

**MINUTES**  
**Troutdale City Council – Regular Meeting**  
**Troutdale City Hall – Council Chambers**  
**219 E. Historic Columbia River Hwy.**  
**Troutdale, OR 97060**

**Tuesday, February 9, 2016 – 7:00pm**

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

Mayor Daoust called the meeting to order at 7:00 p.m.

**PRESENT:** Mayor Daoust, Councilor Ripma, Councilor Anderson, Councilor Morgan, Councilor White, Councilor Allen, and Councilor Wilson.

**ABSENT:** None.

**STAFF:** Craig Ward, City Manager; Ed Trompke, City Attorney; Erich Mueller, Finance Director; Chris Damgen, Senior Planner; Sarah Skroch, City Recorder.

**GUESTS:** See Attached List.

There were no amendments to the public agenda.

Councilor Ripma stated point of order. On the agenda, there is an Executive Session following the Council meeting. And then, there is something called a possible reopening of the public meeting and a resolution to adopt the real estate sales agreement. Since the Executive Session is about a real estate transaction, I'm assuming that might have something to do with it and that is not the proper procedure. We have an Executive Session, we get a staff report prepared, and at the next Council meeting, that's when we adopt something. Were we thinking of asking the public to just step out for an hour? Who knows how long the Executive Session might take. I ask the Council's indulgence. We're trying to be open and transparent. Let's do a proper procedure, one we always follow, have an Executive Session afterwards, and if we decide something that we want to adopt, let's put it on the next agenda. That way it is published, and everybody can look at it and study it.

Councilor Morgan stated if that's the case, February 16<sup>th</sup> is an open Tuesday that is currently available. So if need be, that could be tabled and moved to next Tuesday.

Mayor Daoust replied, just to be clear, we are following proper procedure, otherwise it would not be on the agenda like this. The City Attorney says it is acceptable to hold an Executive Session and then come back in and make a decision on the Executive Session, which is why it was worded this way. There is nothing wrong with that procedure. We probably will have to make that decision when we get to that point. I don't think we can make that decision right now.

Councilor Ripma asked, could I offer a suggestion? I'm still concerned that this procedure, at the end of what could be a long meeting, won't get adequate scrutiny, and it certainly won't get any public scrutiny after we finish the Executive Session. Could we just agree to convene, if we do, just to publish the real estate sales agreement? Not to adopt or consider adopting, but just so it can be published and we could consider it. Would that be proper?

Mayor Daoust replied, yes, when we come back from Executive Session and into a Regular Council session that might be one of the options we consider when we come back. We need to make that decision later.

Councilor Morgan stated point of order, I believe a Councilor could make a motion to table it until a further date.

Councilor Ripma replied well, I'd do that if that's permissible.

Mayor Daoust stated I'd have to have the City Attorney give an opinion because it was set up this way so that we can make a decision.

Councilor Allen asked am I the only one missing the resolution for Item 12?

Councilor Ripma answered no, it's not in our packet. I know of no real property transaction before the City of Troutdale right now that is so urgent that we would have to adopt it without any public scrutiny or comment. I mean there's no emergency. Is this something unimportant and just minor to some trivial thing, or is it big?

Ed Trompke, City Attorney, replied I think it would be inappropriate for me to disclose what it is without our Council's say so on it.

Councilor Ripma asked can we just move it forward for the purpose of tabling it to the next meeting?

Councilor Allen stated I'm not comfortable voting on anything tonight without knowing what it is.

Ed Trompke replied if that's the consensus of the Council, then I think the public will be aware of that and understand that that's likely to happen, and that it would be done at the proper time which is coming out of Executive Session. My recommendation would be to keep the item open afterwards, otherwise at the end of the Executive Session there is no public session and we would have closed that ability to disclose the matters publicly that you want to disclose whether or not you consider them tonight or not, and whether it is in a week or two weeks.

Mayor Daoust stated we have to come back into session after the Executive Session to decide what we are going to do with what we learned in Executive Session. That's procedurally accurate.

