

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

Tuesday, September 28, 2004

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

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

PRESENT: Mayor Thalhofer, Councilor Gorsek, Councilor Ripma, Councilor Thomas; Councilor Kight; Councilor Kyle (7:07pm), and Councilor Daoust (by phone).

ABSENT: None.

STAFF: John Anderson, City Administrator; Jim Galloway, Public Works Director; Marnie Allen, City Attorney; Debbie Stickney, City Recorder; David Nelson, Chief of Police; and Amy Pepper, Environmental Specialist.

GUESTS: See Attached List.

Mayor Thalhofer asked are there any agenda updates?

John Anderson, City Administrator replied Terry Smoke and Neil Handy have requested to pull Agenda Item #5, regarding NASCAR, from the agenda this evening. The International Speedway Corporation held a press conference on Monday and announced that the Marysville, WA site was their preferred site.

2. POSSIBLE MOTION: (Result of Executive Session)

A motion will be put on a future Council agenda regarding the outcome of the Executive Session.

3. CONSENT AGENDA:

3.1 Accept Minutes: July 20, 2004 Work Session, August 24, 2004 Regular Meeting and September 14, 2004 Regular meeting.

3.2 Resolution: A Resolution establishing individual departmental imprest petty cash accounts for the handling of minor disbursements and rescinding Resolution #1627.

Mayor Thalhofer read the consent agenda.

MOTION: Councilor Kight moved to accept the consent agenda. Seconded by Councilor Ripma.

Councilor Thomas requested that Item #3.2 be pulled from the consent agenda and put on the regular agenda for discussion.

Mayor Thalhofler stated Item #3.2 is removed from the consent agenda and will be discussed after Agenda Item #7. We will now be voting to accept the Consent Agenda Item #3.1 at this time.

Motion Passed Unanimously.

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

Bob Akers stated I live in Gresham and I am the President of the 40-Mile Loop Land Trust. My purpose for being here this evening is that for the last six months we have been developing a new map of the 40-Mile Loop Land Trust (a copy of the map is included in the packet). The cost of publishing and design was approximately \$17,000 which is all money that we received from grants and donations. Mr. Akers, referring to the map, explained to the Council where the current trail exists and where trails need to be developed to connect communities. Eventually we could have a trail system, that when it is completed, would make a loop through Johnson Creek on the Springwater Trail down to the Sellwood Bridge, crossing the Sellwood Bridge going up through Forest Park, across the St. Johns Bridge and back up the Columbia River on Marine Drive without having to be on a major road. And if we dream even further we could start on the Springwater Trail going east out through Boring, Estacada and tie in with the Pacific Crest Trail close to Timothy Lake. Metro is starting their MTIP funding process. They have a list of what they call their 150% list, there are about eight things on the list that are related to trails. The 40-Mile Loop supports all of them. The major one would be to finish the Marine Drive Trail so you could ride a bike from the Sandy River to the Willamette River. I just wanted to present you with this map and remind you that they will be talking public comment on the MTIP funding in East County at the Multnomah County East Building on October 27th at 5:00pm. We would like to have your support on that so the next time we develop a map we will have less dotted lines and more solid lines.

5. PRESENTATION: NASCAR – Financial Proposal.

This item was pulled from the agenda.

6. PUBLIC HEARING / ORDINANCE (Introduction): An Ordinance clarifying the reimbursement district cost assessment process and amending Chapter 12.08 of the Troutdale Municipal Code.

Mayor Thalhofler read the ordinance title and opened the public hearing at 7:15pm.

Jim Galloway, Public Works Director stated this is primarily a housekeeping matter. You may recall that several times over the past year or so folks have come before you dealing with a particular reimbursement district issue. The most recent time had to do with the cost assessment process pertaining to that reimbursement district. It appeared, as you were weighing your decisions on that, that there was something lacking in the ordinance to apply some specificity as to how those cost assessments would be handled. I made an effort to

capture what I thought were some of the questions that were being asked by Council and have drafted a proposed change to the ordinance in an effort to address those. One of the questions was whether bids, quotes or estimates would be acceptable verification of cost. In the proposal that I have before you, the answer would be no, there would be a requirement of either a receipt or some type of invoice with proof of payment. As far as what information would be provided with that receipt or invoice I have indicated that we would want the name of the public improvement; name, address and phone number of the person or firms supplying the goods or services; a description of those goods or services; the date or time frame in which they were provided; and the cost. Another issue raised was whether or not the late charges or other similar penalty fees would be acceptable for reimbursement. The proposed answer would be no. Then, would there be any exception or anything that would be reimbursed without an invoice or receipt. It appeared to me that the one item that could likely come up that might fall into that category would be the financing cost. More than likely someone would come in and seek reimbursement as soon as possible after they have expended their construction cost but its likely at that point they may not have recouped their costs so they could pay back whatever loan or arrangement that they have made in order to finance the improvement in the first place. The proposed language here would say that we would accept some type of notarized document from the lending institution allowing the financing costs for a period from the time of approval through one year following the completion and acceptance of the improvement.

