



CITY OF TROUTDALE

"Gateway to the Columbia River Gorge"

AGENDA

CITY COUNCIL – REGULAR MEETING

TROUTDALE CITY HALL
104 SE KIBLING AVENUE
TROUTDALE, OR 97060-2099

Mayor

Paul Thalhofer

City Council

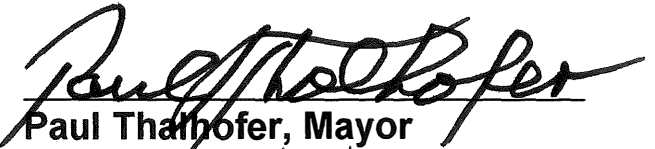
Pat Smith
David Ripma
Bruce Thompson
Jim Kight
Paul Rabe
Doug Daoust

Tuesday October 9th, 2001 – 7:00 P.M.

- (A) **1. PLEDGE OF ALLEGIANCE, ROLL CALL, AGENDA UPDATE**
- (A) **2. CONSENT AGENDA:**
- 2.1 **Accept Minutes:** August 28, 2001 Regular meeting and August 30, 2001 Special meeting.
- 2.2 **Approve Liquor License:** Brew Wings LLC
- 2.3 **Resolution:** A Resolution adopting an Intergovernmental Agreement between the City of Troutdale and Metro for the City of Troutdale Year Twelve Annual Waste Reduction Plan.
- (A) **3. PROCLAMATION:** Proclaiming the month of November 2001 as Mediation Month.
- (I) **4. PUBLIC COMMENT:** Please restrict comments to non-agenda items at this time.
- (A) **5. REPORT:** A Report on the 2001 River Safety Program at Glenn Otto Park.
Mike Christie, AMR
- (A) **6. PUBLIC HEARING / ORDINANCE (Introduced 7/24/01):** An Ordinance adopting Chapter 8.26, Outdoor Lighting, of the Troutdale Municipal Code.
Rich Faith, Community Development Director
- (A) **7. MOTION:** A decision as to whether or not the City of Troutdale should participate in a Regional Water Initiative.
Jim Galloway, Public Works Director
- (A) **8. RESOLUTION:** A Resolution establishing and revising specific fees and charges and rescinding Resolution No. 1574. (Pertaining to Public Works permit fee, pavement disturbance fee for franchisees and franchise application fee.)
Jim Galloway, Public Works Director

(I) 9. COUNCIL CONCERNS AND INITIATIVES

(A) 10. ADJOURNMENT



Paul Thathofer, Mayor

Dated: 10/3/01

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

October 9, 2001

Mayor Thalhofer called meeting to order at 7:02pm

PLEDGE OF ALLEGIANCE, ROLL CALL, AGENDA UPDATE

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

PRESENT: Smith, Thompson, Thalhofer, Kight, Ripma (7:16pm) and Daoust (7:19pm).

ABSENT: Rabe (excused).

STAFF: Faith, Galloway, Nelson, Kvarsten, Allen and Stickney.

GUESTS: See Attached List.

Mayor Thalhofer asked are there any agenda updates?

Kvarsten replied we have no changes this evening Mr. Mayor.

2. CONSENT AGENDA:

- 2.1 Accept Minutes: August 28, 2001 Regular meeting and August 30, 2001 Special meeting.
- 2.2 Approve Liquor License: Brew Wings LLC
- 2.3 Resolution: A Resolution adopting an Intergovernmental Agreement between the City of Troutdale and Metro for the City of Troutdale Year Twelve Annual Waste Reduction Plan.

MOTION: Councilor Thompson moved to adopt the consent agenda. Seconded by Councilor Kight.

VOTE: Councilor Smith – Yes
Councilor Thompson – Yes
Mayor Thalhofer – Yes
Councilor Kight – Yes

The Consent Agenda was approved by a vote of 4 – 0.

3. PROCLAMATION: Proclaiming the month of November 2001 as Mediation Month.

Mayor Thalhofer read the proclamation.

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

Mayor Thalhofer asked is there anyone here to speak to us on a non-agenda item?

Stan stated I would like to introduce our new football team, the Eastside Tigers. This year there were so many kids that showed up for try outs for the Troutdale Hawkeye team that we decided to form a second team. The players and cheerleaders introduced themselves.

Edward Pack stated I am a fairly new resident to the Troutdale area. I purchased my house about 1½ years ago. I have worked hard to clean up my house and keep it clean and maintain my property. I am here to express my concern over the recent conduct of Jack Hanna, the City's Code Compliance Office, and express more concern over his lack of conduct or the lack of response that some of my neighbors are giving to the city codes. Recently I called Mr. Hanna numerous times regarding code violations of my neighbors. After not hearing back from him I left a message that I now understood why one of my neighbor's complaints had not been addressed, as he appears to be unavailable and non-responsive. Last Friday I received a code violation for my truck being parked on the side of my house, I admit I was in violation. I hadn't brought myself up to speed on what all of the codes of the city were. It wouldn't have been a problem, however my neighbor was violating two codes within one foot of my truck and he did not receive any type of violation or warning. I could go on for probably the next two or three hours. I have done some research, I came in and talked with the City Recorder and found out where I can find the codes on-line and get up to speed. I thought that keeping my lawn mowed and raking my leaves and keeping the yard picked up was okay. I recently purchased a new vehicle so I was parking my truck on the side of my house not realizing that since it is on grass it is a violation of the code. When I called the first time I had a list of about six houses on my street that have garbage all along the sides of their house. There is one particular house that has had a bathtub in their front yard for almost one year. Coolers sitting in the driveways, there is one that has been there since the day I moved in. There is a family on our street, the gentlemen does car repair and he has vehicles that he leaves parked out in front of their house. He received a notice on one of them and they pulled the plates and pushed it around the corner. I just wanted to come in and express my concern that I am not getting any response out of Mr. Hanna. At this point I am going to start taking digital photos of every single violation and you will probably be receiving an e-mail from me about every two to three days.

