

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

Tuesday, March 9, 2004

1. PLEDGE OF ALLEGIANCE, ROLL CALL, AGENDA UPDATE.

Mayor Thalhofer called the meeting to order at 7:00pm.

PRESENT: Mayor Thalhofer, Councilor Gorsek, Councilor Ripma, Councilor Thomas, Councilor Kight, Councilor Kyle, and Councilor Daoust.

ABSENT: None

STAFF: Jim Galloway, Interim City Administrator; Rich Faith, Community Development Director; Marnie Allen, City Attorney; and Debbie Stickney, City Recorder.

GUESTS: See Attached List.

Mayor Thalhofer asked are there any agenda updates?

Galloway replied there are no updates.

2. CONSENT AGENDA:

- 2.1 Accept Minutes:** January 13, 2004 Work Session and January 20, 2004 Work Session.
- 2.2 Resolution:** A Resolution recognizing the completion of public improvements associated with the Gentry Heights residential subdivision and accepting those improvements into the City's Fixed Asset System.
- 2.3 Motion:** A Motion to approve an employment agreement for the City Administrator.

Mayor Thalhofer read the consent agenda.

MOTION: Councilor Daoust moved to adopt the consent agenda. Seconded by Councilor Kyle. Motion passed unanimously.

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

Lorne Mitchell requested some assistance to resolve a billing issue with Waste Management.

Mayor Thalsofer asked Mr. Galloway to contact Mr. Mitchell.

Terry Waddell and Chris Thomas provided a handout to the Council (a copy is included in the packet) that showed the results of an audit to determine if customers on the north side of Historic Columbia River Highway were satisfied with their service and to review the accuracy of their service and billing records. This was done in response to a complaint from a downtown business owner during the Council's January 27th meeting where they discussed solid waste rates.

4. REPORT: A report on the Multnomah County Road Jurisdiction Study.

Commissioner Maria Rojo de Steffey stated this road study is the most current effort to examine the issue of road jurisdiction. I was pleased to be able to retain Vic Rhodes as a consultant for this process. Vic has made a recommendation for how transportation services might be delivered in the future, which he will be presenting to you.

Vic Rhodes, consultant for Multnomah County showed a power point presentation outlining the methodology used, key findings of the report, the options considered, his recommendation, what he believes the result of his recommendation would be and what the next steps are.

Vic Rhodes stated we have talked to over forty people throughout the Metropolitan area to try and get a sense of everyones perspective and the history of the issue. At the same time Multnomah County conducted a series of focus groups with all of their employees because we realize these people were being impacted by the fact that there was yet again another study. We then went on to evaluate five options, which I will discuss. I wasn't satisfied with any of the options. I thought they all had some shortcomings and again trying to be respectful of everyones interest, I came up with an independent recommendation that builds on one of those options. In terms of key findings, no matter who I talked to I never heard once that there is a problem with maintenance. When I asked about maintenance the reply would be that maintenance is great; the County provides good services. I think it is important to recognize that three-quarters of the road mileage owned, operated and maintained by Multnomah County is in the rural areas for which Commissioner Rojo de Steffey and her colleagues are solely politically accountable for. The East Multnomah County Transportation Committee, in my opinion, has become somewhat fragmented. I think it could be built into a stronger body and have more sway at the regional table in terms of getting federal funding. Capital planning should span the jurisdictional boundaries and political boundaries. I think there is a conflict in the land use road standards that exists. Finally I think your Mayor, and Mayor Fuller as well, expressed some interest in having stronger leadership in policy guidance with whatever remains at Multnomah County's Transportation Department. In terms of service delivery options, Option A is status quo. Option B would be to transfer the jurisdiction of the roads to Gresham, transfer a commensurate amount of the money, people

