



CITY OF TROUTDALE

"Gateway to the Columbia River Gorge"

REVISED 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 December 11, 2001 – 7:00 P.M.

1. **PLEDGE OF ALLEGIANCE, ROLL CALL, AGENDA UPDATE**
2. **CONSENT AGENDA:**
 - 2.1 **Accept Minutes:** October 9, 2001 Regular City Council meeting.
 - 2.2 **Resolution:** A Resolution authorizing the Mayor and City Administrator of the City of Troutdale to execute and endorse an amendment to the agreement with the League of Oregon Cities governing the League status as a unit of local government, similar to other cooperative intergovernmental agencies in which cities create and participate.
 - 2.3 **Motion:** A motion accepting Bank of America's lease purchase extension proposal and authorizing the City Administrator to execute related documents.
3. **PUBLIC COMMENT:** Please restrict comments to non-agenda items at this time.
4. **UPDATE:** An update from the Troutdale Chamber of Commerce.
Diane Mckeel, Executive Director
5. **PRESENTATION:** A presentation by Robert Shields regarding a sustainable energy project in the City of Troutdale.
6. **REQUEST:** A request by Mr. Ron Johnston to amend Troutdale Municipal Code Chapter 13.10.100 relating to street trees.
Rich Faith, Community Development Director
7. **PUBLIC HEARING / ORDINANCE (Introduction):** An Ordinance granting a non-exclusive franchise to Northwest Natural Gas Company.
Jim Galloway, Public Works Director

8. **PUBLIC HEARING / ORDINANCE (Introduction):** An Ordinance modifying procedures for public contracts and amending Chapter 2.24 of the Troutdale Municipal Code. Jim Galloway, Public Works Director

9. **COUNCIL CONCERNS AND INITIATIVES:**

10. **ADJOURNMENT:**



Paul Thalhoffer, Mayor

Dated: 12-10-01_____



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Paul Thalhofer, Mayor

Dated.: 12-5-01

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

December 11, 2001

Mayor Thalhofer called meeting to order at 7:01pm.

1. PLEDGE OF ALLEGIANCE, ROLL CALL, AGENDA UPDATE

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

PRESENT: Smith, Thompson, Thalhofer and Kight.

ABSENT: Ripma (excused), Rabe (excused) and Daoust (excused).

STAFF: Faith, Galloway, Keebaugh, Kvarsten, Sercombe and Stickney

GUESTS: See Attached List.

Mayor Thalhofer asked are there any agenda updates?

Kvarsten replied Mayor and Councilors I believe you have the revised agenda which includes an addition to the consent agenda, item 2.3 which is a motion accepting Bank of Americas lease purchase extension proposal authorizing the City Administrator to execute the documents. We have no other changes this evening.

2. CONSENT AGENDA:

- 2.1 Accept Minutes: October 9, 2001 Regular City Council meeting.**
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- 2.3 Motion: A motion accepting Bank of America's lease purchase extension proposal and authorizing the City Administrator to execute related documents.**

MOTION: Councilor Thompson moved to adopt the consent agenda. Seconded by Councilor Kight. The motion passed unanimously.

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

Mayor Thalhoffer asked is there anyone here that would like to speak to us on a non-agenda item?

Bruce Standard stated I am on the Parks Advisory Committee. I come before you with regards to some concerns and goal setting for the next year. As you know the parks bond issue that passed in 1992 is about to be paid off in the next year. That was a \$600,000 bond that passed by a good majority, I think it was 3 to 1. That money is gone and we are broke. In setting our goals for next year and we want to make some improvements in the existing parks system and also think of the future. We have a certain number of projects that we want to finish. We had a Master Plan drawn up in 1995, if you go back and look at the plan it has a lot of concepts and ideas for future growth and there are some new things that have come along. We are asking you to look at the possibility of passing a bond issue next year that would enable us to fund things like a skateboard park, ball parks and improvements in each of the neighborhood parks. I think it will be between \$1 and \$5 million. I would like for you to consider putting that on an upcoming meeting agenda so that you can give us some direction. We would like to be able to start doing some planning and hopefully be able to put it on next November's ballot, it is either that or wait until 2004 for the next general election.

Mayor Thalhoffer stated we will give it some serious consideration and plug it into the budget process.