5. REPORT: A Report on the 2001 River Safety Program at Glenn Otto Park.

Mayor Thalhofer called this item.

Mike Christie with AMR stated we would like to take this opportunity to go over the data from this last year and summarize the data from the previous three summers. We came to you

three summers ago and talked to you about starting this program with the Troutdale Boosters and AMR. We have been operating for three years without a death on the Sandy River within Troutdale.

Christie showed a power point presentation of an overview of the program. (A copy of the presentation can be found in the packet.)

Mayor Thalhofer stated you are doing a wonderful job.

Councilor Kight asked what is the cost to run the program?

Christie replied this year it will run around \$56,000.00.

Councilor Daoust stated it is a great since of pride to know that we have this program. When I talk with other cities, they know we have this program and they ask how this came about and I tell them that a private organization is funding the program and AMR has stepped up to run it. I would like to see the city take a more active role and be added to the groups that make this program a success and maybe even contribute \$10,000 to the program.

Councilor Ripma stated the program is great and you have done a great job.

6. PUBLIC HEARING / ORDINANCE (Introduced 7/24/01): An Ordinance adopting Chapter 8.26, Outdoor Lighting, of the Troutdale Municipal Code.

Mayor Thalhofer read the Ordinance title and opened the Public Hearing at 7:50pm.

Rich Faith, Community Development Director, stated this proposed ordinance was crafted by city staff with the assistance of the Citizens Advisory Committee (CAC) who you had delegated the task of looking into the issue of lighting complaints that had been received in conjunction with several commercial developments. The CAC did look at a number of sample ordinances that are being used around the country. Closer to home they looked at the Deschutes County ordinance and that served as our primary model. This ordinance attempts to address two major types of light pollution. The first is light pollution, which detracts from our ability to see the nighttime sky which is referred to as dark skies. The second type of light pollution is light trespass, which is light that passes beyond the property where it is really intended for onto neighboring properties. This ordinance does attempt to address both types of light pollution. The basic approach that it uses to do that is that the ordinance would require shielding to be placed on light fixtures so that the light is being cast downward thereby trying to reduce the amount of light pollution upwards. Secondly, the shields would be situated on the fixture in such a way that it does not allow that light to be cast beyond the property on which it is located. The ordinance also sets height restrictions to minimize the amount of light that is being cast beyond the boundaries of the intended properties. The theory being that the lower the lights are on the pole, the less chance that will be creating some distraction or glare to surrounding properties. It also sets maximum light levels for commercial, industrial and apartment residential development that are adjacent to single family zoned properties. That is to get at the aspect of not just the direct light but the magnitude of light that is being cast by the multitude of outdoor fixtures that might be

associated with development. The ordinance will require submission of various types of lighting plans that will be reviewed at the time of new development so that we can make sure that it complies with the standard of the code. It will not be retroactive to any existing light fixtures, but if an existing light fixture is relocated or removed and replaced with another, then at that time it will be subject to the standards of this ordinance. The ordinance also address streetlights, but in a slightly different manner. It did not seem prudent that we should try to limit the light from streetlights to being cast only within the boundaries of the street right-of-way. It does address the issue of dark skies by requiring that the lights be directed in such a matter that there is not light being cast skyward. There are a wide variety of light types that are exempt from the requirements of the code, which are listed in the ordinance. We do have built into the ordinance some flexibility to allow some discretion in allowing alternative types of designs from those that are spelled out in the code. Finally there is a variance provision available to someone that is not able to comply strictly with the terms of the ordinance. The CAC is forwarding this ordinance to you with their recommendation that it be adopted.

Councilor Thompson asked new lighting fixtures will be shielded against casting light to the sky?

Faith replied that is part of it. The idea of the shielding is that it would not allow light to shine above the horizontal plane of the light fixture and the shield would have to be designed in such a manner that the line of sight of the beams of light being cast out do not extend beyond the boundaries of the property on which the light fixture is located.

Mayor Thalhoffer stated I think this is an outstanding ordinance and I want to commend the CAC for the work they have done on this. How are things going with Albertsons, Home Depot and the neighborhood complaints? Have they been satisfied?