Councilor Ripma replied yes, but I'm asking that we announce that we are not going to vote on a resolution to adopt a real estate sales agreement that we haven't even seen. We will have seen it after the Executive Session, but the public won't have. We won't have had a chance to study it; we won't have a staff report. I agree procedurally you're right. I'm not arguing that it isn't proper, but it isn't our regular procedure and if we just have a consensus to resume the public meeting just to table Item 12 until a future date, not take action on it, I'm satisfied with that.

Councilor Allen stated I would like to change it so that Item 12 is not a resolution, but just a discussion since we don't even know what it is.

Councilor Ripma replied we will be discussing it at the Executive Session, so that's not that important.

Councilor Allen stated that's not enough time. I'm analytical. I like to think about things.

Councilor Ripma stated that's why I'm proposing it. Is it okay if we don't vote on this tonight, we just discuss it at the Executive Session, and then table any action on a resolution to adopt until a date certain?

Ed Trompke replied it is probably just fine, but I don't know if this is the right time to do that.

Councilor Ripma stated if we don't do it now, then the public ends up having to go out and wait until we come back to decide. I don't like it being one of the options. I'm trying to say that to adopt it tonight after an Executive Session would be improper or at least it isn't open and transparent. I like Councilor Morgan's solution.

Councilor Morgan stated procedurally we're allowed under Robert's Rules, that's my point. Given the fact that the meeting on the 23<sup>rd</sup> has seven items currently, my proposal is to table Item 12 of an action to the February 16, 2016 meeting, which is currently Urban Renewal Agency. There's currently nothing available to give the seven days' notice to do that. That was my recommendation.

Councilor Allen replied I would agree with that, yes.

Mayor Daoust stated I just need to confirm, because now we're predetermining what we're going to decide later when we should decide later what we're going to decide. And that sounds like round-about talk.

Councilor Allen stated this is an agenda update to change Item 12 and move it to the date suggested by Councilor Morgan.

Councilor Morgan added February 16<sup>th</sup>.

Councilor Ripma asked and we'll do it after the Executive Session?

Councilor Morgan replied correct.

Ed Trompke stated the Mayor sets the agenda. If he wants to announce right now that he's inclined to put that agenda together on the 16<sup>th</sup>, then I suppose he could announce that.

Councilor Ripma asked, why don't we do that Doug? I put it to you, please.

Mayor Daoust stated I think what we can decide now, that we really should decide later, is we can have an Urban Renewal Agency meeting on the 16<sup>th</sup>, next Tuesday, so we can go over and make a decision on this real estate agreement. That will give us a week. We'll have to come back into session after the Executive Session because we need to decide what to do with the documents that we get in Executive Session since none of us have it right now. And we'll need to give staff direction on what to do in the week between, so we will have to come back into session.

Councilor Ripma stated so we'll come out of the Executive Session into Regular Session, decide about documents if there are any, and then refer the decision to the 16<sup>th</sup>.

Ed Trompke stated you probably ought to keep the option open to have a joint meeting of Urban Renewal and Council, but I don't know that you need to say that now.

Councilor White stated I noticed we had a revised agenda. What was revised? I was just curious what got changed on that.

Mayor Daoust replied one of the Charter amendments got removed. We will talk about that later, I think.

**2. CONSENT AGENDA:**

**2.1 MINUTES:** October 27, 2015 Work Session.

**2.2 RESOLUTION:** A resolution approving an Intergovernmental Agreement with the State of Oregon for the administration of the Local Motor Fuel Tax.

**MOTION:** Councilor Anderson moved to approve the Consent Agenda. Seconded by Councilor Wilson. The motion passed unanimously 7-0.

**3. PUBLIC COMMENT:** Public comment is limited to comments on non-agenda items.

Claude Cruz, Troutdale resident, stated I have three short items. One is I've noticed several times now I have checked on your website about the dates of the Council meetings and it is stale information. I think the latest that is on there is January or some such thing, so if you could please update that. The second is a suggestion, and it is really on behalf of the Chamber. I think the City might want to consider investing in the sort of community resource we borrowed from Fairview last year for the Fall Festival. It is a wonderful Felix the Cat sort of trailer that has tents, popups and basically is an instant event. It is really helpful for mounting city events and looks like a pretty modest investment, so it is worth investigating. If you want I could help price it out and get some information so you could consider it more concretely. The third thing is I have to thank Councilor Ripma and Councilor Morgan for pointing out the procedural potential shoals

from a transparency point of view that I sent by email to the Council earlier and was told that the determination had been made to proceed in this way. I think it's procedurally fine, but again, in the interest of transparency, I'm glad you came to where you did, so thank you for that.