and equipment to Gresham. That would be about a 15% to 17% transfer and tends to fragment the maintenance operation. Option C would be to transfer all of the roads within the incorporated areas to the various cities and have one jurisdiction assume responsibility for the maintenance. That could be Multnomah County, Troutdale, Gresham, Fairview or Wood Village. Option D would simply get the County out the transportation business in its entirety. Not only would we transfer all of the roads in the urban area but you would assume contract responsibility for the rural areas and give the Willamette River Bridges to the City of Portland. Option E is the new governance structure where we would create a Multnomah County Transportation Commission, which would consist of the four Mayors in East County as well as a Multnomah County JPACT representative. The effort there would be to try and provide a different government structure for capital planning. My recommendation is I think the cities should have the local option of assuming ownership and jurisdiction of the roads. Secondly, regardless of jurisdictional transfers, I think it is important that we keep the Multnomah County Maintenance Department in one piece. It makes no sense in my mind to split off 15% of the people, money and equipment and give it to Gresham. With respect to road engineering and CIP operation support, this is what I call the hold harmless clause in the report. Basically it says lets not change the service level in the rural areas or for the cities that don't choose the local option. We would go in and identify the road engineering positions that are necessary to support the Willamette River Bridges, the rural areas, any cities capital program that didn't go with the local option retain those at Multnomah County and by default whatever remains in terms of those technicians and engineers would be doing Gresham's work and should be transferred to Gresham. Multnomah County has a judiciary responsibility to the county surveyor tied up in the Oregon Revised Statutes, that should remain with the County. The Willamette River Bridges and other structures not transferred as a result of the local option should remain with the County. Finally, the water quality program should remain with the County, any jurisdiction that accepts ownership of the roads would than accept the water quality issues that come along with it. I also recommended that a Multnomah County Transportation Commission be created to govern transportation and capital improvement planning in the urbanized areas. Finally I recommended that the County freeze hiring in the department until all of this is settled. What does all this result in? I think it results in allowing the local cities to control their destiny in terms of what their transportation system looks like, how it functions and how friendly it is. It allows you to control your destiny in terms of meeting your urban design objectives. In terms of the next step, we presented this to the Board, which asked us to go out and brief all of the City Councils. Based on that outcome we will come back with a resolution to the Board suggesting that we go into Phase II of this effort to better define the exact specifics of how the Multnomah County Transportation Commission would work, under what guidelines and guidance and specifically identify the positions in the engineering area that may move to Gresham or other cities.

Councilor Gorsek asked would the rural areas subcontract with the County or the cities?

Vic Rhodes replied under my recommendation the County would continue to maintain all the roads regardless of whether some of them are transferred to the cities, and that would include the rural roads.

Councilor Ripma asked if we recommended that you didn't go forward with this, would you stop? Troutdale is on record from years back as not wanting the transfer of roads to Gresham. I recommend that you don't go forward with this. I am wondering where this study would go, are you prepared to just stop it at this point?

Commissioner Rojo de Steffey replied I can't do that, but after we receive all of your feedback and I take it back to the Board, they can certainly make that decision.

Councilor Ripma asked was this study financed by the County?

Commissioner Rojo de Steffey replied yes.

Councilor Ripma stated you mentioned going on to Phase II. Before you are done with Phase I can you meet with us at a work session?

Vic Rhodes replied yes. Fairview had the same request.

Councilor Ripma asked are you planning on bringing this report before East Multnomah County Transportation Committee (EMCT)?

Commissioner Rojo de Steffey replied we would be happy to bring this report to EMCT to have feedback from that group.

Councilor Ripma stated Option E is clearly your recommendation. Would approximately 15% of County owned roads go to Gresham if they opted for that and under that option would there then be 15% of the commensurate fiscal human and equipment resources going to Gresham? Is that what Option E means?

Vic Rhodes replied no. What my recommendation is, if Gresham accepts ownership of 15% of the County roads the County would keep all of the money, people, equipment and all the facilities and continue to maintain those roads that Gresham is now owner of, the same as we have in the past. The only transfer of personnel that would occur in this option is that we identify the engineers and technicians in the capital area that are necessary to support your program and the other cities that don't go to the local option as well as the rural areas. Once we have identified those people the balance could only be working on one thing and that would be stuff in Gresham, so in theory we would transfer those people.

Councilor Ripma stated so Gresham would accept ownership of the roads under Option E, they would get a few of the people, engineers and technicians, but none of the money, facilities and none of the resources. Is that what I am hearing?

Vic Rhodes stated only the capital funds associated with the two or three people in the capital area. They would not take a dime of maintenance money away from the County and they would not take any maintenance equipment or maintenance personnel. They County would then, by contract with Gresham, continue to maintain the roads that they previously owned.

Councilor Ripma asked how much of the County's capital money would go to Gresham?

Vic Rhodes replied what I recommend is that the Multnomah County Transportation Commission would set those capital priorities and extend the capital money across boundaries working together to figure out what the priorities are.