Faith replied the Albertsons site, I believe that the neighbors are very satisfied with the final outcome. It took quite some time for us, working with the developer, to come up with a strategy of how to mitigate the light pollution that was being generated from that site. We brought in a lighting expert to look at the site and study the problem and he came back with some recommendations for how to correct it. The developer was willing to implement those changes to the fixtures that were the cause of the complaints. To my knowledge the neighbors are very pleased now. It will never go back to how it was before that development went in, but I think they understand that and they feel that their concerns have been addressed. That is my sense of it. I haven't heard complaints for quite some time regarding Home Depot. Again, we worked very hard with Home Depot to try to implement various measures to reduce the lighting problem. I think that the biggest issue was with the wall-mounted lights on the back side, which is the north side, and on the west side of the building. It took some patience, but ultimately they did get the right type of shields put up that we think dealt with the issue. I have not heard any complaints since then. I believe that they are generally satisfied with what has been done and feel that their concerns have been addressed, perhaps not every one of them and maybe not exactly to their liking but they understand the compromises that were necessary. Again, that is my sense of it.

Mayor Thalhoffer asked are the lights at Albertsons and Home Depot, since they have modified them, do they come close to complying with this new ordinance? I understand that they do not have to because it is not retroactive.

Faith replied they would be with respect to the shields that have been put on those lights that are closest to the residents so that the light generated by the bulb is not visible off-site. They certainly wouldn't comply with respect to our height limitation on the Home Depot site. I am not sure what the candlelight reading is at the property line as to whether or not it would exceed the 0.5 foot-candle requirement. I think the bigger problem of the light glare from the fixtures has been addressed.

Councilor Kight asked besides the actual fixture itself and how the light is disbursed and the different methods of containing that light within the area that you want to light. One of the things you might want to consider is a more decorative light fixture as oppose to your standard aluminum. Are there any standards as far as the light fixture itself?

Faith asked are you talking about streetlights or any lights?

Councilor Kight replied a light that would be used in a parking lot of a commercial development.

Faith replied the ordinance has no standard on how the light pole or light looks.

Councilor Kight asked I wonder if you couldn't look into that and look at communities where they do require commercial developers to use a more decorative light fixture as opposed to the standard aluminum fixture.

Faith asked outside of the standards in this ordinance?

Councilor Kight stated we are specifically talking about the lamp and how that light is contained within the area. What I am saying is we need to take a more realistic approach and take a look at the entire fixture and how it meets the aesthetics of community and maybe do an upgrade in that area.

Faith replied I think we would need to establish what type of look we want. There may be several different styles of these but I think it would come down to, what is the general theme or look that we are striving for and then we could try to find something that matches that.

Councilor Kight asked are we planning on making this retroactive to any of the current city streetlights? Is there any change that we plan on making in order to be the example to the rest of the community?

Faith replied based on my understanding of the standards that we have in the city for streetlights, we currently meet two of the requirements with respect to streetlights. They are designed in such a way that the light is not cast above the horizontal plane and secondly, the typical streetlight that the city puts in on a residential street does not exceed 25' in height.

Councilor Kight asked so they meet all of the standards?

Faith replied I don't know if they meet all of the standards, those are the two major ones that come to mind that we do meet. Where we perhaps do not meet the standards is on the County maintained roads, I can't really speak to those for certain. I am very confident that those we have in our residential areas already satisfy the requirements for streetlights.

Councilor Kight asked might it not be a good idea to take an inventory on county streets and contact the county transportation department and see if those lights meet the standards and report back to the Council.

Faith replied what I can do, assuming this is adopted, we will then conduct an inventory of our street lights within the city and see how they compare in relation to the standards and then report back or begin measures to try to get those that do not comply changed over.

Councilor Daoust stated I think this is a good ordinance and I want to compliment the Citizen Advisory Committee for their work. I didn't notice anything in here about distance from property lines, is there anything in the ordinance about that?

Faith replied the only thing that I can recall that pertains to the distance from property lines is that if an outdoor light fixture is within 50 linear feet of a property line, principally in a commercial or industrial zone abutting a residentially zoned property, then that light fixture can not exceed 15' in height as opposed to the normal standard of 25'. In theory, bringing it down lower is going to help eliminate some of the light pollution and light glare.

Councilor Daoust stated to add to your answers to the Mayor's question regarding Albertsons and Home Depot, since some of the lights closest to the property boundaries were higher than 15', Albertsons put on what I am calling super-shields. I have never seen shields that big. They extend quite a ways down below the light fixture to shield the neighbor's houses. Home Depot turns off the lights completely on Sunday evenings by 9 or 10pm. Home Depot also put fabric over their garden center. They totally enclosed the outdoor garden center with this black fabric. Part of the reason was probably related to the east wind, but it cut a large share of the light glare that was coming from there. They have also tilted a lot of the lights down. I think both Albertsons and Home Depot have really tried to do as much as they could.

Councilor Ripma asked will this ordinance apply to single-family residents also?

Faith replied yes it does. The only exemption that applies to single-family residents is that every other type of development within the city, I am referring to new construction, other than the single-family detached dwelling will be required to submit a full set of lighting plans as part of the land use permitting process so that we can evaluate it for compliance. With a single-family detached home we don't run it through a land use permitting process, however, they are required to get various types of zoning permits for that construction and included in that would be an electrical permit. What we are going to be doing with single-family detached dwellings is that they are going to be required to inform us at the time they apply for their

electrical permits, what type and wattage of outdoor lighting they will use. If in their response it is indicated that they are planning to put in a lighting fixture that exceeds the threshold for requiring shielding, as indicated on our table included in the ordinance, then they will be required to shield the fixture. So, they are not exempt from meeting the standard, but they are not required to submit all of the additional lighting information as we would require from a development that is going through a land use permitting process.