Jon Lowell, Troutdale resident, stated I don't know what the proper way is of going about protesting the way this agenda is set up, but from a citizen's point of view, it looks like it was an attempt to deceive the public and I think this should never be done again.

Councilor Ripma asked, what do you mean, Jon?

Jon Lowell replied there is no mention of what the Executive Session will be except that it is a real property discussion. And then you come back and say you're going to reopen the session and most people will have gone home after that. They're not going to wait around an hour. And then it says that there's a resolution, or there was a resolution here to adopt a real estate sales agreement, but it doesn't tell the public anything about what parcel of land or even if it is land.

Mayor Daoust stated we never list the agenda item of an Executive Session. We never have and we never will.

Jon Lowell replied you did list a resolution here though, to discuss a real estate property thing without telling the public what property it is. And you also put it in a way that most of the people will have gone home because it is going to be late in the evening by the time you get to it.

Bruce Wasson, Troutdale resident, stated the second public session may be legal, but it doesn't pass the smell test in my opinion. And not knowing who owns this real estate, who is going to benefit from it, and is there any conflict of interest on anybody on this board or this City Council who might be involved in this, as a member of the public. I would like to know what and who this money is going to or coming from, and what is going on here, because I have seen in the past a little too much shenanigans with certain people in this city trying to do things. Quite frankly, I am very uncomfortable with the fact that we don't know anything about this deal. And I would look at this very dimly if I was you in an election year and if something were to go wrong here. Those who are up for re-election might want to think about that.

Sam Barnett, Troutdale resident, stated good evening, Councilors and Mayor. Mayor, I want you to know I took great offense at the last Council when you addressed me during public comment and pretty much ordered me to keep it positive. I should not be here tonight feeling the need to remind you of the definition of freedom of speech. To order or merely suggest the behavior you expect from participants during public comment is preposterous, to say the least. I hope you have realized this and have given at least a bit of a thought between then and now and that won't happen again. Public comments are not always going to be positive as we all know. But it's really the only way we have as citizens to voice our opinions and thoughts and views on what faces the City. To all of you, I kind of feel the need to know who, individually or collectively, is coming up with these ridiculous and silly motions, some of which we're talking about tonight. It's kind of

distressing to me the things that are being considered by the Council. More than who owns the property that you're talking about for now; I'd really like to know who owns the ideas behind this kind of way of doing business. Thank you.

Ed Trompke replied it is not the Council, I advised about that. If you have distress about it, talk to me about it after the meeting, please. Thank you.

Steve Scott, Troutdale resident, stated by the ORS statutes, everything here is fine. The only question I would have is I understand that at the end of Executive Session, we really don't know so you really couldn't put an agenda after that, but it looks like initially a resolution was going to be brought forward after the Executive Session. I've been a resident of thirteen years here in Troutdale and I've never seen it this way so it's just a little confusing to me, so I understand Councilor Ripma's concern about it. I don't think there's any hanky-panky going on here or anything. We're all on board as far as it being legal. In some of the town hall meetings you, Mr. Mayor, had mentioned more transparency. I'm not blaming you for this, but it doesn't seem to be something that is as transparent as it could be moving forward. But I do appreciate your comments about possibly looking at different angles after the Executive Session dealing with the resolution if we call it that. But with regards to what happens afterward, I have my concerns, as a resident of Troutdale. Thank you.