Councilor Kight stated two things come to mind, what about a contractor charging for his own time? We found that in the last scenario.

Jim Galloway replied we did. I do not specifically address that. My recommendation is that would be an allowable cost provided they have met the other criteria.

Councilor Kight asked what if the contractor has an LLC or another corporation that he owns that he is utilizing as a means in order to, shall we say, fluff the bill?

Jim Galloway replied certainly I think on any of these if there is evidence of fluffing the bill I would say that would not be an allowable cost. I did not put in here a prohibition on a corporate entity owned by the same developer, that would not be my recommendation but if that were the direction of Council we would incorporate that.

Councilor Kight stated the only reason I am bring that up is because I am thinking the person on the other end is going to be paying back those monies to the contractor, couldn't you see that as a problem potentially?

Jim Galloway replied yes...

Councilor Kight stated and if you don't address it specifically then they will say since there is nothing in the regulations that speaks to that then there is nothing wrong with me doing it. Couldn't that be their argument?

Jim Galloway replied yes I think that would be correct...

Councilor Kight asked how would you counter that?

Jim Galloway replied I wouldn't. My thought would be that would be allowable. If Council feels otherwise we could try to incorporate some language to specifically exclude those costs.

Councilor Kight asked do you have some discretion, as the Public Works Director, when you think the costs are out of line for similar work? Would you have some idea of what the approximate costs are, lets say for a pump station, so if they are double or triple that amount that would send up a red flag and then you could ask for more documentation?

Jim Galloway replied on some things that would be the case. We don't do very many pump stations but if it were more traditional like putting in a sewer line, water line or streets, something that we have quite a bit of experience with, I think yes we could see something that would raise a red flag and certainly when we brought that matter to Council we could give you our recommendation on that.

Councilor Kight stated so what you are saying is if the regulation isn't there you couldn't handle it at staff level, then the next level you would have is to bring it to the City Council?

Jim Galloway replied that is correct. I think right now our ability at the staff level to say to an applicant that we don't like that cost and I am not going to take that forward to the City Council, I don't feel we have that authority. I think this proposed ordinance with the changes gives us some ability to weed out things. I was trying to draft it based on the comments that I thought I heard a few meetings ago. Certainly if you want to put more exclusions in there, we can. We are trying to find a level of comfort both at our level and at your level.

Councilor Kight stated so I guess what you are saying is if we don't have the mechanisms in place then you are asking this body to adjudicate it.

Jim Galloway replied that is correct.

Councilor Kyle asked was this our first reimbursement district that we established?

Jim Galloway replied yes.

Councilor Kyle asked then I think we might want to go back and look over the whole way that we establish them. With this particular one I believe that we established this district after the work started. Did we establish it up after the fact?

Jim Galloway replied yes.

Councilor Kyle stated I would have a concern with the timely application for the reimbursement district.

Jim Galloway stated the current code as it is written indicates that the application has to be submitted prior to the start of construction. As you may recall, this particular application for a reimbursement district was an unusual situation. The applicant claimed he had submitted something and we had no record of receiving it. When we came forward in the initial meeting with the Council we explained that there was that discrepancy and basically it was a question of whether or not you wanted to give the applicant the benefit of the doubt. The decision at that time was to give him the benefit of the doubt because I don't think there was any doubt that he created the improvement and that there was a very good likelihood that another developer was going to take advantage of that improvement. That certainly is not the normal way that this is called for in the ordinance.

Councilor Kyle asked do you see any other reimbursement districts coming forward to us in the near future?

Jim Galloway replied I am not aware of any.

Councilor Thomas asked in regards to what you are recommending, do you think that staff will be able to administer a reimbursement district better?

Jim Galloway replied I think we can and I think we can resolve some of the issues, at least those that have been specifically addressed here, without having to bring them forward for resolution by Council. I think this gives us, and perhaps more importantly, gives the applicant and the potential payer of these costs some idea of what they are going to be held to.

Councilor Thomas asked generally on a reimbursement district they usually come to an agreement before hand on what they think the costs are going to be correct?

Jim Galloway replied yes.

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

No public testimony received.

Mayor Thalhoffer closed the public hearing at 7:26pm and stated there will be a second public hearing held on this ordinance on October 12, 2004.

7. PUBLIC HEARING / ORDINANCE (Introduction): An Ordinance amending Title 9, Public Peace, Morals and Welfare, of the Troutdale Municipal Code.