Councilor Ripma asked what about existing homes where a homeowner puts up a light?

Faith replied the single-family dwelling is required to get an electrical permit to install a light fixture. At that time they will be asked to provide us with some information on the type of light and wattage of the light. If it exceeds the threshold and requires shielding then they would be required to meet that standard.

Councilor Ripma stated I basically think it is a good ordinance. It appears that any light fixture that has over 110 watts is going to be subject to the ordinance. Homeowners of existing homes that want to put up a light on their garage might, I guess we will see how it goes, I think they will come under this ordinance. Even there I think shielding is a good idea. Keeping the light on your own property is a good idea. Certainly for commercial we absolutely need it and lets hope that it goes okay with the single-family residence.

Norm Thomas stated as a member of the Citizen Advisory Committee I would like to recommend that you pass this ordinance.

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

No further testimony was received.

Mayor Thalhoffer closed the public hearing at 8:14pm.

MOTION: Councilor Kight moved to adopt the Ordinance adopting a new chapter of the Troutdale Municipal Code, 8.26, Outdoor Lighting. Seconded by Councilor Daoust.

Councilor Kight stated I think this ordinance is long overdue. We experienced, through the recent commercial development of Home Depot and Albertsons, a number of complaints from the adjoining neighborhoods. Hopefully this ordinance addresses that and takes care of the concerns.

Councilor Daoust stated anytime in the city when you place a commercial development next to residential neighborhoods, we have to increasingly address things like this. I think we learned our lesson with Albertsons and Home Depot that we hadn't adequately addressed it yet. I think with this ordinance it addresses at least the light issue. Certainly, in the future, when we try to put more commercial development next to residential neighborhoods we may have other issues that come up that we haven't addressed yet, but I think this one is an excellent response to the lighting issue.

Councilor Smith stated we have been lucky that these commercial developments have bent over backwards to a point of trying to live next to the residential neighborhoods. Since this is new to us, the big developments with all of the lights, I do think that it is a good idea to set standards.

Councilor Ripma stated I have no comments.

Councilor Thompson stated I have no comments.

Mayor Thalhofer stated this is a good ordinance and I fully support it. I think Home Depot and Albertsons did try to comply with the city and the neighbor's request to address the lighting issues.

**VOTE: Councilor Thompson – Yes
Mayor Thalhofer – Yes
Councilor Kight – Yes
Councilor Daoust – Yes
Councilor Smith – Yes
Councilor Ripma - Yes.**

The Ordinance was approved by a vote of 6 – 0.

7. MOTION: A decision as to whether or not the City of Troutdale should participate in a Regional Water Initiative.

Mayor Thalhofer called this item.

Jim Galloway, Public Works Director, stated the subject before you has to do with a regional water initiative. Most of you are aware that the City of Portland owns water rights and infrastructure related to the water coming from Bull Run. The water that is taken from Bull Run, currently Portland uses about 60% of that for city purposes and sells about 40% to other water entities under long-term contract arrangements they have. Many of those long-term contracts are getting ready for renewal which places the City of Portland and those other water jurisdictions in a bit of a dilemma as to what to do for their long range water needs. I think the issue facing those jurisdictions is if they continue to depend on Bull Run and Portland's infrastructure for their water needs, there will need to be some very significant increases in infrastructure to Bull Run. Certainly, if the opposite is true and those folks are not going to get their water from Bull Run and the infrastructure isn't going to be increased, those other jurisdictions are going to have to make alternative arrangements for their water supply in the future. The City of Portland took an initial step to get the issues before the public when they adopted a resolution this spring and directed Commissioner Sten to look into this issue and work with other elected officials in the region to identify and analyze alternative institutional and governance arrangements for water utilities. As a result of that some regional meetings were held with a number of the water entities. Commissioner Sten emphasized that he didn't have a particular model he was looking at but he kind of