**4. MOTION: A Motion to Adopt Findings of Fact and Final Order for the Sheldon Development Maps Application**

Ed Trompke stated at the last Council meeting, the Council disapproved an application for a Comprehensive Plan and Zoning Map change and a number of rationales for disapproving it were expressed at that time, and so staff took those reasons and put them into a finding. In a quasi-judicial procedure, you need to make findings at the end and approve a written decision. That then gives the applicant the opportunity to appeal the decision, if they want. All of the Council's rationale for disapproving the matter was put into the report and the factors found to be not in compliance with the Code requirements are listed. This is staff's best effort at putting into writing all of your words from the last meeting. I believe there was one Councilor who voted to approve and the others voted to deny, so the vote should look pretty similar this time unless someone has grossly misstated Council's opinions from the last meeting. If you think it fairly represents what you said at the last meeting, then a motion to approve it as written would be in order.

Mayor Daoust stated I appreciate the way this was summarized. During the discussion that I made specific comments about which criteria, in my opinion, were not met. What's written here coincides with those 4. There are 2 criteria under the Comprehensive Land Use Plan, numbers 5 and 6, and 2 criteria under the Zoning District Map, numbers 4 and 5, that I thought were not met, so this captures at least those mentions of particular criteria.

**MOTION: Councilor Ripma moved to approve the Findings of Fact and Final Order for the Comprehensive Land Use Map Amendment and the Zoning District Map Amendment as set forth in the packet. Councilor Anderson seconded.**

**VOTE: Councilor Morgan –Yes; Mayor Daoust – Yes; Councilor White – Yes; Councilor Allen – No; Councilor Wilson – Yes; Councilor Ripma – Yes; and Councilor Anderson – Yes.**

**Motion Passed 6 - 1.**

**5. PUBLIC HEARING/RESOLUTION:** A Public Hearing on three resolutions approving the recommendations of the City Organization Review Subcommittee, each referring a Measure Election to amend the 1994 Troutdale Charter.

Mayor Daoust explained Item 5 is a public hearing and resolution. We'll take these one at a time. I'll mention the resolution, we'll have staff report, and then we'll talk about it. All of these are to go out to a public vote if we so choose.

**5.1 RESOLUTION:** A resolution submitting to the Electors of the City the question of amending Section 14 of the 1994 Troutdale Charter to allow discipline of Elected Official for disclosing confidential information.

Ed Trompke stated the staff report is fairly short. Executive Sessions are held to allow the Council to analyze, ask questions of experts, attorneys and others in private to address sensitive matters such as real estate negotiations, litigation strategy, litigation likelihood of success, and those sorts of issues that shouldn't be out in the public. They are necessarily private. There have been concerns raised that maybe not all Councilors respect the confidentiality of it to the extent they should. And, it's always an issue when you're trying to be transparent but there are some things that do need to remain confidential. There has never been any clear direction as to what Council should do if someone does violate the confidentiality of an Executive Session. This lists a couple of possible penalties including a maximum fine of \$500 and exclusion from further confidential sessions that talk about the same or similar subject. It tries to be related to the topic at hand, but to make everybody understand that there are consequences if they don't respect the need for confidentiality. This came through the Organization Review Subcommittee of the Council. I put the language together based on the Subcommittee's recommendations on how to address the issue.

Councilor Morgan stated just one thing I wanted to say to clarify this issue, and remember we had talked about this before, the goal of this was to modernize the Charter. We haven't had a major Charter change since the Kight rules of 2010, which didn't look at things like procedural or election status or other ethics. It was primarily to mitigate or control some of the powers of the Mayor. These are a few recommendations that were looked at. I don't love them all, but at the end of the day, the voters will have a chance to weigh in if Council decides to move forward on these. These are very much in line with other municipalities our size and the county. But this specific one, we have run into some things with information that's not designed to be secretive, but could compromise a position that the City might have in negotiating with outside entities, developers, or what have you. It's a question for the public and for this Council.

Councilor Ripma stated I understood that the Subcommittee was to basically look into the relative power between the Manager, City Council and the Mayor, not to impose discipline or to change the election rules. I'm just amazed that these are being brought forward tonight as resolutions, putting them out to the voters when we haven't ever had a chance to discuss them. They weren't even written until we got our packet. Nobody ever saw them and you're putting it to the voters. That is not a proper procedure to follow. First of all, I think 5.1 and 5.3 shouldn't even be discussed further, they are ridiculous.

Mayor Daoust asked did you have a question for staff?