Councilor Ripma stated I am concerned that Gresham won't buy that. If we go forward with the plan that you are outlining with the County retaining all of the money and very little of the capital planning going to Gresham and all of the infrastructure and maintenance staying with the County, that is attractive to Troutdale I think. What would worry me is in Phase II Gresham would insist on the capital money. Is there some way that this can go forward without that being an option?

Vic Rhodes replied the council in Gresham did not raise an objection. I think the key in this, so that it doesn't digress after you enter into Phase II, will be the way that the Board's Resolution is written.

Commissioner Rojo de Steffey stated if we decide to go forward, you are absolutely right, it has to be an ironclad agreement that we all have to agree to. Frankly I don't know if that is possible at this point.

Mayor Thalhoffer asked how can we be sure that this agreement will last for very long when previous agreements have not?

Vic Rhodes replied I think it is going to take the cooperation of all the jurisdictions to resolve the issues. One of the things that I am recommending is that should this new Multnomah County Transportation Committee actually be able to come up with a unified position and unified capital plan, that the Board of County Commissioners should then consider possibly raising the county gas tax by \$0.01 to fund that plan. I think that is the carrot that we can use to hold people at the table and get them to work together. I don't know any way that you can contractually lock this up.

Mayor Thalhoffer asked is there anything we can do with this agreement to strengthen the Multnomah County Transportation Department and get it to the point where it is better organized than it is now? I think there are some problems within the Transportation Department that need to be corrected and there may need to be some leadership changes. There needs to be something done so they can be better able to comply with requests. They have been really good to work with over the years except recently.

Commissioner Rojo de Steffey replied that would be a good conversation to have in a work session with you where we can talk about the specific issues.

Councilor Kight asked who is driving this study and who asked to have this study done?

Commissioner Rojo de Steffey replied Chair Linn and myself.

Councilor Kight asked did that request originate from the City of Gresham?

Commissioner Rojo de Steffey replied I would say yes. The City of Gresham has been pushing for this for years.

Councilor Kight asked what do you think the general feeling of the Board is?

Commissioner Rojo de Steffey replied I think for the most part people are open to hearing from you. Some of us have not made any judgment on this study or made a decision on what should happen. We are very open to trying to figure this out with everyone.

Councilor Kight asked Vic you indicated that there would be stronger representation by having one JPACT representative and the four mayors, could you explain how that works because with EMCT each one of the cities has a vote?

Vic Rhodes replied and each of the cities would have a vote in this new forum. What I was trying to say is that the County would maintain their current JPACT representative but the representatives from this new group that is formed is bound by that group to represent that groups majority opinion or consensus.

Councilor Kight stated that is the case now. You mentioned that there are flaws with each of the options outlined. What is the flaw with your preferred option?

Vic Rhodes replied how to get the four jurisdictions to come together and to stay together and to work for their mutual future.

Councilor Kight stated what I am concerned about is that this becomes the starting point for that other jurisdiction to acquire not only the physical assets but also the capital improvement money. One of their major complaints is that they are using their own transportation funds in order to improve county roads with no match from the county. I can see where this is going; the main focus is always on the money. Gresham's main point of contention is the money issue, until that area is resolved nothing is going to change.

Vic Rhodes stated if we move forward into a Phase II we need to nail down the details and specifics in the language and we need to incorporate something in the Board Resolution on those points and have it stipulate how it is going to be done.

Councilor Daoust asked what are the benefits of ownership if under your preferred option the County maintains all maintenance?

Vic Rhodes replied you then begin to have the control of the design features like how wide are the lanes, what are the amenities you provide, and what does the urban streetscape look like. It allows you to determine what your intersection spacing is going to be and where you are going to put driveways. It eliminates a major friction between the two jurisdictions that occurs today over those very issues.

Councilor Daoust replied your preferred option sounds okay to me. I see where the Multnomah County Transportation Committee is key to making this work. Would the transportation committee decide on maintenance schedules in addition to capital improvements?

Vic Rhodes replied I didn't recommend that. I think the professional management of the maintenance operation at Multnomah County does an outstanding job of prioritizing. I think that what we need to do, if this were implemented, is in two or three years go back and audit service levels.

Councilor Daoust asked would the Multnomah County Transportation Committee's role be to apply for grants?

Vic Rhodes replied it could be or it could be the local jurisdictions. I didn't get that far into it.

