

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

Tuesday, May 11, 2004

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

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

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

ABSENT: Councilor Gorsek (excused), and Councilor Daoust (excused)

STAFF: John Anderson, City Administrator; Jim Galloway, Public Works Director; Rich Faith, Community Development Director; David Nelson, Chief of Police; Marnie Allen, City Attorney; and Debbie Stickney, City Recorder.

GUESTS: See Attached List.

Mayor Thalhofer asked are there any agenda updates?

Anderson stated that staff would like to add an item at the end of the agenda to briefly discuss the process for executive sessions.

2. CONSENT AGENDA:

2.1 Accept Minutes: March 23, 2004 Regular meeting.

2.2 Resolution: A Resolution authorizing the City Administrator to sign a general purpose grant application to the Meyer Memorial Trust.

2.3 Resolution: A Resolution accepting the dedication of Tract A of Gentry Heights from Gentry Homes LLC.

Mayor Thalhofer read the consent agenda.

MOTION: Councilor Kight moved to accept the consent agenda. Seconded by Councilor Kyle. Motion passed unanimously.

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

Ali Peret stated I have been a resident of Troutdale for fourteen years and I have also owned a business in downtown Troutdale for fourteen years. I live at 138 SE Harlow, which is in

downtown. I have been president of the Chamber of Commerce; I have served on the Troutdale Citizen Advisory Committee, Budget Committee and other various committees. The reason that I am here today is that I just had a recent experience that has to do with maintenance of sidewalks. There is a sidewalk in front of my home that was raised by the roots of trees. Apparently there was a complaint about that portion of the sidewalk. I spoke to Travis at the city to find out what I need to do and why this happens and to try and resolve the problem with the sidewalk so it wouldn't occur again. I have consulted with tree experts to find out what the problem was and what kind of trees they are. After I received their information I went back and spoke with Travis regarding the possibility of removing the trees and he informed me that the trees could not be removed. I could be considered a tree-hugger; I love trees. I told Travis that I had been informed if I were to replace that section of the sidewalk that in a few years those trees would probably do the same thing again and I would have to repair that section of sidewalk again. I asked Travis what happens when this situation happens again and he said I would have to repair the sidewalk again. I did not receive that very well because it was with an extreme lack of concern.

Ali read a portion of the letter he received from the City which stated, "The City of Troutdale has received a complaint that a portion of sidewalk abutting your property at 138 SE Harlow Street is in need of repair due to a vertical separation. In its current condition it poses a safety hazard."

Ali stated that there was another section of sidewalk that was in pretty much the same condition and I figured if that section was a safety hazard then so was this other section. If I am concerned about the safety of the people then I am concerned with both sections not just one. I brought that up to Travis and he said there is only one section that was complained about so you only have to replace the one section. I received an estimate of approximately \$1,000 to repair both sections. I still think the issue is with the trees so I went to Mr. Galloway because I needed a way to resolve the issue with the tree. I was sent to Clyde and I finally got the okay to remove the tree, which cost even more. I had to make a choice between repairing my wife's car or repairing the sidewalk. Since I have a car that she can use I decided to repair the sidewalk but the costs were so high that I had to ask my landlord at the gallery if I could delay my rent payment. The trees cause a problem. My situation is that it took me a while to come up with the money to make the repair. Going back and forth with the city and trying to find information took over the amount of time that I was allowed so I was cited into court. I did appear in court and when my name was called I was basically told that this was criminal. I felt that I had not done anything criminal. I entered a plea of not guilty. I asked what the penalty was for this and I was told that it would be between \$200 and \$1,000. Now I am waiting for my trial to be set and I feel like a criminal. I do not feel that this is just. I love the City of Troutdale and that is why I served on various committees. Sometimes I feel the City of Troutdale is not serving me and not working with me as a resident. It is not that I was unwilling to repair the sidewalk; I needed to come up with the funding. On top of that I think it is really unfair, and I realize the city doesn't have a whole lot of money, I was told that I needed a permit to repair the sidewalk that cost \$50. I wanted to share this experience with you and find out if I can serve on a committee to work on this issue.

Mayor Thalhoffer stated the issue of street trees needs to be revisited. I would like to have this on the next council agenda. In the interim I would like to check into some of these other issues that you have raised.

John Anderson stated we have a joint meeting set up with the Citizens Advisory Committee (CAC) and the Parks Advisory Committee (PAC) and this is one of the issues that they are working on. Perhaps Ali could attend their next meeting. Their recommendation will be forwarded to the Council.

Rich Faith stated the CAC and PAC will be meeting on Tuesday, May 18th at 7pm at the City Conference Building to continue their discussion on this issue and their recommendation will be brought back to the Council.

Mayor Thalhoffer stated I would also like to see about the court situation for him. I would like you Mr. Anderson to address that and see what mitigation we can do under these circumstances.

Dave Munson thanked the Council for working with the truckers at the last meeting.

4. DISCUSSION AND MOTION: A discussion and motion to consider an offer by Mastery Learning Institute to lease City property.

Rich Faith, Community Development Director reviewed his staff report (a copy is included in the packet).

Councilor Kight asked how much of the property are they planning on taking up with this project?

Rich Faith replied they have not indicated that to us. I think we would have to interpret from this offer that it would be all of the vacant land.

Councilor Kight stated and their offer is \$1,500 per month or \$18,000 a year to lease the property.

Rich Faith replied that is what they have expressed as their intent.

Councilor Kight asked do we now the current market value of that property?

Rich Faith replied no.

Councilor Kight asked do you know how many modular units they would be placing there?

Rich Faith replied I would guess there would be one per classroom, so at least three and maybe an office. We have not even had a preliminary meeting to talk about how this would be laid out. Perhaps I should give you another piece of background. They originally came forward to do a pre-application meeting with us for this same use on property across the street along 257th, which is owned by Mr. Windust, for a possible lease agreement. Because

of some traffic issues with the site being right on 257th, speeds and being on the curve, I think they were discourage from that site simply because there were going to be a lot of traffic related issues. In the course of that meeting they asked about other properties on the east side of 257th and it was at that time that they were informed that the city owned this vacant piece of land that was bought with the understanding that it was going to be the future city hall site.