Councilor Ripma replied I do. Could we refer these to a citizen's committee like we did in 1994, please? Would that be proper, Mr. Trompke? Because this would give the public a chance to weigh in on this. You're just bringing it to us cold and we haven't even discussed it.

Mayor Daoust stated we already had a Committee.

Councilor Ripma replied you had a 3 person committee of the Council.

Mayor Daoust stated we had a Subcommittee that held public hearings.

Councilor Ripma stated those were held in the middle of the afternoon.

Mayor Daoust replied no, they were not.

Councilor Ripma stated I'm sorry, they need to be referred. The first time anyone saw the resolutions or the wording of the change to the Charter was when our packet were delivered. You read out broad titles two weeks ago, but they weren't written yet. I checked with Ed.

Mayor Daoust asked how long did the Subcommittee meet?

Councilor Ripma stated that doesn't prove there's any public comment.

Mayor Daoust replied they were all public hearings. Some people in the audience attended those.

Ed Trompke stated there was public comment. I know Councilor White came to a couple, I know Paul Wilcox was at some, and there were other people in attendance. I didn't pay a lot of attention to who was in the audience, but there were people.

Councilor Ripma stated I guess these ideas were promoted to whoever was here. There certainly wasn't a discussion by the Council in public for a chance for someone to question the wisdom of some of these. As I read it, on this one, if the majority of the Council determines that another Councilor violates the confidentiality of an Executive Session, they can impose a \$500 fine, discipline, and remove them from any further discussions. Think of it gentlemen, how is a Councilor supposed to present facts, which is mentioned in here, to defend himself against something like that? Keep saying "I didn't do it?" How



do you prove you didn't do it? How is this in keeping with due process, which requires an impartial finder of fact and a judge?

Ed Trompke replied it doesn't. Due process requires a fair hearing at an appropriate time.

Councilor Ripma asked, a fair hearing, you mean four Councilors in an elected body like this can determine...

Mayor Daoust stated, Councilor Ripma, please don't dominate all the discussion tonight, would you please?

Councilor Ripma replied this is the only chance the public is ever going to get if you decide to approve this.

Councilor Morgan stated I understand the frustration, but hear me out because this is the important thing. This is a discussion that has been going on for a while. There was a lot of citizen engagement. In fact the term limits, which I think you were very much opposed to, went to Citizens Advisory Committee (CAC) and they rejected it. There was a lot of feedback amongst the people who were here, I think Jon Lowell was here, but not a huge number of citizens were there.

Councilor Ripma stated the Council didn't refer this to CAC.

Councilor Wilson replied we (the Subcommittee) did.

Councilor Ripma stated that means only the advocates referred it to CAC and they only heard one side. They still had enough wisdom to turn down some of them.

Ed Trompke stated I think they were referred at the request of Councilor White, who was in attendance.

Councilor White replied, no I complained about it. Subcommittees have never referred things to our committees, the Council as a body does that.

Councilor Ripma stated if the CAC considered it only hearing proponents, they didn't really consider it and that isn't a proper procedure either. All I'm saying is that if we want to put it to the CAC, I want them to have a chance to hear both sides. I think we ought to do a separate Charter Review Committee, a public ad hoc committee, like we did in 1994 and have this considered because I don't think it would pass muster from anybody.

Ed Trompke replied the answer to your question is yes, at the appropriate time you can make a motion to have that action taken.

Councilor Ripma asked can't we just withdraw this for now?

Ed Trompke replied there's no motion on the floor, so you can't move for that at this point.

**MOTION:** Councilor Ripma moved to deny adoption of Item 5.1, a resolution submitting to the Electors of the City the question of amending Section 14 of the 1994 Troutdale Charter to allow discipline of Elected Officials for disclosing confidential information. Seconded by Councilor White.

Councilor Ripma asked before we vote, can we discuss?

Mayor Daoust replied yes, but I will say that under Council rules, you can only make two comments and you have to wait until we all get a chance to speak so everybody gets a chance to speak. If the audience doesn't mind, don't express yourself via comments, or sighs or gasps or laughing out loud. It's not a productive way to hold a public meeting and we'd appreciate it if you didn't do those kinds of things.