Councilor Ripma stated regarding the proposal for the \$0.01 gas tax, correct me if I am wrong, but one of the reasons that the County has not sought an increase in that gas tax over all these years is that it would possibly jeopardize the \$0.03 gas tax we have now if you go for a \$0.04 gas tax and it is voted down.

Vic Rhodes stated as I understand it you would not go for a \$0.04 gas tax, what we would do is go for a \$0.01 gas tax increase and the \$0.03 would still be there.

Councilor Ripma asked if it raises \$22 million over ten years, that is countywide isn't it? In other words 80% of that would go to Portland.

Vic Rhodes replied what I am suggesting is that this be raised strictly for this purpose and not be part of the formula. We would have to bring Portland to the table.

Councilor Ripma asked under Option E as set forth on page 17, you are proposing that the Executive Director employed by the County be responsible for management of land use and transportation be hired by the Multnomah County Transportation Commission, am I reading that right?

Vic Rhodes replied that is what I put in Option E. Based on a number of comments I have heard about that, when I wrote my recommendation I backed off the Executive Director notion and said lets move the County's Transportation and Planning staff to work with these folks and lets let that group of four mayors and commissioner put someone in charge. What I have tried to do is suggest to the county staff that the accountability lines have now changed. They are no longer working strictly for Multnomah County but they are working for all of the four cities combined.

Councilor Ripma asked why do you think the four mayors with the JPACT representative are going to be any better at making regional decisions smoothly without disagreement?

Vic Rhodes replied what has transpired in the past with respect to JPACT representation of the small cities hopefully would be avoided in the future.

Councilor Ripma stated it would still be a representative chosen by all of us, and Gresham would get its turn.

Vic Rhodes stated we are trying to find a legal mechanism in creating this commission that would bind the JPACT representative to representing the commission's consensus or majority vote.

Councilor Ripma stated I share Councilor Kight's view, that really does happen now.

Councilor Thomas stated I think we need to take a look at the 80/20 split regardless of what we do.

Councilor Daoust stated I asked Vic what the benefits of ownership was, it sounded like feasible attractive benefits. My question to the Council is what is wrong with getting ownership of the roads if in deed Multnomah County still does all the maintenance? Ownership gives us additional flexibility in design and location of stoplights.

Councilor Ripma stated the benefits outlined in adopting Option E are phantom benefits without the money. We have always worked very well with the County. The problem with Gresham is they don't work well with the county.

The Council asked Vic Rhodes to bring this back to the Council for further discussion at a work session.

Mayor Thalhoffer called for a break at 8:47pm and reconvened the meeting at 8:58pm.

5. PUBLIC HEARING / ORDINANCE (Introduction): An Ordinance amending Title 13, Street Trees, Park and Recreation Areas, of the Troutdale Municipal Code.

Mayor Thalhoffer read the ordinance title and opened the public hearing at 8:58pm.

Rich Faith, Community Development Director stated in Chapter 13.10 under definitions, we are recommending the elimination of the term "public" because the definition that is actually given is more a definition of public land and in going through the entire chapter I couldn't find the term public land used. In Section 13.10.070 we are clarifying that the street tree funds can only be expended in accordance with the specific provision of the chapter. It also clarifies that gifts to the city for planting and maintaining of street trees can either be in the form of funds or materials. Section 13.10.090 requires permits for any property owner that is going to prune, remove or plant a street tree. We are adding an exception, at the request of our public works department, that if the work is being done by city employees, acting in their capacity as city employees, the requirement for the permit will be waived. The changes in Section 13.10.100 will reflect more accurately how our street trees are handled between residential and non-residential developments. Our current practice is that the developer of a non-residential subdivision is required to put those trees in at the time of the development of

