we would rather fill over those wetlands?

Allen replied I suspect that wetlands permits and regulations would be required under federal law, so there would be some minimum requirements that would be exempt from compensation. To the extent the city adopts regulations that go beyond the minimum requirements under federal law, then they could seek compensation for that.

Councilor Daoust stated I can see where we may not know what those minimum requirements for federal laws would be. We know what we implemented for Title 3 and we know what Metro says and the what the State of Oregon says about wetlands, but I don't know if we know what the

minimum federal requirements would be and that would help us in the future. Maybe that could be something that staff could research.

Allen stated I suspect that the answer to those questions are going to be pretty case specific. What I would envision is a property owner comes in and makes a claim where the city believes that there is a federal statute that might apply at which point the city would be in touch with the federal governmental agency to get clarification.

Councilor Smith stated we just passed this regulation with Metro with the water quality and the vegetation corridors, and since we adopted it, do we have any recourse to get compensation from Metro or anybody else or does it just all fall on the city?

Allen replied that is a good question and one of the questions that I would suggest we do some research on. It is definitely something that is being talked about and thought about and analyzed. A lot of local governments land use regulations are dictated by statewide planning goals and state law. Who is going to ultimately have to pay the compensation when these claims are filed has not been decided.

Councilor Ripma stated the way I am understanding the process that is set out here, the claimant does have to prove this loss of market value, that is the key. Take the stream setback regulations as they have been discussed before, it could be for example that stream setback regulation might enhance the value of a piece of property. Certainly properties that are constructed prior to the regulations that were grandfathered in tend to have more value because they couldn't be reproduced again. So a claimant that comes in with a wild claim, if I am going to build fifty condos on my streamside I could make more money. The fact that all stream frontage in the city would be subject to that same regulation. An argument could be made that the whole Sandy River was one solid block of buildings and nobody would want to live there because it would be undesirable. So these wild claims we might end up being able to say that we don't agree that there is a reduction in value and I guess the claimants remedy would be to go to court. This isn't necessarily the death nail of regulations, it is just a complicated factor.

Councilor Thompson asked is there any mechanism whereby the city could keep track of what happens to this property and if it is later sold for a profit, in other words it didn't really decrease the fair market value but they got compensation for it. Is there a mechanism for them to pay it back?

Allen replied good idea. It is not built into the ordinance but it is something that we could probably build into the release agreement. I would need to think about how we might build it into the ordinance. I would envision that as claims are made and the Attorney General's opinion comes out and as there are court decisions on Measure 7, or if there is a referral and some amendments to it, that you will want to come back and make amendments to this ordinance because we can't anticipate everything now.

Councilor Thompson asked I have noticed that there are several different properties such as pornography, nude dancing, alcohol beverages that are exempt from paying them, what is the definition of a casino or gambling parlor, would that include a Winks or Dotty's or one of those?

Allen replied they are not defined in Measure 7 which is where all those terms come from.

Councilor Kight stated talking about the fee structure, one thing that will establish the fee structure is the appraisal cost if the city has to hire a commercial appraiser. Can we not also fold in minimal legal cost as well to reimburse the city for the legal cost. I can see this happening, we are not just going to accept the appraisal the claimant has, we are going to have to counter that with our own appraisal and then the City Attorney will get involved at some point and time and there is going to be a least \$500.00 to \$1,000.00 to review the case.

Allen replied it depends on the nature of the claim and the process. Certainly if this process is followed it doesn't have to be all that different than land use applications that are filed and decided by the city. If it is a very complicated case and there are questions about whether or not the criteria are met and you want some legal analysis before you deny a claim, then the fees will be higher. It will vary depending on the claim.

Councilor Kight asked one of the comments you made about the appraisal, when they bring the appraisal forward to the City Council, could we not then require them to have additional information that the appraiser needs to make and go out and make a second appraisal or some addendums to the first appraisal?

Allen replied yes, I think you can. I think you need to keep in mind that ultimately you need to make the decision within 90 days of when they file the complete application.

Councilor Kight stated that is a very short window. Is there any way to extend that at all?

Allen replied no. The time period is written into Measure 7.

Councilor Rabe asked has it been explored that the compensation has been in the context of dollars, has anybody considered the option of some sort of in-kind compensation. For instance maybe a release of a setback regulation if it wasn't detrimental to a boundary property. There could be some other releases that would be of a lesser evil, has that been explored?

Allen replied nothing precludes the city from negotiating with the property owner.