Dave Nelson stated I am also a member of the Parks Advisory Committee. I would like to say that we have had long discussions at our meetings about what to do with this, it wasn't just an overnight discussion. One of the reasons for that is because of the increase in population and growth in our community since this bond measure passed. We have almost doubled our population which means we need to do something for those people in the community. We need to consider the wellness of the community and not forget that the people are out there and supporting us. We need to try to touch base with a lot of people not just a few. What I mean by that is a skateboard park is just one of the items, the football field is another item but there are a lot of other people out there that want to play basketball and so on. We need to have some long-term goals and it might be advisable to think about revising that master plan as well as adding to the ideas that are already present. The reason we are coming to you is because we need some money to accomplish those kinds of things.

4. UPDATE: An update from the Troutdale Chamber of Commerce.

Mayor Thalhoffer called this item.

Bob Branner, Member of the Board of Directors of the Troutdale Area Chamber of Commerce and a member of the Financial Committee, stated we would like to report on our fiduciary responsibilities to the funds that are entrusted to us through ordinance 670, which was passed in May of 1999, from the transient lodging tax to provide a visitors center to the City of Troutdale. The visitor's center in the calendar year 2000 had approximately 9,000 visitors.

The year to date figure for 2001 we have seen a 33% increase, we will have over 12,000 visitors. Visitor and relocation packets that have been given out have increased by 39% in the past year. There is a lot of interest in our community. We feel that a lot of the increase in the number of visitors is due to the new signage for the Oregon Visitors Center, which helps with the directional problem that we had in the past. Also part of the increase is due to the advertising that the Chamber does in the various magazines touting our community as a place to visit. The calendar year income from ordinance 670 was \$42,327.68, all of which was spent for operating costs of the visitor center. We would like the Council to know that the Chamber has in place accounting controls to assure that all funds that have been allocated are expended properly.

Diane Mckeel, Executive Director Troutdale Chamber of Commerce, stated I would add my thanks to you. We are very excited about the increased number of visitors. We work very hard at that. We are looking forward to the upcoming Lewis and Clark Bicentennial Commemoration; many visitors are expected. We do thank you for this help it is very needed.

5. PRESENTATION: A presentation by Robert Shields regarding a sustainable energy project in the City of Troutdale.

Mayor Thalhofer called this item.

Robert Shields, Executive Director of The Peoples Alliance for Local Systems read a letter which is contained in the packet.

Mayor Thalhofer asked Mr. Kvarsten could you take this and come back to Council with a recommendation on how we could fund this and from what fund we could draw from.

Erik Kvarsten, City Administrator, replied yes.

Mayor Thalhofer asked could you have that ready for the next meeting?

Kvarsten replied yes.

Mayor Thalhofer stated we will hear from Mr. Kvarsten at the first meeting in January on a recommended source of funding.

Shields stated I have given Mr. Kvarsten several sources of grants that the city could qualify for that would allow the city to fund this pilot project.

6. REQUEST: A request by Mr. Ron Johnston to amend Troutdale Municipal Code Chapter 13.10.100 relating to street trees.

Mayor Thalhofer called this item.

Rich Faith, Community Development Director, stated at your February 13th meeting Mr. Johnston, who is the developer of Sandy Heights Subdivision located along Start Street, attended the meeting and was asking the Council to modify a condition that had been