Councilor Kight asked their expectation is to have it open for the school year starting in September?

Rich Faith replied that is what they are telling us, yes.

Councilor Kight asked the planning process takes how long?

Rich Faith replied a minimum of sixty days.

Councilor Kight stated that takes us into August and then in less than thirty days they are going to have all of the utilities, parking lot, landscaping and four modular units in place.

Rich Faith commented its very ambitious.

Councilor Kight asked do we have any history or background on this particular developer or individual? Has he done other similar projects?

Rich Faith replied I actually think they are operating a Charter School somewhere because when I called him to inform him that this was going to be on the agenda tonight, whoever answered the phone identified it as Aurthor School and I heard a lot of children in the background.

Councilor Kight stated I need to know more history on the individual before we enter into any kind of lease agreement.

Councilor Kyle asked do we know what the buildings will look like?

Rich Faith replied I can only show you a picture of what they provided to us when we did the pre-application meeting. They provided us with photos of the modular units that they are intending to use (the photos were not submitted as part of the record).

Councilor Ripma asked is prefabricated modular construction permitted on that site?

Rich Faith replied yes, there is no prohibition to that.

Councilor Ripma asked are there any special requirements? Could anyone put up a prefabricated modular unit in downtown?

Rich Faith replied let me qualify that. Because the property is within the Central Business District we do have certain architectural standards, but most of those architectural standards pertain to commercial buildings and it might be somewhat difficult to try and apply that to an institutional use like a school. I have to say I don't know whether we would impose the type of architectural features that we see on the main street.

Councilor Ripma stated I wasn't really expecting that, I was just asking if prefabricated modular unit construction is permitted and it sounds like it is. Is it clear that they don't want to use the building that is there, because we aren't giving that up?

Rich Faith replied I am almost certain of that because as I mentioned they are looking seriously at a church site in Troutdale that is not being used, but the church building is there and they have told us that they do not intend to lease the church building, they want to set up these modular units on the church property. Given that, I would say the same would apply here.

Councilor Ripma stated in the unlikely event that we are interested in this, that would need to be made very clear.

Rich Faith replied absolutely.

Councilor Thomas stated they estimated the costs at somewhere around \$50,000 for improvements and they also wanted to do a straight-line depreciation over fifteen years for that. Looking at the last paragraph of the March 29th letter, on the top of page 3, it talks about if we drop out of the lease or decided to do something with the property between now and fifteen years from now we would pickup whatever residual was left over.

Rich Faith replied first we would have to agree on what improvements are eligible for reimbursement. Once we have established that then you are right, it would be amortized over that period of time and we would pay them the residual of its value. That is what they are proposing.

Councilor Thomas stated you were talking about maybe allowing them to go in prior to the actual permits being issued.

Rich Faith responded they are making that request.

Councilor Thomas asked if that were to happen and lets say they get part way through it and they decided to abandon the project, what happens then?

Rich Faith replied well Councilor Thomas, I don't know that I would recommend that we agree to that term. It seems a bit strange that you would want use of the property to make all these improvements but you aren't even paying rent for it. So I think that is a term that I would highly recommend against.

Councilor Thomas stated I agree with you but you had stated that and I just wanted to clarify it.

Rich Faith stated I am only stating what is in their letter and you have the choice of rejecting it in total or if you do want us to pursue this, you can tell me this term is ludicrous, don't go there. Even if you didn't, I think we would be looking out for the City's best interest and some of these terms I think we would argue against in any lease with them.

Mayor Thalhoffer asked shouldn't this go to the planning commission?

Rich Faith replied we are not taking a land use action. The conditional use application would go to the planning commission.

Mayor Thalhoffer stated that is what I am talking about.

Rich Faith replied yes, the conditional use application would go to the planning commission. In terms of establishing a lease for city owned property, that is a city council decision.

Mayor Thalhoffer stated yes, but don't we have to have the conditional use permit approved by the planning commission and have that go through the process before we get involved in the other details?

Rich Faith replied well, I think they would like to know that the city council is willing to lease the property before they would go through that process. They don't want to spend money on a conditional use application and go through that public hearing and then turn around and have the city council say that they are not willing to lease the property.

Mayor Thalhoffer replied everybody else has to.

Marnie Allen, City Attorney stated I don't think it is the planning departments practice to accept an application for development on a property without the owners consent and having the owner sign off on the application saying that the use or development can occur on their property. That is why we are here getting the owner, the City's permission or some indication that the City will grant them permission to develop the property and use it.

Mayor Thalhoffer asked then what happens if the planning commission recommends against the conditional use, then it comes to the city council on appeal?

Rich Faith replied yes.

Mayor Thalhoffer stated the site improvement, that is one thing but if we decide to abort the lease who pays for the removal of the improvements?

Rich Faith replied I would think that is something that should be spelled out in the lease and put that burden on them.

Mayor Thalhofer stated you say the school district has talked to Mr. Windust about the other property that borders on 257th?

Rich Faith responded the school district is not involved in this. This is Mastery Learning Institute, a non-profit corporation. They are under a contract with the Reynolds School District to operate a charter school, but it is not associated with the school district.

Mayor Thalhofer stated this is a very difficult issue for us to resolve, at least it is for me. There are a lot of details, for instance some of the councilors are not aware of this charter school, I am. It is certainly an excellent academy for students. It is not a school for students with learning problems, it is for advanced students. I think their goal is worthy. To me the conditional use permit should come first before the lease but maybe the other councilors see it differently.

Councilor Ripma stated I don't see how it could.

Councilor Kyle and Councilor Kight both agreed with Councilor Ripma.

Councilor Kight stated that is just normal business practice. You have to have an agreement between the two parties otherwise why would the individual put forth the time, effort and materials to be turned down by the city council.

Mayor Thalhofer stated well that happens all of the time at least in the history of the city that I am aware of.

Councilor Ripma stated I can't think of a single example.

Rich Faith stated generally someone that is going to lease or buy property enters into an option agreement. They probably are not going to actually buy the property until they have received their approvals. The same would be true of the lease. The lease would be subject to the approval of the conditional use permit because they don't want to be obligated to pay rent if they don't get the conditional use approved.