the various lots. In the case of the residential subdivision the developer is actually assessed for the street trees, pays the assessment to the city and the city then purchases the trees and plants them after the houses have been built. Another important addition in this section is that we are actually spelling out a formula for how we are going to determine the number of street trees that will be assessed to the residential developer. The amendments also allow the trees to be planted in areas other than the street landscape strip. In Chapter 13.20, Section 13.20.040 we are proposing that the parks closing hours be changed from 10pm to 9pm during the summer season and from 8pm to 6pm in the winter hours. The reason for this change is that we are trying to bring those hours more in line with when it actually gets dark. In Section 13.20.090 we are now requiring any size group that wants to reserve use of our park facilities to obtain a permit. In Section 13.20.100 deals with overnight camping. We are proposing to delete this section because all of our parks close at dark or the hours that I just specified and consequently there is no overnight camping that is allowed in our parks. Section 13.20.110 is clarifying that the sale of goods within our parks for more than three days requires a concessionaire license approved by the City Council. In conjunction with that a new section, 13.20.115, is being added to address the requirements for someone who is intending to sale goods in our parks for three or fewer days. Currently the way the language is written there really is no authorization for anyone to be selling goods within our parks unless they have a concessionaire license. But in conjunction with many of our community events, particularly in Glenn Otto Park, we have vendors that set up booths and sale goods. We are trying to legitimize that practice by requiring them to obtain a vendor permit to do so and the permit would only be allowed for a vender booth in conjunction with a community event. Section 13.20.190 is being amended to clarify when alcoholic beverages can be consumed within a city park. The current language prohibits alcoholic beverage consumption in our parks unless the director designates certain areas where they can be used in consumption with meals or in preparation of meals. We have allowed for beer tents and wine gardens in Glenn Otto Park in conjunction with community events. To recognize this practice the language being modified will allow for that to continue. This will not pertain to alcohol consumption in the Sam Cox Building. The final amendment is to Section 13.20.190, which deals with the violations and penalties. We are proposing that this section be repealed because of the recent amendments that were adopted in Chapter 1.04, under the general penalty provisions, would now apply to this chapter. These amendments were reviewed by the Parks Advisory Committee and they voted unanimously for their approval.

Councilor Gorsek asked regarding removal of trees, do we have anything that specifies that a certain size of tree requires a permit for removal?

Rich Faith replied the rule that we have regarding removal of trees is that there is no permit or approval required for removal of a tree on an already developed lot. However, if we are talking about an undeveloped parcel, vacant piece of property or an underdeveloped piece of property that does require a tree cutting permit from the city. We want to look at tree removal in conjunction with proposed development of the property to determine what really needs to be taken out versus what do you retain.

Councilor Gorsek asked do we have anything in the code that protects heritage trees, like the one on Troutdale Road and Stark Street?

Rich Faith replied not in the Municipal Code but in the Development Code we have a Community Resource Overlay District, which is a zoning designation that can be applied to not only buildings but significant trees or architectural features or anything that is deemed to have some kind of historic or cultural significance. That particular tree is in that designation.

Councilor Thomas asked will this help us get our Tree City USA status back?

Rich Faith replied no but we have been given the Tree City USA designation once again. Clyde Keebaugh put together a lot of research and an application and we were just recently informed that we have been so designated.

Councilor Thomas asked in Section 13.10.040, park hours, you basically are just identifying the hours that the parks close but you don't mention the word dark and I know you are trying to identify the hours that it will become dark but in the winter it is dark at 5pm. Do we need to add "or dark"?

Rich Faith replied that was considered. We struggled with the closing hours. I think the opinion of the police department is that they wanted some certainty of the closing time. To just say dark or dusk is subject to debate as to when that is.

Mayor Thalhofer asked regarding the closing hours, at Glenn Otto Park there are weddings and other parties that go on past 9pm, how would this work?

Rich Faith replied whenever there is a function that is held in one of the parks that requires them to reserve the space they would indicate the ending time on their application and under those circumstances I am sure there could be exceptions made depending on the nature of the function. Many of those functions are serving alcohol and that requires them to have an officer on site. That would be looked at on a case-by-case basis.

Councilor Kight asked since there are residential houses surrounding our parks, if there were to be a function there where music would be involved, how late could they continue?

Rich Faith replied use of amplified sound requires a special park use permit. There are a whole host of requirements that go with that permit.

Councilor Kight asked what is driving the change regarding the alcohol use? Is it not working now?

Rich Faith replied if you applied the language literally the way it is written now then alcohol consumption that has been occurring in conjunction with SummerFest or any of these other community events have actually violated the code. The only time now that the director can authorize consumption of alcohol is if it is being used in containers designated for individual consumption brought for use in meal preparation or consumption with meals. That is not exactly what occurs in the beer garden at SummerFest. I think what we are trying to do is acknowledge what our practice has actually been and adopt some language to reflect that.

Councilor Kight asked the City Attorney, what liability does the city have by allowing alcohol to be served at these events?

