

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

Tuesday, May 25, 2004

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

Mayor Thalhofer called the meeting to order at 7:05pm.

PRESENT: Mayor Thalhofer, Councilor Thomas, Councilor Ripma, Councilor Kyle, and Councilor Kight (7:20pm).

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

STAFF: John Anderson, City Administrator (8:08pm); Jim Galloway, Public Works Director; Rich Faith, Community Development Director; Kathy Leader, Finance Director; David Nelson, Chief of Police (8:08pm); Marnie Allen, City Attorney; and Debbie Stickney, City Recorder.

GUESTS: See Attached List.

2. CONSENT AGENDA:

- 2.1 Accept Minutes:** March 23, 2004 Work Session and April 13, 2004 Regular Meeting.
- 2.2 Resolution:** A Resolution accepting the Deeds for Tract A and Lots 48 through 51 in the Burlingame East Subdivision.
- 2.3 Resolution:** A Resolution providing for appropriation increases and making appropriation changes for Fiscal Year 2003-04.
- 2.4 Resolution:** A Resolution providing for budget transfers and making appropriation changes for Fiscal Year 2003-04.
- 2.5 Resolution:** A Resolution authorizing the Mayor to sign a Transportation Growth Management Grant Agreement with the State of Oregon for the Transportation System Plan Update.

Mayor Thalhofer read the consent agenda.

MOTION: Councilor Ripma moved to adopt the consent agenda. Seconded by Councilor Kyle. Motion approved unanimously.

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

Ali Peret stated I received a memo from Mr. Galloway. In section 3 of that memo (copy enclosed in the packet) it states, "that a staff member told him he could not remove the offending trees. This is not correct." I would like to say that this is indeed correct. I was told not to remove the trees. (Ali provided a handout to the Council. A copy is included in the packet.) In my handout there is a notation that states that I paid \$75.00 for someone to come out and they determined that the trees needed to be removed and there was no way to prevent these trees from tearing up the sidewalk even after it is repaired. The only solution would be to remove the tree and the roots. I didn't want to spend that \$75 on this but the reason that I pursued it was because I was told that I could not remove the trees. The City wants to go forward with my citation. I understand that the Council has the authority to request the suspension of the citation. At this point what I would like to do is ask for some leniency on the basis that both sections of the sidewalk have been repaired and the trees have been removed. The additional funds that we spent for the repair exceeds the amount of money I would think that it would cost the city to send people to inspect the area. Also because of the time and energy that I have spent in going through the channels with the city, and time is money and I do run a business by myself, I am asking for the City Council to perhaps intervene in this situation on my behalf. Maybe this needs to be an agenda item.

Mayor Thalhofer replied it does. We will put it on the next agenda.

Ali Peret asked what happens in the meantime?

Mayor Thalhofer stated with an agenda item pending I would hope that there wouldn't be any action taken against you until that agenda item is resolved.

Mayor Thalhofer asked the City Attorney for some advice.

Marnie Allen, City Attorney stated a trial date has not been set to my knowledge and we could coordinate with the Court Clerk to make sure that the trial date is set after the Council has had an opportunity to review this.

Councilor Ripma stated in pursuing that item and without regard to anything about the merits of Mr. Peret's situation, I think we ought to be briefed by City staff regarding intervening in a situation like this. The worry of course is that every time anyone has a citation they will come to the Council requesting relief, and while it might be necessary here, I think we ought to have a full discussion about the wisdom of stepping in as a city council at this point. I really don't understand the merits and facts other than what was laid out by Mr. Peret and Jim Galloway. I don't want us to be conducting a trial.

Mayor Thalhofer asked does Mr. Peret have the right to appeal this case to the City Council?

Marnie Allen replied no. Our code says that if you violate the code and you are cited into municipal court, the municipal court decision is the final decision. The Municipal Court Judge decides if the code has been violated or not. Having said that, the City has discretion to decide when it is going to enforce this ordinance and when it is not. Typically the legislative

body doesn't get involved once the ticket has already been issued. It would be similar to State Legislature or Congress intervening with the Department of Justice enforcement action after it has already been filed. There are practical reasons why there is that separation of powers. If the Council felt strongly about this case, as the policy and decision makers for the city, and you wanted to direct that the city didn't prosecute this particular violation, legally you can do that. I would be happy to work with city staff to prepare some material so that you make that decision in an informed way.

(Councilor Kight arrived at 7:20pm.)

Mayor Thalhoffer stated I think we should go forward with it and we need to be briefed.

Councilor Ripma stated I understand that there is a review being conducted regarding the street tree issue by the Citizens Advisory Committee that will eventually finds its way to us. One thing we might consider is suspending further enforcement until we resolve that. That is something that I would also like to discuss.