Mayor Thalhofer stated okay. Well when a similar situation takes place again I will take note of it and people can get us to sign off before they do the conditional use permit.

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

No public testimony received.

MOTION: Councilor Ripma moved to respectfully decline the offer. Seconded by Councilor Kight.

Councilor Ripma stated I just think this is not a good use for the property. The proposal to build these pre-fabricated buildings strikes me as a little unrealistic in the short timeframe. The benefit to the citizens of the City of having that property

developed in this particular way is zero in my opinion. Whatever improvements they put on the property would probably be incompatible with a future city hall that is planned for that site some day. While I don't mind deriving revenue from that site if something realistic is proposed, this proposal, I don't even think is a good deal for many reasons. This is not to comment on the school itself; I know nothing about the school. I don't think this is a good deal for the City. I think we would end up tying up the property. I will also point out, in my opinion, if we allow a private school there that it might be very difficult to get that school out of there if we wanted to build the city hall. I could just see that problem when we try to move the school and they say they can't find another spot and they fill this room with school children. I don't think it is a good use to tie up the property with a school for many years when we do have plans for that property.

Councilor Kight stated this is not a no-confidence vote for the Charter School. I am not familiar with it. However, this particular site is very close to downtown. We have required the people in our downtown community to conform to architectural standards. Obviously these modular buildings will not come anywhere close to that. That is my first concern. My second would be there is going to be a huge impact on traffic. We already have traffic problems on Buxton. I would imagine during peak morning and afternoon times when the school is opening and closing you could easily see traffic doubling or tripling on Columbia Highway and Buxton and that is already overburdened at this time. I would think that if these individuals were really interested in leasing this property they would have made the attempt to come before the City Council and make their compelling arguments to us. One has to think just how serious were they if they didn't make the attempt to at least attend the City Council meeting. I understand they are looking at another site; my advice would be to pursue the other site.

Councilor Kyle stated it is unfortunate that we didn't have a representative from the school here tonight because I have way to many questions unanswered to give this lease a nod, so I am going to have to support the motion.

Councilor Thomas stated I think it is worth considering, at least find out more information versus just slapping it down right now. It would generate some revenue versus just sitting there costing us money. The chances of a new city hall being built in the next five years is probably slim to none, if ever on that piece of property. I think it is kind of senseless to just have it sit there as a cost to the city versus being able to bring in some revenue, although the \$18,000 seems a little low it is more than we are getting now.

Mayor Thalhofer stated unfortunately no one from the Aurthor Academy is here and that is too bad. I think they do have a first class program but no one on the Council knows anything about it. I have some familiarity with it, but very little. Not having anyone here to give us information about the program, how it works, what it does for the kids and community, it is very difficult for me to support this with so many unknowns here.

VOTE: Councilor Kight – Yes; Councilor Kyle – Yes; Councilor Ripma – Yes; Councilor Thomas – No; Mayor Thalhofer – Yes.

Motion passed 4-1.

5. PUBLIC HEARING / ORDINANCE (Introduction): An Ordinance adopting a new chapter 2.22 of the Troutdale Municipal Code regarding Neighborhood Associations.

Mayor Thalhofer read the ordinance title and opened the public hearing at 8:01pm.

Rich Faith, Community Development Director stated the proposed ordinance basically stems from one of the Council's goals of 2003. At your goal setting session you set a goal of pursuing development of a formal neighborhood association. Towards implementation of that goal the Citizens Advisory Committee (CAC) was given the assignment of discussing the formation of neighborhood associations and determining what the structure and function of these associations would be if they were formed. Starting back in May of 2003 the CAC discussed the idea of neighborhood associations over the course of three meetings and in all honesty they struggled and had great difficulty fully understanding what they were supposed to be doing and were not quite sure what the expected outcome was to be. Coupled with that I think there was quite a bit of skepticism in the minds of many of the CAC members and they just didn't know if it was viable to have functioning neighborhood associations here in Troutdale. Towards the later part of the year Councilor Thomas, in trying to provide better clarity to what they were being asked to do, brought forward a proposed ordinance, much of what you see here tonight is what was presented to them. He explained to them how a neighborhood association program might function. I think after looking that over they had a better sense of what they were being asked to do and therefore were able to give some feedback on that proposed ordinance. They essentially went with that ordinance as it was written and made some minor changes based on some of their questions and comments. Primarily the underlying premise to this ordinance would be that the formation of neighborhood associations would be strictly voluntary and not something that the city was going to require of any particular neighborhood. Earlier this year they completed the review of this language, and again through the course of their discussions many of them expressed their skepticism about neighborhood associations and whether or not these would be viable and functioning organizations throughout the city. One of the concerns that was expressed by members of the CAC about recommending this to be forwarded to the City Council is that they were fearful that it would send a false message to you that they were endorsing formation of neighborhood associations and the City's active involvement in making that happen. So there was quite a bit of debate as to whether or not they should even forward this to you. But by a 5 to 4 vote they did approve the recommendation to bring this forward together with a proposed boundary map. However, they wanted it to be communicated clearly to the City Council that by endorsing this ordinance they were not necessarily endorsing the creation or formation of neighborhood associations and more particularly they wanted it to be clearly stated to the city council that they did not want the city to be spending funds, knowing that we have serious financial constraints, towards the formation and assistance to neighborhood associations. So the ordinance is being forwarded to you with their recommendation for approval, again with the premise that it is all voluntary and not

going to be done with city resources. You did review this ordinance at an April 6th work session and there are some changes that have taken place primarily to reflect the sentiments of the CAC with respect to the use of city resources.

Rich Faith reviewed the changes made to the proposed ordinance, which are outlined in his staff report (copy is included in the packet).

Rich Faith stated at that work session some of the city council members questioned whether or not we really needed to adopt that formal ordinance in order to recognize neighborhood associations that might voluntarily be formed over time. In response to that staff did offer to provide you with a less formal resolution instead of the ordinance that could be considered. We have included as Exhibit A a resolution that the city council could adopt instead of the proposed ordinance. The resolution is intended to do much the same in terms of recognizing neighborhood associations that have formed but it does not contain all the detail that is in the ordinance. If the council does prefer this less formal resolution to the formal and more detailed ordinance then you should direct staff to come back with the resolution or a revised form of that for adoption at a future meeting. You have three choices before you, which are to adopt the ordinance that is presented tonight, direct staff to bring back a resolution for adoption at a future meeting or to do nothing.