imposed on the approval of his subdivision by the Planning Commission. The particular condition that he was seeking modification or waiver from was that of having to pay the city the assessment for street trees that are put in the public streets of the subdivision. Specifically he was asking that he be allowed to plant the trees himself rather than have to pay the assessment of \$150.00 per tree, which goes toward buying the tree and having city staff install them. Mr. Johnston's request was referred to Marnie Allen, City Attorney, to research. Ms. Allen concluded in a memorandum to the Council, a copy of which is attached to my report, that the Council really does not have the authority to modify the plat condition. She went on to report in her letter to you that the conditions that were imposed by the Planning Commission merely reflects a requirement that comes right out of the Troutdale Municipal Code Section 13.10.100, which regulates street trees within subdivisions. In that letter Ms. Allen further informed the Council that before you could grant Mr. Johnston his request allowing him to plant the trees in that subdivision in lieu of paying the street tree fee that the Council would need to amend Section 13.10.100 of the Municipal Code. That message was also conveyed to Mr. Johnston in a separate letter that Ms. Allen sent to him, which is also attached to my staff report. After receiving that letter from the City Attorney Mr. Johnston indicated to me that he would like to pursue this matter with the Parks Advisory Committee or whatever method is necessary to make that change to the code. His request was referred to the Parks Advisory Committee (PAC) at their May 15th meeting. At that meeting Mr. Johnston presented his case to the PAC and after some discussion and evaluation the PAC unanimously decided to reject Mr. Johnston's request to amend the street tree ordinance, specifically the requirement that the developer pay an assessment to allow the city to purchase and install the trees. The rationale for that decision by the PAC was that this system has been in place for many years, it has worked very well for us and we see nothing wrong with it and basically this is the first time that a developer has ever come forward saying that he doesn't care for this system and would like to see it changed. In short, they didn't see anything broken that needed to be fixed. Mr. Johnston indicated to me in a letter of October 28th that he would like this matter to go before the City Council. Some background on this particular issue; the requirement for a street tree assessment was incorporated into the Troutdale Municipal Code, Chapter 13.10 in March of last year when the tree ordinance underwent a major overhaul. The process that is outlined in Section 13.10.100 formalized the process that the city had been following for many years but it had not actually been spelled out in the Municipal Code. That procedure evolved over many years as we have implemented our street tree program. It is the result of the lessons that we have learned and the pitfalls that we have experienced over time. The major pitfalls that we experienced with the street tree program in the early years when the private developer was allowed to install the trees were these: 1) poor species were often selected resulting in trees that were not appropriate for planting in the three feet wide landscape strip; 2) the trees planted by the developer at the time the subdivision was constructed would be removed or damaged by the home builder during the construction phase of the home; 3) the trees planted by the developer prior to the home being built would not be watered during the hot summer season if the home wasn't there or there was no occupant on the lot so the tree would die; 4) trees planted prior to the home being built often had to be removed because they were placed where the driveway would go and that wouldn't be known until the individual home was sited on the property. We have learned over time that it makes more sense to wait until the homes are in and the occupants are there and then the city staff will take the money that

was collected for the street tree and purchase the tree and materials and then plant the tree. We also provide some maintenance or care to make sure that it survives. Mr. Johnston has already paid his street tree assessment, which was necessary for him to record his final plat. He has paid the city an assessment of \$6,300 based upon 42 street trees that will be planted within that subdivision. In order for Mr. Johnston to get that money back there are two things that are necessary. First the Council would have to amend the Tree Ordinance so that developers of residential subdivisions are not required to pay a street tree assessment. In conjunction to that the amendment must be made retroactive to a date prior to the Planning Commission's approval of the Sandy Heights subdivision. Secondly, the Council would have to amend the Troutdale Development Code to add provisions that allow interested parties an opportunity to seek modifications to previously imposed conditions after the appeal period has expired. That is the case here, Mr. Johnston is raising this issue many months after the final decision was rendered, the conditions were imposed, the notice of that decision and his rights of appeal were all given to him and he selected not to exercise them at that time and now he seeking to. In summary, the PAC reviewed this matter and they unanimously rejected the proposal that Mr. Johnston is making for all of the reasons that I have outlined in the staff report.

Councilor Kight asked if you plant the trees and you come back a couple of months later and the tree did not get adequate water and it dies, do you replace the tree?

Clyde Keebaugh, Parks Supervisor, replied within the first year we will replace the tree.

Councilor Kight stated so it is not just a case of planting the tree but there is maintenance involved, watering during the dry months. Is there any other maintenance involved?

Keebaugh replied we supply the homeowner with instructions on the care of the tree. We do warranty the tree for a year.

Councilor Kight asked so there are costs involved, it is not just the case of one tree being planted. If it fails then the city is responsible or has the liability to replace that tree, is that correct?

Keebaugh replied yes. We stake the trees for two years and then after the two years we come back and remove the wires and pull out the stakes. After that the trees are out from under our care but then they fall under the care of the Greenway Coordinator who responds to questions and concerns about pruning and care of the tree. The city will pretty much respond to those street trees for the life of the tree.

Councilor Kight asked so there isn't just the initial cost of planting the tree, there is other additional liabilities and costs that are incurred during the life of the tree?