Marnie Allen, City Attorney replied it depends completely on the facts of that particular situation. I am not comfortable telling the Council that you are taking on a significant liability just by agreeing to allow the use of alcohol in certain situations. You would want to look at how the alcohol is going to be served in the park, whether or not there are alcohol monitors and or police present. There are a whole host of issues that would have to be considered before I could give you an estimate on the liability.

Councilor Daoust stated you have to follow all of the OLCC rules and with SummerFest we are following all of those.

Councilor Kight stated there are OLCC rules and then there are the recommendations from our City Attorney. Do we meet all of that criteria, is that a requirement when we have alcohol consumed in our park?

Rich Faith stated we have deferred to the sponsors of these events to conduct themselves in accordance with OLCC rules.

Councilor Kight asked do you have a list of criteria that they have to follow outside of the OLCC rules such as having a police officer present as a requirement? Isn't that what you just mentioned Marnie?

Marnie Allen replied no, I didn't say that the city would be subject to liability if we didn't require a police officer to be there. I said that the risk of liability to a city always varies depending on the circumstances of that case. I would have to look at a whole list of factors if someone were to go to a city park where alcohol was being served and leave that park intoxicated and caused an accident. Typically if an organization is complying with all of the OLCC requirements there is a threshold burden that has been met that alcohol is being served in accordance with what the state standards are.

Councilor Kight asked do you feel comfortable that there are enough safeguards in place to minimize the exposure to liability?

Rich Faith replied I honestly don't see that there is going to be any change in our practice as it relates to beer gardens or tents at community events.

Marnie Allen stated I am not aware of any practice that the city is engaging in that creates a significant liability risk.

Councilor Kyle stated I spoke with you briefly before the meeting regarding the current planting strip being 3' wide for street trees. We talked about maybe increasing that. Are we going to review that? If that is reviewed and it is decided to increase the width to 4', will that affect anything that is being developed right now?

Rich Faith replied no, it would not affect anything that is being written here. What it will affect is our cross section standard for our local streets. Our standard residential street has a 3' landscape strip on each side. The exception to that is in the Town Center Area, we have a modified street cross section in the Town Center. Rather than have the 32' curb face to curb face, in the Town Center we have gone to the 28' paved width and the additional 2' on each side is for the landscape strip. So we have 5' landscape strips for any new residential streets in the Town Center Area but for the remainder of the city it is 3'. The whole issue of street trees needs some discussion. There are a host of issues that are emerging as we are seeing the maturity of many of our neighborhoods and of the trees in those neighborhoods and the ramifications of that. We are faced with a lot of trees that need to be removed or significantly need to be pruned.

Councilor Daoust stated I like the idea of planting street trees in the setback areas in the side yards. Would they have the same protection as street trees in the future once someone moved in?

Rich Faith replied not really. We do have a permit requirement for removal of trees that are in the right-of-way but if a tree won't fit there and the property owner at the time is agreeable to putting one in the side yard, they may be happy with it but over time other occupants of that site may not feel the same way. Since that is a developed piece of property there is no permit requirement, so they would be free to remove it.

Councilor Thomas asked in Section 13.20.190, alcoholic beverages, you mentioned that the consumption didn't include the Sam Cox Building. I don't see anywhere where it mentions the building.

Rich Faith replied in the fee schedule for rental of the Sam Cox Building there are a number of conditions that go with that. It requires that if you are going to have alcohol use then you have to have a police officer and that affects the rental rate of the facility. There are a number of things on the application form for rental of the building that speaks to alcohol use and the conditions they have to meet in order to do that.

Councilor Thomas stated you talked about needing a permit to prune the street trees, does that include the normal pruning that you have to do to maintain the 7' clearance above the sidewalk and 12' on the side of the road. Do you need a permit to do that?

Rich Faith replied yes. That is what it is primarily for. Our concern is that it is done properly. The permit is really a means of educating people about the proper techniques for pruning a tree so that they don't butcher it.

Councilor Thomas asked is that a fee based permit?

Rich Faith replied no.

Mayor Thalhofer 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 9:39pm and stated this is the first reading. There will be a second hearing on this issue at our March 23rd meeting.