Councilor Kight asked what is driving this? There is nothing stopping neighborhood associations from forming now is there?

Rich Faith replied I would say that is true. They could form now.

Councilor Kight asked why is it they need the blessing of the City to form an association?

Rich Faith replied I believe the intent of this ordinance is to give formal recognition to neighborhood associations that form and it would establish certain rules by which they must operate if the City is going to continue to recognize them.

Councilor Kight asked within the City of Troutdale, don't we currently have several neighborhood associations?

Rich Faith replied no, we have none. There are homeowners associations, but not neighborhood associations.

Councilor Kight asked what is the difference between the two?

Rich Faith replied a homeowners association is established by the developer of the property or the person who subdivides the property and through CC&R's will set up homeowners associations with bylaws and so forth that are recorded.

Councilor Kight asked do they have meetings and that type of thing?

Rich Faith replied if they are active they would have annual meetings.

Councilor Kight stated like Cherry Park.

Rich Faith stated yes, and Sweetbriar. But again, it is limited to a subdivision and not an entire neighborhood that might be comprised of many neighborhoods.

Councilor Kight asked but they already have structure there is what I am getting at. Do people feel like we are not communicating with them? I am not getting this and obviously the CAC didn't get it either. It seems like they spent a lot of time deliberating but couldn't find any definitive reason that we needed to form these neighborhood associations. Is that the drift I am getting from you?

Rich Faith replied I think that was certainly the sediments of at least a number of them, yes.

Councilor Kight asked what is the difference between the resolution and the ordinance?

Rich Faith replied the resolution doesn't have the level of detail. It simply says that if you establish a neighborhood association the city would recognize and acknowledge that and allow you to participate.

Councilor Kight asked but there are no resources, no staff time, nothing to support the neighborhood association? So the bottom line when it is all said and done, the benefit of adopting the ordinance or resolution is we are just acknowledging the fact that they have formed a neighborhood association, is that correct?

Rich Faith replied the intent is we are going to recognize them, we give them credence and all that, but we are not going to actively assist them, fund them or provide resources for them.

Councilor Kight asked how does that materialize? How is it we give them credence and support if there is no money or staff time?

Rich Faith replied the burden is on them to be self-sustaining and to maintain some influence in their neighborhood, keep people informed, contact and notify them of issues and so forth. The burden really falls on the officers and active members of the association to get the word out and keep people interested and excited about coming to meetings.

Councilor Kight asked have you had people call, write or contact the city saying we need to have these neighborhood associations and that there has been no communication from the city? Have we not been doing our job in communicating with the citizens?

Rich Faith replied I think over the course of these meetings the CAC acknowledged that the issue seems to be one of communication. If that is the issue, what can the city do to improve communication short of forming neighborhood associations? They came up with a number of ideas. Simply providing more information on our web site for example or instead of just posting the agendas for the city council or planning commission meeting, actually give a little narrative about what the topic is and what some of the issues are. They thought the city

could do some things but many of them thought we don't necessarily need to go this route and have neighborhood associations to improve communications.

Councilor Kyle stated I see this as just establishing the city's formal acknowledgement of neighborhood associations right to exist. If you look at the resolution, which is less formal, there is language that says that neighborhood associations are not advisory committees of the city charged with the responsibility of making recommendations. Would it be possible to put that language in the ordinance, maybe in the second paragraph of the ordinance?

Rich Faith asked under the definitions?

Councilor Kyle replied where it says acknowledging neighborhood associations by adopting an ordinance that recognizes them and gives them an advisory role. I don't see them in this role. I don't see this as establishing an advisory committee to the city.

Councilor Ripma stated I agree.

Councilor Kyle asked are we setting up another committee with that language, which is not what I would want to do?

Rich Faith replied there are references to advisory under some of the functions. I am looking at the functions of neighborhood associations and it says that one of their functions is providing effective citizen participation in government by articulating, defining, and addressing neighborhood problems; by advising, consulting with, and cooperating with the various city departments, committees and council on matters affecting their respective neighborhoods. So it's not advisory in the same sense as the citizen advisory committee and parks advisory committee is, they are standing committees established by the Municipal Code. But it does recognize that neighborhood associations can serve in some kind of advisory capacity on matters relating specifically to their neighborhood.

Marnie Allen, City Attorney stated the ordinance as it is presented in Section 2.22.090(B) talks about the applicability of the public meetings and public records law. When this ordinance was initially put together there was interest in making sure that neighborhood associations comply with those laws. Those laws apply to committees that serve in an advisory capacity. So if a committee or neighborhood association is created and given the authority to come before the planning commission or the city council in an advisory role, the public meetings and public records law requirements are triggered. You could change that and you could take that out of this ordinance. That was part of the reason for including that specific language in the findings for the resolution to make it clear if you go with the less formal neighborhood associations then you won't have public meetings and public records law requirements.

Councilor Ripma stated I think you captured the Citizens Advisory Committee's intent as I am reading it. The way the ordinance is written no city resources would be spent until a budget appropriation was made in a future budget and until then there wouldn't be any resources. I don't have any problem with citizens getting together and forming associations, it is just that

we can't afford to spend money on it. The only thing that worries me about the ordinance is the boundaries, Section 2.22.060. If neighborhoods want to get together and form an association, the map is cumbersome to change, at least that is the way I am reading this. A neighborhood couldn't just get together and form an officially recognized association that was not within the boundaries on the map, is that right?

Rich Faith replied the intent is that if neighborhood associations are to be formed that they should substantially conform to the boundaries on the map that will be attached to the ordinance.

Councilor Ripma stated Section 2.22.060 reads that in no case shall the boundary of an association be the same as the boundary of a single homeowner's association. One of our most enduring homeowners associations is the Old Sweetbriar Homeowners Association, which is a real neighborhood. Was there a reason for this? Why couldn't they form a homeowners association unless they expanded out to include the entire area shown on the map? I was wondering if the CAC had discussed why?