Keebaugh replied yes.

Mayor Thalhoffer asked at what point and how is a person notified that they have the right to appeal?

Faith replied when the Planning Commission renders its final order, which is there decision and those conditions that go with the decision, the applicant is sent a copy of the final order and there is a transmittal letter that goes with it that informs the applicant of that decision and their appeal rights. It spells out very clearly that they have 10 days in which to file an appeal if they disagree with the decision or the conditions.

Mayor Thalhoffer asked is that sent by regular mail?

Faith replied yes.

Mayor Thalhoffer asked is this the first time this has come up?

Faith replied in my seven years here this is the first time I have heard of anyone not being happy with the program. In fact in most cases the developers are very happy that they don't have to deal with it.

Ron Johnston stated what I am asking for is to have the option and I think that most builders, developers and homeowners would like the option to be able to plant their own trees. One comment that came up at the meeting with the PAC was that no one else has complained about it so I went and did a survey of some builders and developers in the Troutdale area and there are other people that would like to have the opportunity to plant their own trees. I am not saying that some people wouldn't be interested in having the city plant the trees, but it would be nice to have the option. What is happening here is the city is requiring the trees and then they are turning around and saying that they are the only ones that can plant the trees. That is not a free enterprise system. I am sure that there are a lot of landscapers that would like to have the opportunity to be able to bid on the job and they don't have that opportunity in Troutdale. They have that opportunity in other jurisdictions, I gave you a list of your neighboring communities and to my knowledge Troutdale is the only one that requires not only that the street trees be planted but they are the only ones that can plant them. The four issues that Mr. Faith brought up, as far as tree types the City of Troutdale does have a list of the types of trees that are allowed. As far as trees being removed, that is a possibility. We have had trees removed in subdivisions and replanted and they survived just fine. In my project all of the driveway approaches have been installed so everyone knows where the driveway is going to be, so that is not an issue in my project. Watering trees, last year we planted some trees along Start Street in the county strip and we watered them all summer and they are all doing just fine. Most developers would take care of the trees because that enhances their project. I was notified of my appeal rights, that is true. I objected to the condition at the public hearing and that is part of the public record, but the reason I did not pursue it was because of the delay to the project with the appeal process. I am looking at the big picture. At the PAC meeting it was mentioned that in the 1980's the city did have the option for the developers and builders to supply their own trees. It was taken away because so many projects had gone into foreclosure and bankruptcy and developers walked away from projects. You can simplify that by making the requirement that upon the completion of the house that a tree be installed or have a bond posted in lieu of a tree until such time that a tree can be planted. There are ways to resolve those issues quite easily. Also at that

meeting it was stated that the trees actually cost the city \$127.00 to install versus the \$150.00 that they are charging for them. I am just asking to amend the tree ordinance to give the option to the homeowner, builder and developer to supply their own trees.

Mayor Thalhoffer stated we have a request by Mr. Johnston and we can either approve the request or deny it. The Chair would entertain a motion.

MOTION: Councilor Kight moved to deny the request of Mr. Johnston. Seconded by Councilor Thompson.

Councilor Kight stated Mr. Faith spoke to this by saying that in fact there is nothing broken with the tree ordinance program that we have. Clearly it is not just a case of planting the tree and watering and hoping it takes root and going on to the next project. The City takes a real interest in this, particularly the parks department in maintaining those trees making sure if they are damaged or if they don't take root and it dies, the city has a warranty for at least that first year. I think one reason this tree program was established was the fact, as Mr. Johnston pointed out, is that a lot of the projects were not completed, people pulled out of subdivisions that we not complete and houses were only partially built. We may be headed into a similar type of environment. I would hate to have a subdivision put in and then there wasn't a completion and the trees did not get installed. Mr. Johnston offered the option of posting a performance bond. The problem with that is that someone has to monitor and make sure that the trees are installed properly and are staked properly and there is ongoing maintenance as well as observation of the trees to make sure it is healthy and it will last. More importantly if it doesn't last or it is damaged it is going to end up being replaced. I think he does make an argument that the cost seems higher than it should be. There is no doubt that when you look at what it cost to buy a tree from a wholesaler and compare it to the cost of the city installing, there seems to be disparity. However, when you look at the maintenance and labor involved in that it may not be competitive with landscaping companies, but there is ongoing maintenance on the part of the city. That is one of the reasons that I am not going to support changing the street tree program that we have.