6. MOTION: A motion approving the solid waste rate review methodology.

Jim Galloway, Public Works Director stated at your January 27th meeting you discussed rate reviews for solid waste collection. Following the enactment of the resolution that was before you that evening, you directed staff to come up with a rate review methodology. We have done that and it is before you tonight for your consideration. I think it follows the method that has been used the last two or three times that we have had a rate review study done by an outside consultant. We have shared this with Waste Management and I think generally we are in agreement. I do think that from conversations that I have had with them they may have some concern regarding the rate of return or the amount of profit that would be allowed. The document that I have in front of you indicates that would be between 8% and 12% as determined by the Council. I think they would prefer to have a set number and probably have that in the middle or closer to the higher end, but I will let them discuss that in greater detail with you. This methodology, if adopted as proposed, would indicate that any future rate increase would be applied evenly. For instance if the bottom line is that there is a 3% rate increase authorized, that would be applied evenly over all classes of service, residential, commercial container and drop box. Currently we do have a subsidy of the residential class by the other two classes and by applying rate increases evenly that is likely to continue that subsidy of one class by the others. I got the impression that from the discussion in January that is what you wanted and I just wanted to point out to you that it would be our intent to continue that because we think that is what you want. In this document we would still call for a spread of the rate of return between 8% and 12%, the actual percentage to be determined by Council. We have some language in there that you might base that decision on factors such as hauler performance, citizen complaints, perhaps even economic issues.

Mayor Thalhoffer asked is there any reason why we should establish a set rate of return? Wouldn't it be better to establish that at the time of a request for a rate increase? I think we are hearing that Waste Management would like us to set it at a rate of 10%.

Jim Galloway replied I am not trying to speak for them, but it is my understanding that would be preferred.

Mayor Thalhoffer asked wouldn't it behoove the city to keep the range of 8% to 12% and establish what the rate should be each time?

Jim Galloway replied I think so and that is the proposal before you. I did want to let you know that I think there is another point of view out there.

Mayor Thalhoffer asked it is not going to be that difficult to establish a rate in the future like it was this last time, is it?

Jim Galloway stated talking solely about the rate of return and what that percentage should be, I think if you leave it in a range as we are recommending I think you are still going to have to grapple with the issue of what is fair and reasonable. What you base that on are probably seven different criteria; you each may have a little different idea of how that might be done. I would think that perhaps between rate reviews, if you are getting bombarded almost every meeting with two or three citizens that come in and tell you that they are getting bad service, that might weigh in your decision making. On the other hand if you get one or two complaints a year and it is always the same person, you would quite likely weigh that scenario a bit differently. I think you are going to still have to weigh that particular issue and determine what is a fair and reasonable amount. I would hate to say that is going to be easy to do.

Mayor Thalhoffer stated the consultant, Chris Bell, said that in the future we would have hard data that Waste Management would provide and we wouldn't be comparing apples to oranges like we were this last time. Is that correct or not?

Jim Galloway replied I think that is correct. There are two different issues one being the data. I don't think this methodology or any other that we would come up with would eliminate the difficulty that we had last time. We didn't really have a disagreement over data, there were numbers and we agreed what those numbers were. The difference of opinion that we had last time was what did that data mean. The difference as I recall, was between the 2001 and 2002 recycling costs. There were different numbers but we didn't quibble about what those numbers were. Our consultant looked at them and I believe he spoke to some folks at Waste Management and said we think this is based on some inefficiencies. The costs went up considerably and there wasn't a corresponding increase in the number of customers or any other logical reason. Mr. Bell said they were inefficient and we shouldn't reward them for being inefficient and therefore we are going to modify those numbers. I believe Waste Management came before the Council that evening and said that the difference is that we made some mistakes or there are some errors in the 2001 figures, those numbers should have been higher so that there really wasn't a big jump from 2001 to 2002. I don't know that we can write a set of rules or methodology that is going to cover every single situation like that that might occur.

Councilor Kight asked the 8% to 12% range, how does that compare to other jurisdictions?

Jim Galloway replied I believe we were told that 8% to 12% is the general range in the industry. I think it was mentioned that most communities try to target about the mid point.

Councilor Kight asked what happens if we set the rate of return at 9% and they are actually getting a rate of return of 12%, who is monitoring that?

Jim Galloway replied we would see that in the annual report that they provide to us. If the numbers justified a decrease that is the recommendation we would bring to you.

Councilor Daoust asked was Mr. Bell involved in preparing this methodology?

Jim Galloway replied staff prepared it and Mr. Bell had opportunities to comment on it and I believe he is in agreement with this.