Rich Faith replied I do recall that there was a lot of discussion about the difference between a homeowners associations and neighborhood associations. Generally neighborhood encompasses more than an individual homeowner association or a subdivision. Lets say that Sweetbriar decided to create a neighborhood association. What would that do to the two subdivisions to the south, does that mean that those two subdivisions would have to become separate neighborhood associations or that the two create their own but they couldn't be part of Sweetbriar. It just seems that you run the risk of leaving some people in that part of the city out of the equation. I think it was to try to conform to these maps that were drawn up.

Councilor Ripma stated I understand. I think it is too rigid. I do hope that we will advertise the resolution. In Section 2.22.070, on page 3 that language bothers me. If I may suggest that we come back with a change to the last sentence in that section to have it read, "the City is not required to and does not intend **to** provide funding...".

Councilor Thomas asked is there a way to maybe soften the compliance with the public records and public meetings law, maybe a recommendation that they could follow those standards? That would give them a little flexibility because I never really intended them to be a direct advisory to the city council. I really see them as more a communication tool, somebody that would be willing to work with us and bring information forward.

Marnie Allen replied yes we could do that. Part of that I think is accomplished in Section 2.22.090 where it says all meetings of the neighborhood association or its board shall be open to the public. There also are requirements that they notify everyone within the association. I think you could, if the intent is not to have them be bound to specific legal requirements for public meetings notice and public records we could just strike that paragraph. I think if you don't believe that having meetings be open to the public, notifying everyone in the association and keeping records of what occurs is addressed in the other provisions we could add some additional language.

Councilor Thomas stated I think as you read through it and you get to item “G” it is addressed there, so to me it would be better if the language is the same all the way through.

Marnie Allen asked what section are you referring to?

Councilor Thomas stated Section 2.22.040(g).

Marnie Allen stated yes, it is addressed there as well as in Section 2.22.090(b).

Councilor Thomas stated and in Section 2.22.110 and 2.22.120 the first statements regarding budget appropriations to me seems to be addressed in the funding part of the ordinance and I don't think it needs to be restated in those sections. The city has the option, so I guess I would say that the city may provide technical assistance and at this point the city still has that option or they can pay for it. Anybody can come in and ask for assistance and if they pay for it they can get whatever they need, correct?

Marnie Allen replied if the citizens pays for...

Councilor Thomas stated for reports or whatever public record information there is a charge for copies.

Marnie Allen replied yes. I believe that the reason the language was recommended to say subject to budget appropriations in the text of the ordinance itself was a concern that after the ordinance is adopted and codified the findings in the ordinance that say the city is not going to devote any time or spend any resources, won't be in the ordinance that is codified and available online. If you left in the language that the City is not required to and does not intend to provide funding, that would be codified and that might address it. But this was an attempt to be very clear with neighborhood associations that without a budget appropriation or some decision by the city council to provide funding for staff and resources, staff wasn't going to do that.

Councilor Thomas asked wouldn't the statement in Section 2.22.070 cover that?

Marnie Allen replied yes. If you adopt the ordinance with that sentence and someone from a neighborhood association came in and requested some staff time or resources, staff could point to that language and say that this ordinance does not obligate staff to provide any resources and we don't have any funding to support whatever the request was. Obviously, any request that a neighborhood association makes is similar to a request that a citizen makes. A copy of a record, request to be emailed or faxed notices or agendas, those services that apply to all citizens, I would assume city staff would comply with. It would be things above and beyond that.

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

No public testimony received.

Councilor Ripma asked Mayor Thalhoffer, could we have one round to discuss these options.

Mayor Thalhoffer replied sure.

Councilor Kight stated I haven't heard any convincing information tonight as to the efficacy of forming neighborhood associations. Apparently the CAC is equally as reluctant about forming neighborhood associations, not necessarily forming them, but whether or not we even need them. We, as a city, have a very open policy with our citizens. Any issue that affects the community at large or a specific neighborhood we advertise in the newspapers, the web site and the Champion, so I think the city goes way beyond what other cities do in communicating with their citizens. We have seen people watching this particular program leave their homes and come down here and speak to the issue if they are affected by it. I am reluctant about going forward and creating a formal neighborhood association. If there is no funding involved and no staff time involved, I guess that would be all right.

Councilor Kyle stated I am in support of establishing neighborhood associations right to exist.

Councilor Ripma stated I am in agreement with the CAC's position, which was skeptical but why not allow people to form if they want to. I think that should be permitted. I would favor the resolution partly because I think it is less formal and it still allows them to be formed with official recognition. It meets the CAC's request that no funds be expended. It removes the issue that I have about fixed boundaries, which I think is a problem with the way it is set up. It doesn't have the burden of the public meetings and records laws, which I think might discourage the formation of voluntary associations. For the aspirations that I think the CAC had and perhaps the majority of the Council has for allowing neighborhood associations, I think the resolution does it better. I favor bringing the resolution back at the next meeting.

Councilor Thomas stated this is something that I have been fighting for almost five years to get into place. I would not favor the resolution at all. I would favor the ordinance. I think it is actually necessary that we have official recognition of neighborhood associations. It establishes a tremendous amount of communication and it also expands from the boundaries that we deal with now, for example the 250' notification for property issues. I think it allows neighborhoods to get involved sooner. I think some of the issues that we have seen recently may have been handled better with neighborhood associations. I have talked with some department heads that have said that they would be more than willing to work with them. I think it is a great idea. I would propose the changes that we have recommended during our discussions and maybe loosen it up. I was on the CAC when we originally looked at neighborhood associations and there was overwhelming support for it, unfortunately it never made it any further than that. I still see it as a valuable option and tool not only for the citizens but also for the city council.

Mayor Thalhoffer stated I also favor neighborhood associations. I was very active in a community group in the Rockwood area many years ago. We were not recognized by Multnomah County but we held our meetings and we had our own funding by way of dues and it worked very well. Neighborhood groups can be voluntary and work well. Whether we should adopt the resolution or the ordinance with some changes, I don't want them to be

saddled with the open meetings law and having to give legal notice and that sort of thing. They need to give notice, we gave notice by just handing out flyers in the neighborhood and that didn't seem to be a problem. Citizens that are motivated are going to make sure that everybody gets notice. I am very much in favor of the neighborhood associations. I don't think the boundary situation is a problem. I think the boundaries in the map are fine and if there seems to be a problem with the boundaries then they can be adjusted I am sure. I think it is a step in the right direction. I guess the next question is do we want to bring back the resolution or the ordinance.