4. MOTION: A Motion to approve the Mt. Hood Cable Regulatory Commission's (MHCRC) 2004-05 Budget.

Councilor Thomas stated I represent the City of Troutdale on the Mt. Hood Cable Regulatory Commission (MHCRC). Tonight we are here to present to you are annual budget for the fiscal year 2004-05 for your approval. The Commission was created by an intergovernmental agreement by the Cities of Fairview, Gresham, Troutdale and Wood Village and Multnomah County. Each jurisdiction appoints citizen representatives to the commission. The Commission contracts with the City of Portland for staffing services. Some of our accomplishments over the past year are: we pursued changes to the Comcast privacy policy; we provided consumer protection and complaint resolution; we guided development of the Community Institutional Network (I-Net); funded projects to advance education and community based technology; partnered with Comcast, PCM and MCTV to digitize live video origination capabilities; joined the national efforts to appeal the FCC decisions with adverse local affects. (More detail on these accomplishments can be found on pages 1 – 3 of the proposed budget, copy contained in the packet.). The proposed budget is down 4.5% from the current fiscal year. Portions of the operating budget are funded by the jurisdictions appropriated from the cable franchise fees. Cable franchise revenues are projected to increase about 3% from the 2003-04 revised forecast. The estimated cable franchise fee for Troutdale is approximately \$30,790. The contributions from Troutdale to support the Mt. Hood Cable Regulatory Commission are \$12,618.

Rob Brady, Executive Director of Multnomah Community Television stated there are two very important things going on. At our board meeting last week the Board adopted a strategic plan to determine community needs. The second thing is we have been working for three years now to move to a new facility. I am delighted to report that we have a letter of commitment from the bank and we anticipate submitting our plans next week for renovation of a facility opposite of the Alpha High School.

MOTION: Councilor Ripma moved to approve the MHCRC 2004-05 Budget. Seconded by Councilor Kight.

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

Motion passed 5-0.

5. REPORT: A Report on the status of the County Farm properties.

Lynn Dingler, Multnomah County, stated what I presented to you was an aerial photo of the Edgefield property owned by the County (copy included in the packet). The first thing I want to say is that nothing has been decided about this. Many of your citizens have called me and emailed me and they are very interested in what we are doing so we are staying in touch with them. I have been directed to enter into a review of the Edgefield property with the intent to divest ourselves of it. We are reviewing all of our properties. The process will be that I will produce a request for a statement of surplus with the commission at which time they will say yeah or nay to selling all or part of it. The intent at this time is to look at the property in three different pieces. We have no intent right now, and I don't anticipate in the future to do something with animal control, that is one piece of our property. The second piece of our property is called the "Pig Farm". My intent is to write up a statement of surplus, which is essentially a business type of a proposal to the commissioners to make a decision about whether this is in fact all or in part surplus to the County. I have been discussion this with Rich Faith and I understand you have some interest. I anticipate that we will be entering into this particular development of the surplus statement within a month and a half. We will put it together working with you and your staff. You will be fully informed and have an opportunity for your wishes to be heard. The second part of that, which I anticipate starting in late August, is the area to the south of Halsey. This is a property that is a little more problematic. We have a jail and we have a right-of-way and we have several other issues that go with that property. At this time the Sheriff has said that he will hear what our proposals are but for the purpose of this discussion, continued operation of the Multnomah County Correction Facility is in the budget for this year. That will be part of the discussion. The existence of the 242nd Street right-of-way, we have had some internal discussions about that. We will be bringing a recommendation to the Board of County Commissioners on that particular right-of-way. My job essentially is to put together the property in the most reasonable configuration to sell. If there is a piece of property that the City of Troutdale is interested in, that would be part of the discussions. We don't know what the configuration is going to be yet, but we will be putting that together.

Councilor Ripma asked you are going to make a proposal to declare the pig farm and the jail site as surplus property?

Lynn Dingler replied the jail site will come later. We will be looking at those at two different processes because the pig farm is less complicated. My timeline for that area south of Halsey is actually the better part of a year. There are a lot of people who are interested in the process so before I get a surplus statement on that piece of property I will anticipate hearing

from the Cherry Ridge Homeowners Association, your Council and staff and other interested parties. We will be putting together a package that reflects all of the interest. Everyone will be notified when that goes to the Commission.

Councilor Ripma asked what about the road right-of-way?

Lynn Dinger replied I have been in discussions with our transportation department and we have a difference of opinion. They are concerned. The environmental impact statement on that particular right-of-way still needs to be resolved. We can leave it on the regional transportation plan or take it off.

Councilor Ripma asked in the process for all of these are you going to be consulting with not only the homeowners and the city but people like McMenamins?

Lynn Dinger replied yes.

Mayor Thalhoffer asked so you are going to keep Multnomah County Correctional Facility open for at least one year?

Lynn Dinger replied that is my understanding.

Mayor Thalhoffer stated the pig farm property seems to have a number of constraints like the water features. I guess Goal 5, depending on how it is implemented, could render that property useless.

Lynn Dinger stated it is my opinion that it is not useless. As far as the development of the package we intend to get a delineation of the wetlands.