Councilor Daoust replied and Waste Management has reviewed it?

Jim Galloway replied they did have an opportunity to review. They had the one exception that I mentioned earlier with regards to preferring to see a set number rather than a range for the rate of return.

Councilor Daoust asked do you see a need to review this methodology after the next rate review? I don't see any language in here that says we are going to review and revise as needed, do you think that is necessary to include?

Jim Galloway replied I don't think it is necessary. I also don't think there is anything wrong with including that language if you would like to add it.

Councilor Thomas asked under Item #6 you talk about rate of return, it states that the 8% to 12% be set on all costs except those necessary to fund the franchise fee, what are we talking about?

Jim Galloway replied that the franchise fee, which is the 5% of the revenue that is paid back to the city as a franchise fee, the mechanism that we have set up here is that they would not earn a profit on that 5% that they pass back to us as a franchise fee. We see this as a pass-through function.

Councilor Thomas asked so we would be excluding the franchise fee from their cost?

Jim Galloway replied no. It would be part of their cost and it would be eligible to recoup those costs, they just wouldn't make a profit on that 5%. The 5% franchise fee is not subject to the 8% to 12% rate of return.

Mike Jefferies, Waste Management stated I would like to clarify the 8% to 12% range. That range is pretty much standard within Washington County, Multnomah County, and the City of Gresham. The City of Portland uses a fixed rate of 9.5%. For us, when we were trying to set a rate of return at 10%, we were more interested in setting a rate at 10% in order to avoid having to come back two years in a row to request a rate increase. The only other item of concern that we had with the methodology was the subjectivity to the economy as to how that would be measured. It seems like some of these are pretty subjective as to how these could be interpreted. That was the one area that we were hoping to work with staff on to get some clarification on how to measure those items and determine the rate of return.

Councilor Ripma stated the referenced 10% rate of return is your preference; it doesn't refer to Section 6 in this methodology.

Mike Jefferies stated in a lot of jurisdictions we have always pegged the rate at the midpoint in setting rates to avoid having to go back before the council for another rate increase. That is what we were trying to accomplish last time we were before you.

Councilor Ripma asked you are satisfied with the range.

Mike Jefferies replied that is correct.

Councilor Ripma asked and you prefer that we set the rate of return in the middle of the range?

Mike Jefferies replied yes.

Chris Thomas, Waste Management District Manager stated we support your efforts to put forth this methodology. Some of the issues that we have with the economy and customer complaints we just want to make sure that we work with staff to have some standards or some measurement tools so it is not so subjective and a little more objective.

MOTION: Councilor Daoust moved to approve the solid waste rate review methodology as set forth. Seconded by Councilor Thomas.

Councilor Daoust stated I think that it is a methodology that is in writing and it is a positive step. I think the fact that Waste Management agrees to it is good. The fact that we can review this and make changes after the next rate review is also good. I think when it comes to the Council deciding what the rate of return will be I am sure we will use numerous factors to make that determination to include comparisons with other jurisdictions, looking at their annual reports, level or service, citizen comments and the economy in general. Taking all of those things into account I am sure we can be fair in determining the rate of return.

Councilor Thomas stated I agree with Councilor Daoust.

VOTE: Councilor Gorsek – Yes; Councilor Ripma – Yes; Councilor Thomas – Yes; Mayor Thalhoffer – Yes; Councilor Kight – Yes; Councilor Kyle – Yes; Councilor Daoust – Yes.

Motion passed 7-0.

7. COUNCIL CONCERNS AND INITIATIVES:

Councilor Ripma announced that the next Troutdale Historical Society meeting will be held at Menucha, which is a very large historic house up the Columbia Gorge, on March 20th at 3pm.

Councilor Thomas stated it is great to have the Tree City USA status back.

Mayor Thalhofer stated I will be attending the State Legislature's Transportation Committee meeting tomorrow in Fairview.

Councilor Daoust reported that the debris that was caught in the brush on the west side of 257th Avenue across from the Factory Outlet Mall that I mentioned at the last council meeting has been cleaned up.

8. ADJOURNMENT:

MOTION: Councilor Ripma moved to adjourn. Seconded by Councilor Kight. Motion passed unanimously.

Meeting adjourned at 10:25pm.

Paul Thalhofer, Mayor

Approved April 27, 2004

ATTEST:

Debbie Stickney, City Recorder