Councilor Ripma stated lets bring them both back. If we are going to bring them both back I would like to debate some of the proposed changes. I am okay with the change in Section 2.22.040(g), that it is a recommended compliance with public records and public meetings law but in Section 2.22.090(b) that has its own built in restriction that says, "Officially recognized neighborhood associations that are meeting to discuss a recommendation regarding a matter that may come before the city council or other city committee, shall conduct the meeting in accordance with the public meetings laws" I have to say that I favor having that because if it is going to come before us with an officially recognized advisory group of the city, they should be required to have notified and conducted the meeting in a proper way just as we do and as our committees do. I may have misunderstood but I think the proposal was to remove 2.22.090(b), is that what staff understood?

Marnie Allen replied that is what I understood because I understood consistent with that comment, that it was not the intent to make the neighborhood associations advisory committees to the city, instead they would be treated as any other citizen or homeowners association that would come address the city.

Councilor Kyle stated I don't want them to be a separate committee, but I do agree with what Councilor Ripma just said about the importance of notice. Because if they come to address us how do we know if they are representing the whole association or a few with an agenda.

Councilor Ripma stated I am not sure that the change in 2.22.090(b) affects the notice. That is just how the meeting is conducted. Notices would still be required.

Marnie Allen stated what I would envision would be if the intent is to not have them be a separate stand-alone committee charged with advising the city council on issues in their neighborhood is to incorporate the findings that are in the resolution clarifying that they are not an advisory committee of the city, still address the requirement that they notify everyone in the neighborhood association and that they do some of the other things in the ordinance. For example where it says if they are presenting an official position they have to identify whether the decision was reached by the board or if a poll was taken of the general membership. Information on how they are reaching a decision on a city matter would be provided, notice would be given to everybody, meetings would have to open and there is language in here that requires open meetings. But we would remove the strict requirements that say they are an advisory committee and you have to comply with public meetings and public records laws. The other related issue is in 2.22.090(c) where we specifically say that they are subject to the Government Standards and Practices laws.

Councilor Ripma stated that is reasonable to me. Everything else you have said about incorporating the resolution language in the ordinance and requiring the notices be sent but not requiring the public meetings and records law, I endorse. There is one other thing though, Section 2.22.110 and 2.22.120, where Councilor Thomas wanted to remove the language "subject to budget appropriations". I think that language is necessary to respond to the CAC's very clear mandate that they are okay with this but they do not want the City to expend money or resources on this. I think that was very clear and I do not agree that it is covered in Section 2.22.070 simply because Section 2.22.070 has a list of things, staff time, materials, supplies or postage, the list in Sections 2.22.110 and 2.22.120 is longer and has other things in it. I truly think if we want to support the neighborhood associations that are formed financially we need to budget for it and I would favor leaving the language "subject to budget appropriations" in Sections 2.22.110 and 2.22.120.

Councilor Thomas stated the nice thing about the democratic process is we have the right to disagree. I would agree with you on the other statements that you made. I think my intentions when I presented it to the CAC I didn't suggest that we would spending any money. At the time it wasn't in my thoughts that we would budget and establish something like the City of Gresham does. They have a fairly substantial budget and neighborhood associations seem to work really well for the City of Gresham. What I really envisioned was that the neighborhood associations would truly be a stand-alone organization, not an extension of the government. They would come in as kind of an advisory, but they are there own entity. I still would prefer to leave out the "subject to budget appropriations" statements, but that is subject to debate.

Mayor Thalhoffer stated so we will bring back and advertise both the resolution and the ordinance at the next meeting.

Councilor Ripma stated Councilor Thomas and I are apart on only the "subject to budget appropriations" in Sections 2.22.110 and 2.22.120. Is anyone else with me on that? I truly think the CAC was very clear. I think staff brought forward language that makes it clear that absent budget appropriations city expenditures should not be made. I think that is appropriate and I would rather leave the language in.

Councilor Thomas stated my preference would be to not bring back the resolution, but only the ordinance.

Councilor Kyle stated I would like to leave in the statement "subject to budget appropriations".

Councilor Kight stated I agree with Councilor Ripma.

Councilor Ripma stated so we can bring it back that way and Councilor Thomas can debate it at the next meeting.

Mayor Thalhoffer asked so we are going to bring back the resolution and the ordinance both?

Councilor Ripma replied right.

Councilor Thomas stated I don't think we have answered that question. I would prefer to only bring back the ordinance.

Councilor Ripma stated there are two councilors that are not here and they may favor the resolution, why not bring them both back.

Mayor Thalhoffer stated it is not a problem to bring them both back.

Mayor Thalhoffer closed the public hearing at 8:55pm and stated that the resolution and the ordinance will come back for action at the May 25th Council meeting.

Mayor Thalhoffer called for a break at 8:55pm and reconvened the meeting at 9:09pm.

6. PUBLIC HEARING / ORDINANCE (Introduction): An Ordinance amending Title 8 of the Troutdale Municipal Code. (Chapter 8.04 adult care homes; Chapter 8.08 emergency medical services; Chapter 8.12 burglary and robbery alarms; Chapter 8.16 solid waste sites; Chapter 8.24 noise control; Chapter 8.20 illegal dumping and littering; and Chapter 8.32 explosives.

Mayor Thalhoffer read the ordinance title and opened the public hearing at 9:10pm.

Chief Nelson stated I would like to review one chapter at a time and address any questions that you may have on that particular chapter. The first chapter is 8.04, Adult Care Homes. The primary changes to this chapter are housekeeping. We will continue to have Multnomah County administer and enforce the Multnomah County adult care home regulations, which is our current practice. There will be some additional clerical changes that need to be made before the second hearing. Those include changing the Title of Section 8.04.020 to read County Regulations. We will also be deleting the language in the last sentence of Section 8.04.020 "adopted by the Multnomah County board of commissioners on January 31, 2002 and attached to the ordinance codified in the chapter as Exhibit C".