envisioned a situation where all the water entities in the region, or those that wish to at least, would merge. The Portland Water Bureau would go away and there would be some kind of regional water authority that would handle the water needs throughout the region. We, along with other water entities in the region, have been asked to respond to this and let them know whether we would like to be a player or not. I have tried to include in my staff report what I perceive to be some of the pros and cons of participating in such an entity and in effect becoming a shareholder in Bull Run. It is certainly possible that there could be some cost savings due to the economies of scale with such an arrangement. There would probably be some power savings, because we get our water from wells and it takes electrical power to run the pumps to bring the water out. Whereas the water from Bull Run is gravity fed. Frankly, those are the only two pros I could think of. There are some potential disadvantages or at least questions that I think would take quite a bit of effort to try to answer. I think one would be the loss of local autonomy. Right now the water rights that we have belong to the citizens of Troutdale, administered by you the Council on their behalf. That certainly would not be the case if we had this regional water entity and some type of board of directors or commissioners that would oversee that operation. There may also be some difficulty if you have one large regional entity to respond to local needs or desires, fluoridation might be one, some communities may want it and some may not. It may be difficult, if you are all drawing from the same water, to make that differentiation that some communities want made. There certainly could be, as well as economies of scale, some diseconomies of scale. I think if you get a large bureaucracy involved that there may be some additional costs as oppose to cost savings. Questions certainly arise as to what happens to existing water rights, whether they would be shared, merged, transferred to the regional water authority, how would those be handled. The question of standardization comes up as far as the design of your system, the materials you use, the mapping, the telemetry systems, would there be some need or demand that everything be standardized and require many of us to go through some kind of a retrofit that could be rather costly. Most water providers are probably unlike us and have significant water debt. If we are all merged together how would the debt of various organizations be handled? Apparently some employees in some of the water jurisdictions are not PERS employees, so you would have somewhat of a complicated administrative arrangement of how you deal with PERS and Non-PERS employees in the same organization, or how you would convert one to the other. Some issues with possibly having to deal with the "highest common denominator" instead of lowest when it comes to wage scales. On a very local level there is the administrative overhead revenue. Right now, this current fiscal year, the Water Fund pays almost \$170,000 to the General Fund for administrative overhead cost. Certainly one of the things very close to us would be our own employees. As you know, our employees that handle our water issues for us also handle our street issues. If they are lured away to a regional water entity we will lose a lot of historical knowledge and talent. Of course, there is also the issue of what would be the governance arrangement with such an authority. It could be an intergovernmental agreement, it could become a water authority under ORS 450, it could be a water district, a peoples utility district, a non-profit corporation. There is even some talk that the Metro Charter would allow it to become a water supply/distribution role. I think that the questions raised and the potential disadvantages, in my view at least, probably outweigh the advantages and my recommendation to you is that by motion you decline the offer from the City of Portland and

authorize the Mayor to sign a letter to Commission Sten that I have included as an exhibit to my staff report.

Councilor Thompson asked what are the chances that this regional water entity would have to make substantial investments in the infrastructure relatively soon?

Galloway replied I'm not sure of the exact timetable. I think if most of the major water providers buy in to this I think there is definitely going to be a need for major infrastructure improvements. I think there is hundreds of millions of dollars in the foreseeable future.

Councilor Thompson asked are we in any danger of running out of water?

Galloway replied I have no reason to think that we would. We currently have water rights well in excess of the amount of water that we perceivably have a need for. As a backup and to help balance between our different pressure zones, we are pursuing perhaps drilling one more water well in the city to meet our long-range needs. We do have, to handle some of the short-term emergency problems, power outage or equipment failure, we do have inner ties with our neighbors, Wood Village, Fairview and Gresham, so that we can send water either way on a short term basis. Perhaps on a longer range basis, if there were some massive water contamination or something would happen to the aquifer that is unforeseen, we might want to talk to either the Portland Water Bureau or this new regional water authority about some kind of a back-up connection for emergency purposes only. My recommendation at this point would still be that we do not buy-in as a shareholder.

Councilor Thompson stated I agree.

Mayor Thalsofer asked have we ever had a study done on our aquifers to see how plentiful they will be in the years to come, or is there anyway to determine that?

Galloway replied probably the closest thing was during the 1992-93 timeframe when we had our last water master plan done. They did take a look at the basin that those aquifers recharge from and they estimated that the recharge amount was about four times what the withdrawal rate is. So they did not anticipate that there was any likelihood, at least in the foreseeable future, that we would have any difficulty getting the amount of water from it that we need.

Mayor Thalsofer asked do any other entities draw from our aquifers? Wood Village, they have their own wells don't they?

Galloway replied they do and Fairview has there own wells. Many of those are in the same aquifer that we draw from. Most of those aquifers flow in a northwesterly direction so we are upstream from most of those, which probably puts us at a bit of an advantage.

Mayor Thalsofer asked if we drill another well, will that take care of our population at build-out?

Galloway replied yes. The main reasons we would like this additional well is we don't want to find ourselves caught short should one of our existing wells go out for a period of time. So it really is as much for a back up and a contingency need as it is for water on a day-to-day basis. The other thing is we are separated into a number of pressure zones within the city and it is certainly much more efficient if your water supply meets the needs within the particular zone. The zones where we have had the heaviest residential development over the past few years would be the area where we would envision placing the additional well to try to balance that load.

Mayor Thalhoffer asked are the City of Portland wells on a different aquifer?

Galloway replied I am not sure.

Councilor Kight asked in the worse case scenario, if we were not able to use our water and we were not able to get fresh water from other sources like Wood Village, Gresham or Fairview. In an emergency situation could the Sandy River be used if the water were treated?

Galloway replied if it were treated is obviously a big qualifier. I would assume that would be the case. I think the likelihood that all of our wells would go out and something would happen to all of Wood Villages, Fairview and Gresham and we weren't able to get water from Bull Run to feed to us, it would have to be something on a very large scale.

Councilor Kight asked as far as reservoirs and water storage, what level are we at? Do we have a two-day supply, four-day supply?