Mayor Thalhoffer asked are you going to allow the City of Troutdale some way to help you decide what is going to be on this property?

Lynn Dinger stated I believe the zoning is light industrial. One of the things that we have the option of doing is when we put a piece of property up for sale is to put preferences on it that constrains the sale. We clearly wouldn't want to put restrictions or preferences on the development that would hurt the sale. We will certainly be talking with you and your staff.

Mayor Thalhoffer asked would you be willing to give the City of Troutdale another shot at it? We are really interested in seeing a really nice development on that property.

Lynn Dinger replied I can't commit to that but I will definitely put that as part of my proposal to the Board.

Councilor Kight asked is the animal control property also on the table?

Lynn Dinger replied I am not putting it very high on my list.

Councilor Kight stated I would agree with the Mayor regarding the pig farm property. I would like to see Troutdale be part of the process.

Lynn Dingler replied that will be part of the proposal.

Mayor Thalhofer asked Rich Faith to brief the Council on the zoning and water features on the pig farm property.

Rich Faith, Community Development Director stated the entire pig farm site, which we've always considered the County Farm property to the north of Halsey to Columbia River Highway is zoned Light Industrial. It was previously zoned Industrial Park and a couple of years ago we made some major amendments to our industrial zones and our attempt was to consolidate our Industrial Park with our Light Industrial zone. It has always been understood that Light Industrial zoning was more or less a holding zone. You are not necessarily committing this property to being developed as industrial uses. According to the various maps that we use as resources for determining environmental constraints including wetlands, floodplains and other things, this particular property shows up on those various resource maps as having some of those environmental constraints. It shows up as having some wetland characteristics and some floodplains. These are all subject to regulation currently under Title 3 regulations. Title 3 dealt more particularly with water quality and flood management regulations. The next phase of environmental regulations and protection is the Goal 5 program. Goal 5 basically takes what was done in Title 3 and takes it one step further and looks at additional regulation measures for fish and wildlife protection. Metro intends to adopt the Goal 5 program by the end of this year.

(John Anderson, City Administrator and David Nelson, Chief of Police arrived at 8:08pm.)

Councilor Ripma asked do we get any inquires regarding purchasing the pig farm or the jail site?

Rich Faith replied I don't think we get any inquiries in our office. I think most people know that the County owns the property.

Councilor Ripma stated I truly think we should put some focus on this property. This is a unique opportunity for the city to help attract something good here. I don't know if McMenamins is still interested in this property but that needs to be checked out. I think the Council should discuss what we might do and our options.

Councilor Thomas stated I agree with Councilor Ripma. I also think if we are going to look at property we should look at all of the vacant properties.

6. RESOLUTION: A Resolution revising the sanitary sewer utility fee, confirming the average flow rate for an equivalent residential unit, and rescinding Resolution No. 1657.

Mayor Thalhofer read the resolution title.

Jim Galloway, Public Works Director, stated this resolution would increase the sanitary sewer user fee by \$1.00 per equivalent residential unit per month from \$25.50 to \$26.50 effective on July 1, 2004. The reason for the increase, which was discussed at some length during the budget committee process, is that for the past three years expenditures have been exceeding revenues in the sewer fund. Among the reasons for those imbalances is the implementation of the 5% franchise fee in 2001-02, major refurbishment project we had on the West Historic Columbia Highway pump station in this current fiscal year; increases in the electricity and natural gas costs due to rate increases, greater volume of sewage and treatment to higher mandated standards. I think there may be similar increases in the next several years in order to restore the fund balance, accommodate routine operating costs, handle unexpected contingencies and fund two more major upcoming expenses in the sewer fund which are the replacement of the vac-con truck and the upgrade of the telemetry system that monitors and controls the eight remote pump stations. For those reasons we are recommending a \$1.00 increase which amounts to a 3.9% increase.

Councilor Kyle asked you have listed under the reasons for the imbalance the refurbishment of the pump station, has that happened yet?

Jim Galloway replied that has been completed.

Councilor Kyle asked could you explain the 5% franchise fee?

Jim Galloway replied there was a recommendation from the budget committee, which was then adopted by the city council that implemented a 5% franchise fee on the city utilities, water, sewer and storm that was effective in fiscal year 2001-02. Basically what that resulted in is that \$0.05 of every \$1.00 of revenue that comes in from user fees for those three city utilities is assessed as a franchise fee that is paid into the general fund.

Councilor Thomas asked regarding the franchise fee, I thought that the reason for the \$.50 increase last year was to help cover the cost of the franchise fee, are you using that same reasoning again this year?

Jim Galloway replied yes, the franchise fee is still there.

Councilor Thomas stated in looking at your numbers for utility costs on page 2 of your staff report it goes from \$68,411 in fiscal year 2000-01 to \$159,345 in fiscal year 2001-02 and increases to \$212,892 in fiscal year 2002-03.