Councilor Daoust asked earlier when Councilor Thompson asked you if it was retroactive you said that may be determined. The text of Measure 7 infers that it is retroactive in that it says that compensation shall be due to the property owner if the regulation was adopted, first enforced or applied after the current owner of property became the owner. Doesn't that sound like it is retroactive?

Allen replied that is one of the undetermined issues. I guess what I would recommend is if you want a specific opinion on that with more explanation as to why it might not apply retroactively we could put that together. But rather than issuing an opinion in a public hearing, I think it would be best to address it in a follow-up opinion.

Councilor Daoust asked back to the fee. This takes affect next week, theoretically if this ordinance is adopted as an emergency, we have the process in place for someone to come in next week and file a claim. When do we adopt the fee structure?

Allen replied December 12th. If a claimant comes in and wants to file a claim on the 7th or the 8th,

they will be given a copy of this ordinance with a list of all the information they need to put together and a copy of the application form that they need to fill out and not to much time between the 7th and the 12th when you will have the resolution so they would just be told that they would have to pay the fee when they bring back all the documents.

Mayor Thalhoffer asked is there anyone else who would like to speak to us on this matter?

No public comment recieved.

Mayor Thalhoffer closed the public hearing at 8:10pm.

MOTION: Councilor Ripma moved to adopt the Ordinance. Seconded by Councilor Rabe.

Councilor Ripma stated I think it is prudent for the city to have something in place since the amendment to the Constitution doesn't outline a process I think it is for the protection of this city and the citizens of Troutdale.

Councilor Daoust stated I would imagine that we are one of numerous cities in the State of Oregon that are rushing right now to adopt a similiar type of ordinance. The League of Oregon Cities has been rushing to put stuff on their web site to make sure that cities have the tools they need to deal with Measure 7 and I am glad that our legal firm stepped up and made sure we were covered.

Councilor Thompson stated I agree that we need the emergency clause to make it effective before the 7th.

Mayor Thalhoffer stated so do I.

Councilor Kight stated it is clear that we are entering unchartered ground. The potential of the cost to the tax payers potentially is tremendous. I think the Measure 7 is a over reaction to some isolated cases where some people have been taken advantage of. I am going to support this particular ordinance.

**YEAS: 7
NAYS: 0
ABSTAINED: 0**

6. COUNCIL CONCERNS AND INITIATIVES

Mayor Thalhoffer called this item.

Councilor Daoust stated thank you to the voters of Troutdale for their strong vote of confidence in reelecting me to the City Council. I am more then happy to serve another four years on this excellent council.

Councilor Ripma stated I agree with Councilor Daoust and I thank the voters for reelecting me.

Mayor Thalhoffer stated I also thank the voters and I thank them for passing the Reynolds School

Bond Measure. The Troutdale Trolley is running now. It will be running Friday, Saturday and Sunday through the end of December and then it will be evaluated to see if we will continue it. It is a free service and it makes a six mile loop around the city.

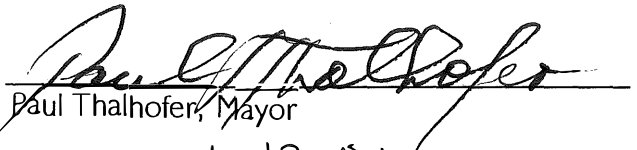
Councilor Kight stated I also wanted to chime in about the voters in Troutdale and their vote of support in reelecting me. I also want to remind people that at this time of the year we need to slow down while driving and watch for pedestrians.

7. ADJOURNMENT

MOTION: Councilor Ripma moved to adjourn the meeting. Councilor Kight seconded the motion.

**YEAS: 7
NAYS: 0
ABSTAINED: 0**

Meeting was adjourned at 8:20pm.


Paul Thalhofer, Mayor
Dated: 1-12-01

ATTEST:

Debbie Stickney, City Recorder

CITY OF TROUTDALE
PUBLIC ATTENDANCE RECORD

November 28, 2000
CITY COUNCIL REGULAR MEETING

PLEASE COMPLETE THE FOLLOWING

NAME (please print)	ADDRESS	PHONE #
Norman Thomas	2751 SW Clark Ct	667-4320
CHRIS BELL	2727 SW COLBERT LN	618-9978
Geoffrey Mynn	15812 NE STANTON AVE	253-9630
Van Heaton CAC		
JAMES R TENSEN	2724 SE HICKLIN CT	665-6432
PAUL BROWN + 9 Boy Scouts	2738 SE HICKLIN CT	667-4262
PAT NEWMAN	1448 SE 29th CT	666-2351
Michael Smith II	5035W 19th PLACE T. DALE	507- 666-1866