Galloway replied we currently have four reservoirs that have total storage of six million gallons. Our average usage is about a million and a half gallons per day. So if you look at it in that comparison, one could argue that we have close to a four-day supply. Our peak day usage, on a hot dry day in the summer, approaches three million gallons a day, so if you look at it in that way, we have about a two-day supply. I think if we were in a situation where we had to depend upon those reservoirs, a couple of points; first of all I would hope that people would conserve their usage. Secondly, the greatest likelihood of losing water for an extended period of time would probably be during the winter months when an ice storm or something like that that would cause a power outage, that would be a period where we would be using less water as opposed to more. I think the three-day range is a good estimate to use.

Councilor Kight asked if we were not able to use our pumps, is that all gravity fed from the reservoirs to the homes?

Galloway replied yes. The pumps bring the water out of the wells and get it up to the reservoir but it is then gravity fed from there.

Councilor Kight asked do we have enough reservoir capacity at this time or do you think we ought to add to it?

Galloway replied our water master plan does identify an additional reservoir. We at one time, in the last year, were pursuing that option. We ran into some difficulties as far as siting a location for an additional reservoir.

Councilor Kight asked so you haven't found a site at this time?

Galloway replied we have not and we felt that we were probably accommodating things better by going for the well.

Councilor Kight asked so there are no plans for adding additional capacity?

Galloway replied not in the near future.

Councilor Daoust stated I think we are extremely lucky that our forefathers chose to drill wells rather than hook into Bull Run. Bull Run will in the future run a little short. If they are thinking of adding a third reservoir the Forest Service would have to do an environmental impact statement. To build a third reservoir you are talking about clear-cutting three to four hundred acres of old-growth, with all the impacts on endangered species it would be a tremendous undertaking to add a third reservoir within the Bull Run, would it not?

Galloway replied yes I agree. I am not saying it can't be done, but it will take a lot of time and cost a lot of money and obviously that is why Portland is trying to work with other jurisdictions to make those decisions now to start that process if that is the direction folks chose to go.

Councilor Daoust stated I think the direction we are heading is wise.

Councilor Smith stated a few years ago Portland had a severe water problem. So if we join this regional water entity, and they ran out of water, where would this put Troutdale with our wells if they had to tap into our wells?

Galloway replied I would think if a regional water authority were formed and we were part of that, that those decisions would be made by some type of board of directors and I would assume that the assets of all the entities would be merged. Therefore they could use whatever resources they had to, including our water, to help meet the regions needs. Again, I think those are some of the details of governance that haven't been worked out yet.

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

No testimony received.

MOTION: Councilor Ripma moved that we decline to participate in a Regional Water Initiative and that the Mayor be authorized to sign the letter in the packet. Seconded by Councilor Kight.

Councilor Ripma stated this has been discussed for some time and it has come up a couple of different times at the Metro Policy Advisory Committee. For all of the

reasons that Jim Galloway listed, I think it would not be a good deal for the citizens of Troutdale. I think the Bull Run system has considerable deferred maintenance and Portland is looking for a way out of the big bill. It is okay to approach us and I appreciate being asked, but I don't think it is in the City's best interest to participate.

Councilor Kight stated looking at this the City of Troutdale doesn't derive any benefit at this time. In my opinion, I think the City ought to respectfully decline participating in this organization. As Councilor Ripma stated, the City of Portland has major deferred maintenance, upgrades and capital expenditures to the Bull Run system. I think you are going to see a major increase in the water rates for those water users that are part of the Bull Run system. I think we should remain in control of water system and rates. For that and the many other reasons enumerated by Mr. Galloway, I think we ought to support the Mayor signing the letter declining, at this time, our participation in a regional water initiative.

Councilor Thompson stated I agree. I think we should maintain local control and I agree with the list of reasons given by Mr. Galloway.

Mayor Thalsofer stated I also favor the motion. Some day we may need to rely on some help from other jurisdiction so my decision is based upon economics right now. We have our own system and we were blessed with aquifers and we utilize them. For economic reasons we would be foolish to do anything but rely on our own water system. I also think that this regional water authority is probably a necessary thing for many of the jurisdictions because they get their water from Bull Run and they need to have a say in how that is administered. So I think they are on the right track with this water authority and I commend Portland for wanting to share their water with other jurisdictions.

Councilor Daoust stated being a regional player is important for every city and we try to be regional players whenever we can. With this particular item I think the other cities would understand completely our unwillingness to be part of the larger group. It is completely understandable that we have no need and no benefit with this larger group so I don't think it is really a problem with us saying no.

Councilor Smith stated we have excellent water here in Troutdale. I feel we should keep control of what we have. I think other people see what we have and feel like they need it or will need it and they want us to share ours. We have put a lot of time, effort and money into our system and I feel that it wouldn't be advantageous for us to join at this time.

**VOTE: Councilor Thompson – Yes
Mayor Thalsofer – Yes
Councilor Kight – Yes
Councilor Daoust – Yes
Councilor Smith – Yes
Councilor Ripma - Yes.**

The Motion was approved by a vote of 6 – 0.

8. RESOLUTION: A Resolution establishing and revising specific fees and charges and rescinding Resolution No. 1574. (pertaining to Public Works permit fee, pavement disturbance fee for franchisees and franchise application fee.)