Jim Galloway replied I think there are a couple of issues as I mentioned in my report. First of all I think this coincides with some very significant increases in the electrical rates at that time. It is costing more to operate the new plant as far as the electricity goes. We are pumping more sewage and we have to pump more than we did before to get the treated effluent out to the Sandy River. It is not all gravity flow as it was previously at the old site and we are cleaning to a higher standard.

Councilor Thomas asked if we would have had to do what we are doing today at the previous plant, would it cost more or less?

Jim Galloway replied if we were required to treat to a higher standard I think the cost would be about the same for the operation portion. It is costing us a bit more to convey the sewage because we had to add effluent pumps at the new sewage treatment site to get the treated effluent from the plant site to the river so that is a cost at the new plant that we didn't have at the old location.

Councilor Kight asked is there any way to capture new revenue for the sewer treatment plant i.e. people that bring trucks that have extracted effluent from manufactured home parks or septic systems? Are you accepting any of that material now?

Jim Galloway replied we are not accepting that now. We haven't spent too much time looking into that. I think if we were to accept that material there would be some revenue from that. I don't have a good feel for just how much that would be. I think there would be a certain amount of offset. We would be opening ourselves up to a bit of risk by just allowing any vehicle to come in and empty what they have. Also, many of the users that you mention such as the recreational users often times want that service on the weekends and we don't man the plant on the weekends so either we wouldn't be able to be full service or we would take on some additional costs to man the plant on the weekends.

Councilor Kight asked would it be productive to check and see what those folks are currently doing with their effluent? If it is negligible, particularly if it is a weekend, it may not be worth it.

Jim Galloway replied we can do some checking.

MOTION: Councilor Ripma moved to adopt the resolution. Seconded by Councilor Kight.

Councilor Kight stated as reluctant as I am about increasing the sewer rate in the current economy I think our public works director has made a very compelling argument.

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

Motion passed 4-1.

Mayor Thalhofer stated with the Council's permission I would like to move to agenda item #9 so the folks that are here from Tube Specialties don't have to sit through the rest of our meeting.

No objections stated.

9. PUBLIC HEARING / ORDINANCE (Introduction): An ordinance clarifying the remedies and fees for industrial and categorical users of the sanitary sewer system and amending Chapter 12.07 of the Troutdale Municipal Code.

Mayor Thalhofer read the ordinance title and opened the public hearing at 9:35pm.

Jim Galloway stated this is the introduction of an ordinance that would clarify remedies and fees for industrial and categorical users of the sanitary sewer system and amend Chapter 12.07 of the Municipal Code. This is being brought before Council at least in part to implement your decision on April 27th regarding Tube Specialties and a formal pretreatment program. As you may recall shortly before that April 27th meeting we had learned that DEQ under pressure from the Environmental Protection Agency had determined that one of our industrial users, Tube Specialties, is considered a categorical user under federal regulations. We were presented with two options; either disconnect Tube Specialties from the City's sanitary sewer system or develop and implement a formal pretreatment program in accordance with the federal regulations. At the April 27th Council meeting an agreement in principle was reached between the Council and Tube Specialties which included: Tube Specialties would continue to discharge to the City's sanitary sewer system; the City would develop a pretreatment program in accordance with the federal and state regulations; Tube Specialties would reimburse the City for the cost of program development; and the City and Tube Specialties would share in the annual recurring costs of implementing and maintaining the program. Based on that agreement in principle the City Attorney and I reviewed our current ordinance, which is codified in Chapter 12.07 of the Municipal Code to make sure we were in compliance. We found one item that needed to be amended to be able to implement the agreement in principle and two other items that it would probably be wise to amend at the same time.

Mark Weyhrich of Tube Specialties stated with regard to the pending ordinance changes, Section 12.07.470 and 12.07.515 we don't have any issues with those changes. However, in Section 12.07.600 we have some concerns with some of the wording in the proposed changes. Our first concern would be that the wording basically gives the city the right to establish development and permit fees based upon estimates not actual costs. There is a potential there for us to receive a significant overcharge. We would like to request that the language be changed to say something to the effect that it would be either the actual or estimate whichever is less. We don't want to incur an expense that is over the actual cost. If you estimate that it will cost \$100,000 and the actual cost is only \$70,000 the way this is worded now you could charge us based on the estimate and you could enforce that, not that you would. The second thing is the language in here states that we would be paying for the revision of all policies, procedures and laws. We feel that should be a city incurred expense. Our proposal was to pay for the development costs because the city felt they did not have the technology, knowledge and resources available to develop the actual program itself. Any costs associated with changing laws and procedures should be able to be absorbed by the city.

Councilor Thomas asked where is that language you are referring to?

Mark Weyhrich replied Section 12.07.600(B)(2) reads, "the permit fee that is established by council resolution will be based on the costs the City anticipates it will incur to implement and maintain a pretreatment program; draft and update ordinances, resolutions, policies and procedures; develop report formats; monitor inspections; perform surveillance; sample and analyze discharge; review reports from industrial users; investigate complaints; review and respond to accidental discharge procedures and construction; enforce compliance with the provisions in this chapter; and for any other costs the City may incur for activities associated with the provisions in this chapter".