Councilor Ripma asked are we making any substantive changes here?

Chief Nelson replied no.

Councilor Ripma asked does this have anything to do with locating them in neighborhoods?

Chief replied no, that would go through our Community Development Department. This has to do with licensing.

Chief Nelson stated in Chapter 8.08 Emergency Medical Services, Multnomah County administers and enforces the emergency medical services and ambulance laws within the city. The changes being made to this chapter are housekeeping in nature. In Chapter 8.12, burglary and robbery alarms. We discussed this at a work session last week. Since that time the City Attorney has recommended some additional changes. Those changes are: In

Section 8.12.020(c) we will be deleting the words “and returned to the general fund”; delete Section 8.12.020(d); and in Section 8.12.120 change the ORS reference to 192.502(2).

Marnie Allen stated that in Section 8.12.150(A) there are some references to some ORS provisions that apply to the county that we are recommending be deleted.

Councilor Thomas asked do the fines that are collected go to the county or do they come back to the city?

Chief Nelson stated if you recall from the work session the fines will be refunded back to the jurisdiction where they occur. The administration fees will be increased to cover the administrative overhead of the sheriff’s office for running the program.

Councilor Ripma stated in Section 8.12.050 where the false alarm fine amounts are set, it reads “five or more will be assessed a \$300 fine”. I could read that to be that five or more false alarms could be one \$300 fine. I know that is not what is meant. I would suggest something like the fifth and any additional false alarms will be assessed a \$300 fine.

Chief Nelson stated the next chapter is 8.16, solid waste sites. We are suggesting that this chapter be repealed.

Councilor Ripma asked why are we repealing this?

Jim Galloway stated it is my understanding that Chapter 8.16 pertained to the previous landfill operation that the city conducted at Sunrise Park. Since that landfill operation has been discontinued for a number of years there is no longer a need for this particular chapter.

Councilor Ripma asked don’t we have solid waste, we have that transfer station?

Jim Galloway replied this deals with administering a specific solid waste permit issued to the City by DEQ that is not applicable to the transfer station that Waste Management occupies under an agreement with Metro.

Chief Nelson stated the next chapter is 8.20, again these are mostly housekeeping changes. After speaking with our City Attorney this afternoon we are recommending some additional changes to this chapter. Those changes are: The deletion of Section 8.20.030(b); the deletion of Section 8.20.040(B); the deletion of Section 8.20.050; Section 8.20.060(b)(2) would be changed to read, “issue citations or summons and complaints”; delete 8.20.070 through the remainder of the chapter. The primary reason for these additional deletions is the city already has processes and penalties in place.

Marnie Allen stated what we would use to enforce compliance with this ordinance would be the general penalty provision that the Council adopted. We are trying to get rid of all of these different penalty provisions in different sections and be consistent.

Chief Nelson stated moving to Exhibit I, which is Chapter 8.24. We did discuss this at the Council's work session last week. Again, our City Attorney has recommended some additional changes to this Chapter. In Section 8.24.035 we would like to add back a portion of the language that I had stricken which reads, "the tone of the noise is abnormally high or low". Last week we discussed neighborhood disputes over perhaps a pool pump that would be too loud or an air conditioning unit that is too loud. If they were operating properly they would not be abnormally high or low, so that is good language that the City Attorney caught that I overlooked last week.

Marnie Allen stated the reason for that change is if you strike all this language and the only criteria for an unreasonable noise is that it can be heard within a noise sensitive unit, or a house with the doors or windows closed, and it must occur between 10pm and 7am, then you will still receive complaints from a person who has a pool pump or air conditioning unit if it going off between 10pm and 7am because it would meet those two criteria. So we needed to add something to clarify when those two things exist then what else causes it to be unreasonable. In talking with the Chief it was really the tone of the noise being abnormally high or low that makes it unreasonable. So all three of these would need to exist in order for us to take action. At least that is our recommendation.

Councilor Thomas asked assuming that the noise from an air conditioning unit that may be operating a little louder than most, how would that be corrected?

Chief Nelson replied the process would be that the officer who responded to that would go into the house that was making the complaint and see if they could hear the noise and determine if it is an unreasonable noise. There is some discretion and common sense involved in this determination. They would then have a discussion with the property owner or the owner of that particular piece of machinery and see if it is operating correctly and if there is any way to resolve that. If it can't be resolved and it is abnormally loud and unreasonable then that person could be issued a citation and it would be up to the Judge to make a determination. We could bring to court a tape recording of that noise from that house that is making the complaint.

Councilor Thomas asked do we have a decibel meter?

Chief Nelson replied we do. We didn't choose to put in decibel meter reading in this particular ordinance. We did use that in the park ordinance that Mr. Faith brought forward a while ago. We could use that and bring the decibel reading into court.

Councilor Thomas stated I would see that as a tool. Noise levels vary from person to person.

Mayor Thalhoffer asked could we use the decibel reading?

Chief Nelson replied we could.

Mayor Thalhoffer stated that would be more objective.

Chief Nelson stated what it requires us to do is take sample readings in the different areas and determine what is a normal level and then try to build that into the ordinance.

Mayor Thalhoffer stated what I would like to see is to be as objective as possible. A decibel is a standard noise and it is objective. It seems like that would be more desirable than the subjective language we have here.

Chief Nelson stated I believe some of this language was written initially to deal with some of the park issues and most of those problems have been resolved through the parks advisory committee and changing the format in which they allow uses in the park by limiting the number of people that are allowed.

Councilor Thomas asked is there some way to put into the code what is an excessive normal operating decibel meter range for certain noises.

Marnie Allen stated we could certainly put that language in there. I am not real familiar with whether or not there are normal operating ranges or decibel measurements that we could refer to in determining when it exceeds it or not.

Councilor Ripma stated the reason we went to this language was the technical problems with obtaining decibel readings, we had an ordinance that had decibels in it before. The whole purpose of this kind of an ordinance in my mind is to try and resolve disputes between neighbors who are having a dispute that they cannot solve themselves. What was happening with the way that this was worded and the reason we are changing it was that neighbors were able to bring in complaints about amplified noise and noise that is more than five minutes and it wasn't resolving the disputes it was causing the police to come out and issue citation. Going back to taking decibel readings within a house, you are suggesting that the police would come in with a noise meter and take a reading inside a house. To me that would be just as challenging. The police aren't experts at running that equipment. I am willing to give this a try without opening this all back up to decibel meters again because I question whether city staff can do it. I want to be able to resolve these neighborhood issues the best we can. While I share your view that objective is better, I would like to give this a try for a while.