Mayor Thalhoffer read the ordinance title and opened the public hearing at 7:27pm.

Chief Nelson reviewed the changes in Chapters 9.04 Impersonating a Peace Officer; 9.06 Interfering with Emergencies; 9.08 Public Consumption of Alcohol; 9.12 Social Gambling; 9.16 Marijuana; 9.20 Indecent Exposure; 9.24 Jumping from Bridges; 9.28 Trespass; 9.32 Criminal Mischief; 9.36 Theft; 9.44 Airguns; and 9.48 Weapons as outlined in his staff report and the supporting exhibits.

Chief Nelson stated throughout Title 9 under the penalty phase you will see that we have changed it to reflect one of two things, either to reflect the current state statute so we don't have to keep changing our ordinance every time the state statute changes or we have deleted the penalty completely because those are city ordinance violations not reflected in state law and those are covered under our general penalty section in Chapter 1.04.

Councilor Gorsek asked under Section 9.06.030(C)(1) in the first sentence there appears to be a typographical error, it reads "which a t or acts..."

Chief Nelson stated that should read, "which act or acts".

Councilor Thomas asked in 9.08.020 you list the \$1,000 fine, is that something that is not covered in the general penalty?

Chief Nelson replied it is, but the reason we left this particular penalty in the ordinance is because it has the ability to also impose jail time.

Councilor Kight asked how does the ORS address possession of marijuana?

Chief Nelson replied possession of less than an ounce is a violation, over an ounce I believe is still a Class A felony. There is a huge array of exceptions under the medical marijuana act.

Councilor Thomas asked by removing Chapter 9.16 (marijuana) does it automatically default to ORS?

Chief Nelson replied yes, and we can still cite these into our municipal court.

Councilor Kight asked in Chapter 9.20 you have added language to engage in sexual activity while visible from a public place. Are you saying if they were having sexual activity but it wasn't necessarily visible but it was in the public park it would be accepted?

Chief Nelson replied you could possibly interpret that.

Councilor Kight stated lets defer to our attorney. The reason I bring that up is because that is actually a situation that happened close to my home.

Marnie Allen, City Attorney stated if it is occurring in a public park then it is visible from a public place.

Councilor Kight stated not necessarily because of the foliage, trees and brush.

Marnie Allen stated but if the trees are in the public park you could go there. As long as they are in a public park then I think the better winning argument is it is visible from a public place. Why couldn't any person who has the right to be in the public park walk right up to where ever that is occurring?

Councilor Kight replied for the reason I just stated, it is a heavily screened area. I guess my question is why use the wording visible from a public place, as opposed to in a public place.

Chief Nelson stated I see your concern. I think under your specific example we would have enforcement authority in that area. On the opposite side of this, if you are in your private residence in front of a picture window and you are engaged in sexual activity and you are visible from a public place, that would be a violation even though you are within your own home.

Councilor Kight asked in Chapter 9.24, what is the penalty for someone who jumps off the bridge?

Chief Nelson replied it could be up to \$1,000.

John Anderson stated in Chapter 9.24 the title reads jumping from bridges, and the first subsection refers to diving. There is a distinct difference between jumping and diving and it may appear that you are only prohibiting diving not jumping. Would you like it to be applied to both jumping and diving?

Council agreed that it should include both jumping and diving.

Chief Nelson stated he would make that change before the second hearing.

Councilor Kight asked in Chapter 9.32, how does this address political signs that have been destroyed?

Chief Nelson asked what is the value of the sign?

Councilor Kight replied less than \$25.

Chief Nelson stated it would be a Class C Violation.

Councilor Kyle asked regarding Chapter 9.44, can a minor buy an airgun?

Chief Nelson replied yes, I think they have to be over the age of 12.

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

No public testimony received.

Mayor Thalhoffer closed the public hearing at 7:46pm and stated there will be a second public hearing held on this ordinance on October 12, 2004.

3.2 Resolution: A Resolution establishing individual departmental imprest petty cash accounts for the handling of minor disbursements and rescinding Resolution #1627.

Mayor Thalhoffer read the resolution title and stated this item was pulled from the consent agenda at the request of Councilor Thomas.

Councilor Thomas stated my concern is that we added two more areas that have petty cash accounts, and I was wondering why we needed to go to the \$100 versus maintaining the \$50 limit. I didn't see a justification for that.

John Anderson replied the Finance Director had done a survey of the amount of activity in the funds and \$100 allows them to not have to come back to her office as frequently to replenish the fund.

Councilor Thomas stated I was kind of under the understanding that we also increased the limit of what they could request per expenditure to \$100.

John Anderson replied in the staff report it indicates that we increased the disbursement limit from \$25 to \$50.