Councilor Kight asked so you are saying the City should absorb all of that?

Mark Weyhrich replied no, a lot of that we are going to absorb as a cost basis for the program itself. We committed to helping the City or actually funding the development of this program for the City, however, to say that because the City has to change an ordinance, basically the work that the City Attorney and Mr. Galloway have done here, you would bill us back for in this case and we feel that cost should be absorbed by the City. So what it really does is leaves the City open and it creates an open bill for the City to conduct what we consider to be normal city business on our dime. We felt our offer was more than gracious. We weren't contacted on any of this, it was just drafted. We have concerns also that there is no provision in here for us to have any say in this. We would like to have significant input. Obviously, most of the decisions are going to reside with the City but we would at least like to have a say in what this is going to look like, are we going to use all outside consulting services or are we going to use a mix, basically where is our money going to go? \$100,000 is a lot of money and we would just like to know where it is going. Also, there is no provision in this language that deals with what happens if we do become exempt from this requirement. Also the language that says we need to share the costs of the annual maintenance, what does that mean exactly because we are already sharing the cost with the city? If another user comes on board is there a reduction to the City and Tube Specialties or just Tube Specialties, this is very vague. I think we discussed that we felt that it should be a reduction specifically in our cost since we are absorbing more of the costs. Mr. Mayor you also suggested that we take a look at somehow recouping funds that Tube Specialties invested because this could be a positive selling point to bring new businesses into Troutdale and I do not see any provision in this language that addresses that. I don't know if these things were dropped or. Again it would have been nice if we would have been contacted. We would have appreciated the opportunity to have some input.

Councilor Ripma asked the nature of your offer of \$100,000 was that a percentage of the cost?

Mark Weyhrich replied no. What we stated was that through research we estimated that the costs would be approximately \$100,000 for the City to set up this program. Will there be some administrative costs? Yes, but in our opinion they should be nominal. I don't think there is any way to really quantify what the city is going to spend on this particular item. If we were to put \$100,000 in escrow how do we decide when that money gets tapped into? I think that is what we are looking for, a set of rules that say when you are going to bill Tube Specialties and this is when you are not going to. If you're simply changing policies and

procedures within the City's structure we don't feel the money should be tapped for that. We feel the money should be used specifically for outside consultants and legal services which is where the bulk of the costs are going to come from.

Councilor Ripma stated so if I understand correctly, if an understanding is reached about what your contribution would be spent on, it wouldn't necessarily be capped at \$100,000.

Mark Weyhrich replied correct. We would be committed to seeing this program to completion.

Councilor Ripma stated updating ordinances seems like it is part of developing a program and meets the requirements. Are you asking that we hold this over and work out the details?

Mark Weyhrich replied we would appreciate that opportunity.

Councilor Ripma asked is there time to do that?

Jim Galloway replied as far as timing goes we don't have an absolute deadline that this particular ordinance needs to be done by. Just to clarify what we are dealing with here is the ordinance which is a broad umbrella that establishes the basic parameters. The specific details, and I think the things that will probably address most of the questions asked here, are in an agreement which DEQ has told us that we must enter into with Tube Specialties on or before June 30th. We have indicated to them that we would get a draft of that document to them to look over and then we can sit down and work out the details by the end of this week. That agreement will address the details that we are talking about here as oppose to putting all of those things that are really just specific between Tube Specialties and the City into a general ordinance that theoretically applies to the whole city.

Councilor Ripma asked so nothing in this ordinance as it is written precludes an agreement about what Tube Specialties might have to pay for and what the city might pay for. The ordinance talks about a permit fee that would be applied.

Jim Galloway stated there are really three fees that are talked about. There is an application fee, the permit fee which is the one where we were going to share the cost, and there is a development fee and that is the big fee to develop the program which has been estimated to be around \$100,000.

Councilor Ripma stated the fact that the wording here that the permit fee will be based on the cost that the City anticipates it will incur, I think that is fairly standard language for an ordinance, that would not preclude us reaching an agreement in detail about what Tube Specialties was funding and what the City was funding.

Jim Galloway replied that is certainly my intent in drafting this.

Mark Weyhrich stated our concern is that we could be assessed fees based on estimates.

Councilor Ripma asked do we need to amend this language to address their concern?