Councilor Smith stated I feel that we have something in place because if you go out to our older neighborhoods and some of the sidewalks have been damaged because of the trees that have been planted that have root systems that destroy the sidewalks. Not saying that Mr. Johnston wouldn't put the correct trees in, but we now have something in place that is working and I feel like we should stay with it.

Councilor Thompson stated I think that our current ordinance is working fine and is successful in the City of Troutdale and I favor keeping it.

Mayor Thalhoffer stated I also favor the motion. However, I can understand Mr. Johnston's approach to this because he is actually in the business of growing trees. He is in a situation that not too many developers are in, so I can appreciate that. I feel

that you had an opportunity to appeal and you chose not to at the time and you gave a reason why you didn't which makes sense.

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

7. PUBLIC HEARING / ORDINANCE (Introduction): An Ordinance granting a non-exclusive franchise to Northwest Natural Gas Company.

Mayor Thalhofer read the Ordinance title and opened the Public Hearing at 7:55pm.

Jim Galloway, Public Works Director, stated I am sure you are aware that for many years the City and Northwest Natural Gas Company have had a franchise agreement, which allows the gas company to utilize the city right-of-way under certain terms and conditions in return for a franchise fee paid by the gas company to the city. The most recent agreement was formalized by Ordinance 567 in March of 1991 and that agreement expired earlier this year. We have negotiated a renewal franchise agreement with Northwest Natural for the same economic consideration as the previous agreement. The new agreement would become effective when accepted by NW Natural, after Council approval, and would be in effect for a period of ten years. In preparing this ordinance staff utilized a model ordinance agreement developed by the City Attorney's Office modified slightly to fit the specific situation with NW Natural. We think it is one that is a little bit clearer and provides adequate protection to the city in some areas that have been a concern to the Council recently. Staff recommends enactment of the proposed ordinance.

Council had no questions.

Mayor Thalhofer asked is there anyone here that would like to speak to us on this issue?

No testimony received.

Mayor Thalhofer closed the Public Hearing at 7:56pm and stated that a second hearing will be held at the January 8th Council meeting.

8. PUBLIC HEARING / ORDINANCE (Introduction): An Ordinance modifying procedures for public contracts and amending Chapter 2.24 of the Troutdale Municipal Code.

Mayor Thalhofer read the Ordinance title and opened the Public Hearing at 7:57pm.

Jim Galloway, Public Works Director, stated the proposed changes to Chapter 2.24 of the Troutdale Municipal Code (TMC) primarily deal with changes to our code to incorporate changes made by the recent session of the Oregon State Legislature. Specifically there were changes to the subcontractor disclosure requirement contained in HB 2052 that we have incorporated into section 2.24.100 of the TMC. This primarily deals with clarifying the public contract agency's responsibilities and that process for subcontractor disclosure. We have

also incorporated changes that came from SB 507 regarding workers compensation into section 2.24.105 of the TMC. We have also included changes resulting from HB 2617 regarding disqualification from public contract bidding. Primarily that changes that someone can be disqualified from bidding if they don't carry workers compensation or unemployment insurance as required by state law. Those changes were included in section 2.24.150 of the TMC. Lastly, we incorporated changes enacted by HB 3424 in section 2.24.185 of the TMC pertaining to a copy of the subcontractor notification to be provided by the city to the Bureau of Labor and Industries. While we were going about this particular revision we also took a look at section 2.24.240 of the TMC, which pertains to the informal selection process for personal service contracts. We felt that it was a little confusing and unclear and we have revised that language to make it clearer as to how the city would proceed in that informal selection process.

Council had no questions.

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

No testimony received.

Mayor Thalhoffer closed the Public Hearing at 7:59pm and stated that a second hearing will be held at the January 8th Council meeting.

9. COUNCIL CONCERNS AND INITIATIVES:

The Council wished everyone a Merry Christmas and Happy New Year.

10. ADJOURNMENT:

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

Meeting was adjourned at 8:00pm.


Paul Thalhoffer, Mayor

Dated: 1/25/02

ATTEST:


Debbie Stickney, City Recorder