John Anderson, City Administrator stated maybe the two are not mutually exclusive. Staff could bring back some language that would be a practical tool that could be applied in most noise compliant cases where an officer could go in and talk to both parties and resolve the issue but with the tougher more complex cases that won't go away they could fall back on the decibel meter reading.

Mayor Thalhoffer stated that would be fine with me.

Chief Nelson stated in Section 8.24.040(7) we are suggesting to add to the end of the sentence, "and is not authorized pursuant to a permit". In Section 8.24.050(4) we are suggesting to add to the end of the sentence, "in accordance with a permit".

Marnie Allen stated that we would like to add back the language in Section 8.24.040(b) that was inadvertently stricken out.

Chief Nelson stated in Chapter 8.32 Explosives, Exhibit J, primarily the areas that we are suggesting be deleted are areas that we do not currently enforce or have any jurisdiction over.

Chief Nelson stated that I will be bringing this back for a second hearing on May 25th and we will make all of the additional changes to the proposed ordinance that were outlined tonight.

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 9:55pm.

7. PUBLIC HEARING ON THE FOLLOWING:

- A.** A Resolution adjusting the rate and capital improvement plan for water system development charges and rescinding Resolution No. 1652.
- B.** A Resolution adjusting the rate and capital improvement plan for sanitary sewer system development charges and rescinding Resolution No. 1653.
- C.** A Resolution adjusting the capital improvement plan for transportation system development charges and rescinding Resolution No. 1654 and 1688.
- D.** A Resolution adjusting the capital improvement plan for storm water system development charges and rescinding Resolution No. 1655.

Mayor Thalhoffer read the resolution titles and opened the public hearing at 9:56pm.

Jim Galloway, Public Works Director stated this is our annual review of system development charges as required by the Municipal Code. Each year we are asked to update the capital improvement plan and come forward and make any rate adjustment recommendation that we have for Council's consideration. In this years submission we recommend no changes in the plan for water or sewer. In the transportation arena we recommend deleting the previously listed project called public transit improvements and add two additional projects, Transportation Improvements in North Industrial Area, that is the yet to be annexed area generally associated with the Alcoa properties and Transportation Improvements in the Former STP area. In the storm water arena, the staff report that you have in front of you indicates no adjustments. I did note just yesterday one project that was left off of that list, so I would propose one change and that would be a project entitled update the North Troutdale Storm Drainage Master Plan at an estimated cost of \$60,000. We then updated our cost estimates for the projects and where we did not have very specific data we utilized the construction cost index published by Engineering News Record magazine which is a 4% increase for year 2003. The effect of those actions results in a proposed change in the water SDC from \$1,062 per hydraulic equivalent to \$1,148, which is an 8.1% change. In sanitary sewer we propose an increase from \$4,391 to \$4,426 per equivalent residential unit or a 0.8% change. There is no proposed change in transportation or storm water. When those recommended changes are applied to a new single-family home, the net result would be an

increase of system development charges of \$121 or 1.7% increase. In the years past when we have talked about system development charge adjustments often times the question is asked about getting the word out and notifying folks that might be affected. We have for a number of years, and did again this year, notified the two entities that have asked to be given notice of our changes and those are the Home Builders Association and the Manufactured Home Association. Those two entities were notified and we have had no response from them. We have also provided a summary of these proposed changes on the permit counter for the last 90-days so that any prospective builders and developers would be notified of the proposed changes. The second thing that is often asked is how do these rates compare to other jurisdictions, that is included in your packet as Exhibits 1 and 2 to my staff report.

Councilor Thomas requested that the Council consider resolution 7B separately from the other resolutions.

MOTION: Councilor Kight moved to adopt the Resolution adjusting the rate and capital improvement plan for water system development charges and rescinding Resolution No. 1652. Seconded by Councilor Ripma.

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

Motion Passed 5 – 0.

MOTION: Councilor Kight moved to adopt a Resolution adjusting the rate and capital improvement plan for sanitary sewer system development charges and rescinding Resolution No. 1653. Seconded by Councilor Ripma.

Councilor Thomas stated I disagree with the need for the \$1.00 raise in the sewer rates. I think with the additional property tax being imposed that will cover it personally.

VOTE: Councilor Kight – Yes; Councilor Kyle – Yes; Councilor Ripma – Yes; Councilor Thomas – No; Mayor Thalhoffer – Yes.

Motion Passed 4 – 1.

MOTION: Councilor Kight moved to adopt a Resolution adjusting the capital improvement plan for transportation system development charges and rescinding Resolutions No. 1654 and 1688. Seconded by Councilor Ripma.

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

Motion Passed 5 – 0.

MOTION: Councilor Ripma moved to adopt a Resolution adjusting the capital improvement plan for storm water system development charges and rescinding Resolution No. 1655 adding the project of updating the North Troutdale Master Plan to the Capital Improvement Plan. Seconded by Councilor Kight.

VOTE: Councilor Kight – Yes; Councilor Kyle – Yes; Councilor Ripma – Yes; Councilor Thomas – Yes; Mayor Thalhofer – Yes.

Motion Passed 5 – 0.

8. COUNCIL CONCERNS AND INITIATIVES:

Councilor Kight asked if the work session scheduled for tonight could be set over to another date due to the late hour?

Council agreed.

Councilor Ripma stated that the Historical Society will hold its annual cemetery tour this Saturday, May 15th at 12:30pm.

Councilor Thomas congratulated MCTV for 20 years of serving the community. They do a fantastic job.

Mayor Thalhofer thanked the budget committee and staff for their hard work in putting together the 04-05 Budget.

9. ADJOURNMENT:

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

Meeting adjourned at 10:12pm.

Paul Thalhofer, Mayor

Approved July 27, 2004

ATTEST:

Debbie Stickney, City Recorder