Marnie Allen, City Attorney, the language in all three of these sections of the ordinance regarding the three different fees states that the fee shall be established by resolution and the council will be updated the fees and charges resolution that contains the fees. Just in looking at the proposed language for these fees, first off the application fee is already in our fees and charges schedule and is set at \$350. The development fee in the fees and charges schedule reads that it shall be the actual cost of program development assessed on the user creating the need. We could make the language in this ordinance mirror the language in the resolution. Similarly, the language regarding the annual discharge permit fee in the resolution it says it shall be the actual cost of implementing and maintaining the pretreatment program. It goes on to say or such other amount as may be contained in an agreement between a user and the City, which is the agreement we are working on with Tube Specialties. We can make a couple of changes to this ordinance to make it consistent with the resolution and the agreement to address their concerns and questions about the fees. With regards to questions about whether or not the fee will include costs for drafting and updating ordinances, resolution, policies and procedures, perhaps Mr. Galloway and I can talk and get in touch with Tube Specialties and figure out how we are going to identify what part of that work is City work and outside the scope of developing a program and what part of that work really should be captured in the cost of developing the program. The last comment or concern that they had is what happens if they become exempt because the federal rules change, if they become exempt they are not required, as I read this, to obtain the annual wastewater discharge permit fee. This fee only applies to someone who is a user that is required to obtain that permit. If they become exempt before the program is fully developed and the question has to do with payment of the development fee that would be addressed in the agreement that the City enters into with them.

Mark Weyhrich stated correct, however, it is not just the annual fee that we are concerned about, it is the ongoing maintenance that we agreed to as well. The City has agreed to cap their annual expenditure at \$20,000 and Tube Specialties has to come up with the remainder. For example, if the City decides to hire someone at \$50,000 a year, the City is capped at \$20,000 and we would have to pay the \$30,000. If we are no longer a categorical user, what happens to the \$30,000? Does the City just absorb that? I think that needs to be thought about.

Marnie Allen stated the initial draft of the agreement attempts to deal with that issue in that the annual fee would be imposed once a year. If that fee was \$50,000 lets say that the date that the fee is imposed and paid is January 15th. Then on January 15th you pay the fee. If sometime after that date you no longer need to discharge to the City's sanitary sewer system there wouldn't be a refund or reimbursement of that fee for that year and you would not be required to pay the permit fee the next year because you would no longer be a user subject to that annual discharge permit requirement.

Jim Galloway stated it is certainly not our intent to establish a procedure and give it to you on a take it or leave it basis. We did exchange some correspondence after the last meeting. Tube Specialties raised a couple of issues that were certainly worthy of our attention. We

have been working as best as we can to come up with a reasonable answer. We have a draft document that in the next day or two the City Attorney and myself will be able to finalizing and will send to Tube Specialties to look at and then we can set up a meeting to address any of their questions and concerns.

Mark Weyhrich stated I think we would like to have that agreement in place before the ordinance is adopted.

Councilor Thomas stated I think they have brought up some very valid points. I was assuming initially that you had agreed on this. I think we need a clear definition of fees and how they are calculated. I am in favor of holding off on adopting the ordinance until all parties are in agreement with the contract first.

Mayor Thalhoffer stated this is only the first reading of the ordinance. Before the second reading you could get together with staff and work out all of the details of the agreement. Your points are well taken.

Mayor Thalhoffer asked does staff have sufficient direction?

Marnie Allen stated you would like us to make the language in the ordinance consistent with the fees and charges resolution so it represents the fees as being the actual cost incurred instead of the costs the City anticipates. Clarify what portion of drafting ordinances, resolutions, policies and procedures will be costs that are included in the development of this program. We will work on and finalize the agreement with Tube Specialties and bring that back for approval along with the second reading of the ordinance.

Mayor Thalhoffer closed the public hearing at 9:08pm.

Mayor Thalhoffer called for a break at 9:08pm and reconvened at 9:29pm.

(Councilor Kight left the meeting at 9:10pm.)

7. PUBLIC HEARING / RESOLUTION: A Resolution adopting a Supplemental Budget for FY 2003-04 and making appropriations in the Park Improvement Fund.

Mayor Thalhoffer read the resolution title and opened the public hearing at 9:29pm.

Kathy Leader stated we require additional appropriation authority in the Parks Improvement Fund for the purchase of parkland. The supplemental budget would establish a material and services category in that fund for \$15,000 to cover the cost of bond counsel fees, loan fees and some miscellaneous consulting services related to the acquisition of the Burlingame property. The supplemental budget would also increase the capital outlay category by \$10,000 for the additional cost in the land purchase for a total requirement increase of \$25,000 in that fund. It would also increase the resources in that fund by \$25,000. This increase relates to additional funds cash carryover available at the beginning of the year that had not been included in the approved budget.

Councilor Kyle stated this property was purchased when we did not have enough funds in our system development charges (SDC) fund to pay for it. If at some point we get solvent in our SDC fund for parks and we decide to purchase another piece of property, does the general fund pay for those expenses or would it come out of the SDC fund?

Kathy Leader replied the way the budget is set up, it would be paid out of the SDC funds. Right now we have a loan set up with Bank of America and at this time we are just required to make the quarterly interest payments and as we see SDC funds come in we can make payments towards the principle balance on the loan.

Councilor Kyle asked will there be reimbursement to the general fund when we start seeing more revenue come into the SDC fund?

Kathy Leader replied yes.

Councilor Thomas stated I thought the cost to purchase the property was coming from SDC revenues.