Mayor Thalsofer read the Resolution title.

Jim Galloway, Public Works Director, stated as you probably are aware we have a series of fees and charges established by Resolution 1574 for services the city provides. Among them are a public works permit fee and a pavement disturbance fee. These are charges of \$50 for the public works permit fee and \$.53 per square feet of disturbed pavement that we charge for work done within the public right-of-way. Even though we have those fees on the books, we have run into a bit of a problem when it comes to the Oregon Revised Statutes. There is a particular ORS which gives an exemption to telecommunication carriers if they are paying the maximum franchise fee or privilege tax to a jurisdiction. The language reads that they shall not be required to pay any additional fee, compensation or consideration to the municipality for its use of public streets. So we have a situation where telecommunication carriers, that are franchised by the city, are exempt from those particular fees. So we have not been charging that fee even though our resolution indicates that we should, so part of this is housekeeping to bring things into conformance with the law. Even though the law only grants that waiver to telecommunication carriers, we are recommending that we apply that to all of the utility companies that are franchised by the city, partially to put them all on a level playing field and partially to ease the administrative situation with the city to hopefully keep us from making a mistake. The second item also deals with telecommunication companies and the franchise application fee. As you may recall not to long ago we initiated a franchise application fee of \$2,500. However, fairly recently the 9th Circuit Court of Appeals has ruled on an action involving some jurisdictions in the State of Washington and has found that certain ordinances pertaining to franchises in the State of Washington were in violation of the 1996 Federal Telecommunications Act, which prohibits any local government from doing anything that hinders or may tend to hinder free and open competition among telecommunication outfits. While the court didn't specifically rule that having a application fee did that, it listed several things that these Washington jurisdictions did and said that these things taken together tended to violate the act and threw them out. One of the things that was mentioned was having application fees in the range of \$2,500 to \$5,000. So I think there might be some question if we were challenged on this as to whether or not we would have the authority to enforce them as it pertains to telecommunications firms. Again, we thought to provide a level playing field for all, if we weren't going to charge it for telecommunication franchise applications, we probably shouldn't do it for PGE, Northwest Natural and other utility firms that may apply for a franchise. Our recommendation would be to remove that fee from our fees and charges.

Mayor Thalsofer asked the pavement disturbance fee, our franchise fee is intended to cover that I suppose?

Galloway replied that apparently seems to be the logic that was used when the telecommunications companies were able to get legislation enacted to exempt them from it.

Mayor Thalhoffer stated that pavement disturbance fee, sounded really good to me. There is a lot of pavement disturbance and it is really expensive to fix it. How much of a cost does the city incur when we have a pavement disturbance?

Galloway replied it is a hard question to answer. There are two costs involved. We do require them to obtain a public works permit and that triggers a need for someone in our office to go out and monitor the work and make sure it is restored as close as possible to the way it was before they did the work, so that requires staff time. The second part is that probably no matter how well someone does the patch job on asphalt, it somewhat decreases the longevity that you will get from that pavement and therefore you will have to do an overlay or some type of restoration probably a little bit sooner than you would have otherwise. Calculating that precisely is difficult to do. A lot of it depends on what the age of the asphalt is.

Councilor Kight asked even though we may not be requiring them to pay the fee, is there any inspections done after the work is complete to make sure that the sidewalk and street is left in the same condition prior to the work being done?

Galloway replied yes, if it is a city street. If it is a county street, the county would be responsible and I do think they send folks out to do inspections.

Councilor Kight asked I wonder if it is being followed-up closely enough. These companies are multi-billion dollar companies and when they come through and damage sidewalks and move on to the next job. I want to make to make sure that they leave the street or sidewalk in the same condition that they found it in. Can we require that of the telecommunications industry as well as the others even if there is no fee involved?

Galloway replied yes we can. That language is included in the franchise agreements that we have with all of the firms that use our right-of-way. Obviously, sometimes getting that done is a little easier said than done especially if you have more than one contractor working in an area you get into the finger pointing of who did the damage. Probably the biggest thing we run into is the work being done this time of year, if it is not done to standard and we ask for it to be redone, but then the bad weather conditions hit and we end up deferring it for several months. I don't know to many situations where someone has gotten away but I certainly know of cases where the final repair has taken a lot longer than we would like it to.

Councilor Kight asked could we require this, if we run into bad weather and the street or sidewalk needs to be brought up to the standard in which they found it originally, can we ask those folks to put the money in escrow.

Galloway replied I don't believe that any of our franchise agreements have that provision in there now.

Councilor Kight asked could we include it in there.

Galloway replied we could try to do that at the next renewal time. The difficulty is that the franchise agreements are long-term; most of them are at least ten years.

Councilor Kight asked do we have any of them coming up for renewal?

Galloway replied we will probably see Northwest Naturals soon.

Councilor Kight asked why couldn't we start with them.

Galloway replied let me take a look at that.

Councilor Daoust stated basically we are rescinding three fees.

Galloway replied we are getting rid of one fee, the franchise application. The other two would not apply to firms that are franchised but if there were a development coming in and they needed to cut pavement in order to make a connection to a city utility or private utility, they would still pay the fee because they are not franchised with the city.