Councilor Kight stated anytime you have a petty cash fund within a different department the only way that an employee is reimbursed is when they provide a receipt.

John Anderson that is correct.

Councilor Daoust stated this just looks like an efficiency move to me.

MOTION: Councilor Kight moved to accept the resolution establishing individual departmental imprest petty cash accounts for the handling of minor disbursements and rescinding Resolution #1627. Seconded by Councilor Thomas.

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

Motion Passed 7 – 0.

8. STAFF COMMUNICATIONS

John Anderson stated Jim Galloway and Chief Nelson would like to bring you up to date on a downtown speed sign change.

Jim Galloway stated some time ago one of the officers brought to our attention that there is a provision within the State Motor Vehicle Code that the basic rule in the State of Oregon for speed limits in a business district is 20mph as opposed to the standard 25mph that you see on most of our streets. We brought that to the attention of Multnomah County and they went through the process of having a speed order change by the State but never posted any signs to that effect. When we contacted them about adjusting some signage by the Chamber of Commerce for the 10-minute parking issue that we discussed with Council a couple of

meetings ago that prompted the County to mention that they need to talk to us about the 20mph speed zone. We simply wanted to let you know that when the County implements that we will probably see a few additional signs in downtown.

Councilor Kight asked can we get an update on the parking issue at Buxton and Dora?

Chief Nelson replied the two intersections, one at Buxton and Columbia River Highway and one at Buxton and Dora, the request has been submitted to the County. It is my impression that they will be painting the curbs at the southwest corner of both intersections. I don't know when they will be starting that job.

Councilor Kight stated they have actually already started the process.

9. COUNCIL CONCERNS AND INITIATIVES:

Councilor Kight stated this Council voted not too long ago to allow the Chamber of Commerce to have 2 dedicated parking spaces on the main street. As you may or may not remember I queried Diane McKeel as to whether or not she had talked to the restaurant on the corner, Taste of Village. I went the day after the decision had been made, which was a 6 to 1 vote to allow the Chamber to have the two dedicated parking spots, and talked to Martin, the owner of the restaurant, and he was not aware that this had been done. He said this would have a severe impact on his business because he is open for lunch as well as dinner. He has seating for about 45 in the dining room and about 25 to 30 in the adjoining bar. That particular area only has eight parking spots as it is and you have taken away two which leaves a net of six and you can see the problem right away as we all know there is no parking lot for people to go to. You might want to keep that in mind. I guess it bothered me that nobody had talked to the restaurant before they made this decision. We are all in support of the Chamber of Commerce but not everybody that goes to the Chamber of Commerce is going to spend money. They are asking for directions and getting brochures. I can guarantee you that every person that goes into the Taste of Village Restaurant is going to be spending money. You might want to reconsider that issue. Secondly, we have all seen some of the storefronts in downtown, I call them "see through buildings", where you can see through from the front to the back of the building. We have to keep in mind that some of the decisions we make have an impact on the downtown businesses and they may be particularly adverse as it relates to the parking issue. You talk to everyone in downtown and the main problem they have is finding parking for their customers.

Mayor Thalhofer stated I think we are all aware of that Councilor Kight. We all have the same knowledge that you have and we debated this at a meeting and we voted on it. The vote was 6 to 1 and if in the future it needs to be adjusted we will revisit it, but as of right now that is the decision we made and it will stand.

Councilor Gorsek stated it is important to remember that we have a lot of parking behind the buildings on the north side.

Councilor Gorsek stated it is time once again for the Metro Salmon Festival on October 9th and 10th from 10:30 – 5:00pm at Oxbow Park.

Mayor Thalhoffer stated I recently saw in the news that the City of Astoria had a great idea for increasing business by bringing three big cruise ships into Astoria, which doubled their population on the days the cruise ships were there. You can imagine the revenue that it brought in for the local businesses. The Chamber of Commerce and I have been working with Sundial Marine to bring the Sternwheeler here. It wouldn't have the same impact as three cruise ships but every little bit helps.

Councilor Gorsek stated we recently discussed the issue of a park-and-ride with Tri-Met and after listening to Mr. Akers tonight, would it be worth exploring looking at that property in terms of all of the people that come and bicycle on the old highway. If that was a destination location for them to come and park and then ride their bicycles from there, it might be a way to argue that you are enhancing capacity. It is a flow of people that are consistently coming into this area and if we could, maybe through state parks, tap into some of their resources, there might still be a way to call that some sort of destination facility.

Mayor Thalhoffer asked Mr. Galloway to look into that.

10. ADJOURNMENT:

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

Meeting adjourned at 8:04pm.

Paul Thalhoffer, Mayor

Approved October 12, 2004

ATTEST:

Debbie Stickney, City Recorder