Kathy Leader replied it is, the purchase of the land, yes. This property is being purchased through a loan so the loan proceeds will be used to pay for the land and future SDC money we receive will be applied against that loan.

Councilor Thomas stated if I recall at the time we looked at purchasing the property there wasn't enough money in the SDC fund to cover the cost of the purchase.

Marnie Allen replied there was not enough in the SDC fund balance to pay all of the cost for the property so a decision was made that the City would borrow the money to pay for the property and then pay back the loan with SDC funds. You might recall the former finance director, Ms. Williams, brought a resolution before you and a decision was made to go ahead and borrow the full amount of the cost of the property instead of just the deficit between what was in the parks SDC account and what was needed to make up the total cost because the City didn't want to deplete the entire balance of the Parks SDC account. The Council adopted a resolution authorizing the loan for the entire amount.

Councilor Thomas stated I remember that, for some reason I thought it included the costs of the purchase in addition to the amount of the property.

Kathy Leader stated the loan is for \$250,000 and the actual purchase will be \$252,000 for the property and about \$11,000 in loan fees.

Councilor Thomas stated that is what I thought was included in the total costs and I thought the \$11,000 would come from the SDC fund.

Kathy Leader replied it will be paid through SDC's.

MOTION: Councilor Ripma moved to adopt the Resolution adopting a Supplemental Budget for FY 2003-04 and making appropriations in the Parks Improvement Fund. Seconded by Councilor Thomas.

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

Motion passed 4-0.

8. PUBLIC HEARING / ORDINANCE (Introduced 5/11/04): 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 Thalhofer read the ordinance title and opened the public hearing at 9:35pm.

Chief Nelson stated this is the second reading of this ordinance. Exhibit A to my report is the redlined version of Chapter 8.04, Adult Care Homes. Multnomah County administers and enforces adult care homes. The changes made to this chapter are primarily just some housekeeping issues.

Council had no questions on the changes to Chapter 8.04.

Chief Nelson stated Exhibit B, Chapter 8.08 Emergency Medical Services is again primarily housekeeping issues giving authority to Multnomah County to enforce, regulate and administer the medical services and ambulance law.

Council had no questions on the changes to Chapter 8.08.

Chief Nelson stated Exhibit C, Chapter 8.12 Burglary and Robbery Alarms. We had a work session regarding this specific issue a few weeks ago. The primary changes made were to section 8.12.050, fines for excessive false alarms. There will be no charge for the first false alarm, \$75 for the second false alarm, \$100 for the third, \$200 for the fourth and \$300 for the fifth and any additional false alarms. There will be an increase in the annual permit fee from \$12 to \$25. There was discussion at our work session and the first reading of this ordinance regarding the fine structure. Multnomah County will be imposing a fee structure that charges a \$50 fee for the first false alarm. I have confirmed with Multnomah County Sheriff's Office that they can set up their computer system to implement the fee schedule for the false alarms as we have outlined it in our ordinance. The rest of the changes are primarily housekeeping issues.

Councilor Thomas asked is the raise in the permit fee from \$12 to \$25 included in this ordinance?

Chief Nelson replied, yes it is in Section 8.12.040(c).

Chief Nelson stated Exhibit D, Chapter 8.16 solid waste sites, we are recommending that this chapter be repealed. This chapter was originally created to deal with Obrist Pit, which is now Sunrise Park and is no longer needed.

Council had no questions on the proposed changes to this chapter.

Chief Nelson stated Exhibit E, Chapter 8.20 illegal dumping and littering, again these are primarily housekeeping issues.

Council had no questions on the proposed changes to this chapter.

Chief Nelson stated Exhibit F, Chapter 8.24 noise control, we discussed the propose changes to this chapter during an earlier work session and again at the first reading of the ordinance.

Council had no questions on the proposed changes to this chapter.

Chief Nelson stated Exhibit G, Chapter 8.32, explosives these are also primarily housekeeping issues.

Council had no questions on the proposed changes to this chapter.

Mayor Thalhofer closed the public hearing at 9:44pm.

MOTION: Councilor Thomas moved to adopt the ordinance amending Title 8 of the Troutdale Municipal Code, Chapter 8.04, 8.08, 8.12, 8.16, 8.20, 8.24, 8.32 as set forth in the attachments. Seconded by Councilor Ripma.

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

Motion passed 4-0.

10. PUBLIC HEARING ON NEIGHBORHOOD ASSOCIATIONS:

A. ORDINANCE (Introduced 5/11/04): An Ordinance adopting a new Chapter 2.22 of the Troutdale Municipal Code regarding Neighborhood Associations.

B. RESOLUTION: A Resolution regarding Neighborhood Associations.

Mayor Thalhofer read the ordinance and resolution title and opened the public hearing at 9:46pm.