Councilor Daoust asked what rationale would Northwest Natural Gas have for asking for an exemption of the pavement disturbance fee?

Galloway replied I don't know what their rationale would be, they have not asked for that. The exemption they asked for was to the franchise application fee. Our rationale for enacting the franchise application fee was to cover the cost of extensive reviews of the documents and legal fees and staff time. Their rationale was that they have had a franchise agreement with us forever, how could we possibly say that we have spent \$2,500 reviewing pretty much the same document that we have reviewed and enacted several times in the past.

Mayor Thalhoffer asked is there anyone here to speak to us on this issue?

No testimony received.

MOTION: Councilor Kight moved that the Council adopt the Resolution establishing and revising specific fees and charges and rescind Resolution #1574. Seconded by Councilor Daoust.

Councilor Kight stated we need to provide a level playing field for all the franchisees within the city. It is my hope that we do include language in future franchise agreements to have an escrow account so if there is damage to the pavement or sidewalk and because of inclement weather they are unable to fix the problem immediately, there will be money set aside so that at a future date those improvements can be made.

Councilor Daoust stated for the public works fee and the pavement disturbance fee, it puts all the utility companies on a level playing field and it does save the city some administrative time. For the franchise application fee, again it provides a level playing field. I do appreciate the responsiveness by staff to recent court decisions.

Councilor Ripma stated I can't believe that Congress intended, in trying to promote telecommunications competition, intended to prohibit these modest and reasonable fees that cities could charge for processing complex applications for digging up all of our streets. However, the 9th Circuit has ruled that this inhibits competition somehow, even though they are all charged the same. This is just another reason why I hope they create another Circuit so we are not in the 9th Circuit anymore. It isn't going to cost the city much, but we are forced to revise our fees so that we take in less fees from people who dig up our streets. I am disappointed that we have to do it but I agree with Councilor Daoust and I commend staff for being on top of this.

Councilor Thompson stated I also intend to support the resolution.

Mayor Thalhofer stated I will also support the resolution.

**VOTE: Councilor Thompson – Yes
Mayor Thalhofer – Yes
Councilor Kight – Yes
Councilor Daoust – Yes
Councilor Smith – Yes
Councilor Ripma - Yes.**

The Resolution was approved by a vote of 6 – 0.

9. COUNCIL CONCERNS AND INITIATIVES:

Mayor Thalhofer called this item.

Mayor Thalhofer reminded the Council of the 4 Cities meeting Thursday at 6pm.

Councilor Kight stated Councilor Ripma and myself met with Commissioner Roberts today and the subject of the meeting was the possible closure of the County jail in Troutdale. Part of the problem with the county right now is they have major shortfalls. They have the capital money, with the passage of the bond measure, to build the Wapato Jail but they would not have enough money to operate both the Troutdale facility as well as the new jail. Lonnie Roberts is proposing to close the facility in Troutdale and the operating funds that they are using for that jail would be transferred to the Wapato Jail. The Wapato Jail will have drug and alcohol treatment as well as incarceration of inmates. Lonnie Roberts will be preparing a press release and will be meeting with the press at the Troutdale jail. We will also lose the current holding facility that we have for people that are arrested in this area. His proposal would be to build a precinct out here in East Multnomah County. The Hansen Building located at 122nd and Glisan, where we currently have the sheriff's office, is a building that

needs to be replaced. One of the ideas that they are entertaining is moving out here to either Troutdale or Gresham or one of the four cities and build a sheriff's office and have a precinct out here that would have a holding facility. There is still a holding facility at the Gresham Police Department and they may reinstate that.

Councilor Daoust stated I am on the Metro Green Ribbon Committee which is taking a look at all the greenspaces that Metro has purchased in the last five years since the greenspaces bond passed. They have accumulated over 7,000 acres of purchased land. The committee is looking at those parcels in connection with trail plans in the region as to which ones should be developed for public access. Troutdale has a project on that list; it is the Beaver Creek trail system. They will be looking at about \$1 million dollars in funding a part of that trail system which extends all the way to Oxbow Park in the regional trail plan. The \$1 million project that they are looking at within Troutdale would be just around Stark Street both north and south of Stark Street. We haven't made a final decision yet; we will probably make a recommendation to the Metro Council in November. I have been talking to other cities about how long their council meetings last. I support the fact that Troutdale has open lines of communication between the citizens and the council and I support the role that the Mayor play in not limiting citizens time to speak to us. The City of Milwaukie has instituted a red or green light system where they give people five minutes and they have a light that comes on and when they have one minute left it turns yellow and when there time is up it turns red. I thought that was an intriguing idea. Maybe we could discuss this sometime in the future, maybe limiting the time to ten minutes and institute something like that.

Mayor Thalhofer stated we can discuss that at our Council relations session that is coming up soon.

10. ADJOURNMENT:

MOTION: Councilor Ripma moved to adjourn. Seconded by Councilor Thompson. The motion passed unanimously.

Meeting was adjourned at 9:25pm.


Paul Thalhofer, Mayor

Dated: 12-12-01

ATTEST:


Debbie Stickney, City Recorder