Rich Faith, Community Development Director, stated this ordinance was introduced two weeks ago and at that time you were also presented with an alternative resolution that was intended to accomplish the same thing but without a lot of the detail. During the discussion of both the ordinance and the resolution there were a number of suggestions offered by councilors regarding the findings of the ordinance language and the proposed Chapter 2.22,

which would pertain to neighborhood associations. Most of the revisions that were suggested had to do with specific references in the ordinance that dealt with the neighborhood associations' role as advisory committees to the city council. Those changes have now been incorporated into the text that is before you tonight in Exhibit A.

Rich Faith summarized the changes, which are outlined in his staff report.

Rich Faith stated the resolution that was presented at the last meeting is offered as an alternative to the ordinance for your consideration. You do have a choice of adopting the simpler, less formal resolution that also would give official recognition to neighborhood associations over the more detailed, formal ordinance that outlines more structure and function in greater detail that would apply to neighborhood associations. So the options before you are to either adopt the ordinance, adopt the resolution or you could choose not to adopt either.

Council had no questions.

Mayor Thalhoffer closed the public hearing at 9:51pm.

MOTION: Councilor Ripma moved to adopt the ordinance adopting a new Chapter 2.22 of the Municipal Code regarding neighborhood associations. Seconded by Councilor Kyle.

Councilor Ripma stated I think it gives an opportunity for the citizens who want to form neighborhood associations to do so. The guidelines and structure will be in place and it makes it clear that the City has no money to spend on this, which I think is important to make clear.

Councilor Kyle stated I appreciate the changes regarding the advisory committee that I was concerned about and making sure that this is not a city committee.

Councilor Thomas stated this is something that I have been striving to get into place for the last five years and it is nice to see it finally come to fruition.

Mayor Thalhoffer stated I have been in favor of neighborhood associations ever since I have been on the council.

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

Motion passed 4-0.

11. PUBLIC HEARING / ORDINANCE (Introduction): An Ordinance amending Chapter 2.20 of the Troutdale Municipal Code regarding committees and commissions.

Mayor Thalhoffer read the ordinance title and opened the public hearing at 9:53pm.

Debbie Stickney, City Recorder stated there are two proposed amendments to Chapter 2.20 of the Municipal Code regarding committees and commissions. The first amendment is to Section 2.20.010(A)(1) regarding the membership of the budget committee. In October of 2003 this section of the code was amended to allow residents, electors and Troutdale business owners to serve on the budget committee. We have since discovered that state law mandates that the members of the budget committee must be electors of the city, therefore, we are proposing a change in the language in this section to comply with state law by amending the language to read for the budget committee membership, six councilors, the mayor, and seven electors of the city. The second change that we are proposing is in Section 2.20.020(b) selection of committee members. This is in regards to the alternates that are selected for the city committees. After the April 13th work session the Council discussed whether the alternates for the city committees should be able to fill a vacancy on a committee if the vacancy occurred anytime during the year as opposed to within six months from the last selection process. The council decided to make a change from the six months to one year. The language in the proposed ordinance has been amended to implement the council's direction.

Councilor Thomas stated I like the proposed change to the budget committee membership. I think I would like to see that applied to the planning commission also.

Councilor Ripma agreed.

Mayor Thalhofer stated I am not necessarily in favor of that.

Councilor Kyle stated I agree with Councilor Thomas.

Councilor Thomas stated my main reason for applying this to the planning commission is because they govern policy as far as land use and I think having people on the committee that are outside of the city could adversely effect the land use decision at the planning commission level.

Council directed staff to include an option in the staff report to remove Troutdale business owners from the planning commission membership.

Mayor Thalhofer closed the public hearing at 9:59pm.

12. EXECUTIVE SESSION: An Executive Session will be held under ORS 192.660(2)(e) – Real Property Transactions.

Mayor Thalhofer recessed the Council meeting at 10:00pm to go into an Executive Session which is being held under ORS 192.660(2)(e) - Real property transactions.

Mayor Thalhofer reconvened the Regular Council meeting at 10:22pm.

MOTION: Councilor Ripma moved to authorize staff to proceed with land negotiations as discussed in the executive session. Seconded by Councilor Kyle.

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

Motion passed 4-0.

13. COUNCIL CONCERNS AND INITIATIVES:

Councilor Ripma announced that the Historical Society's Ice Cream Social will be held on Saturday, June 5th at Mayors Square.

Mayor Thalhofer congratulated Chief David Nelson on his election to the office of 2nd Vice President of the Oregon Association of Chiefs of Police for 2004-05.

Mayor Thalhofer stated that Gresham will be holding a Memorial Day commemoration on Monday, May 31. They would like Veterans in the East County area to attend and be recognized for their service and dedication.

John Anderson, City Administrator stated I would like some clarification on the Council's direction on Agenda Item #5.

Council directed staff to schedule a work session after the June 8th regular meeting to discuss all commercial and industrial property available for development, plus the City's role in the development of the County Farm properties.

14. ADJOURNMENT:

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

Meeting adjourned at 10:35pm.

Paul Thalhofer, Mayor

Approved July 27, 2004

ATTEST:

Debbie Stickney, City Recorder