Councilor Wilson stated just so I've got this right, anybody that's disruptive can be asked to leave.

Ed Trompke replied that's true.

Mayor Daoust stated following Council's rules, everybody will have a chance to speak once before you speak a second time and you only get two comments. Those are the Council rules.

Councilor White asked can I get a clarification on one thing? I don't want this to count as one of my comments. The agenda says "public hearing". I assumed that meant the public was going to be able to speak tonight.

Mayor Daoust replied yes.

Councilor Morgan stated it is difficult to do that when we table them all or strike them down. I was hoping to hear the public and then be able to have motions.

Councilor White stated I would like to hear from the public before we table this or...

**Motion was withdrawn by Councilor Ripma.**

**Mayor Daoust opened the public hearing at 7:43 p.m.**

Brian Sheets, Troutdale resident, stated I heard about this one first and I was really interested about it because it talks about the privilege that the Executive Session gives to City Councilors during those meetings; an opportunity to participate in litigation, strategies, real estate negotiations, personnel actions, those kinds of confidential things. From the principle that I have always understood, the privilege remains with the client, that the client can waive the privilege. So, if it's something that might not be in the best interest of the City, might not be in the best interest of fellow Councilors, but that person has the opportunity to waive that. And whether it damages the City's position, makes harder work for Mr. Trompke...

Ed Trompke replied if I may respond, legally, it is the Council that has that privilege, not any individual.

Brian Sheets stated the Council acts through its agents.

Ed Trompke replied the Council acts through a majority.

Brian Sheets stated I would say the ability to do those kinds of things goes to the individual, and if the individual wants to waive those kinds of bad things, that's what the voters are here for. I don't think that necessarily it's for other Council members to necessarily accuse that person through any sort of informal or formal process. I think if it harms the City, if it harms the legal counsel's position, if it hurts the City's position, I think it's something the election should really figure out. I'm really concerned about the procedure for it, too. I understand what due process entails, a fair hearing and the opportunity to be heard and present the case. I didn't see anything in the packet that actually discussed the process. I'm concerned about that because I want to make sure that if something like this does happen that there's a process to protect the person's property rights, liberty rights, and their reputation if they are falsely accused. I just want to make sure there's plenty of procedure on this. And if so, weigh out exactly what you're going to get out of it. If it's a \$500 fine, is that worth it? What do you do while the procedure's happening? Think about how much this actually takes and how much you're actually getting out of it, that's all I'm saying. Thank you.

Ed Trompke replied from a legal standpoint, there are things that no one here is authorized to disclose no matter what; such as, if you disclose private personnel matters or medical information, even information about people who are transported in an ambulance. My firm represents ambulance providers in public agencies. The people who have the rights are not the City Council, but the employee, the person receiving medical treatment, those kinds of people. Those things do occasionally get discussed in sessions. And in other sessions, it is in labor negotiations, unfair labor practices that can be very financially disadvantageous to the City can be discussed and if revealed can result in penalties from the NLRB (National Labor Relations Board), so we do have things that can't be released at all. Then, City Council can waive by majority vote, because the City always acts by the majority. It's the City that has the right to waive a privilege or confidence, not an individual Councilor. My client is the City, or the City Council acting through a majority, and that shifts, which makes my job difficult because one person may change a vote from one week to the next, and that means my position and what I'm doing has to change. Majority rule is what it is, that's what we've got to live with.

Brian Sheets stated I understand that a potential leak has a possibility to impose liability on the City. What I'm talking about is this Charter amendment. I'm not talking about liability that can be imposed through leaking certain information. We don't want people to be putting the City in legal problems or jeopardize positions. We don't want any of that, but I don't think this is the right way to do it.

Councilor Morgan asked do you think it's a worthy aspiration to at least ask the public what they think? Quite frankly, there's no policy at all. I know it might not be the right policy and the voters will ultimately decide, but that's the question right there.

Brian Sheets replied I don't think a Councilor should be accusing Councilors about different things. All this is going to do is criminalize or put penalties on something, it's not a criminal penalty, but it's going to create these things where it's still happening. You're not allowed to speak on confidential matters, so the press gets it through an anonymous source or somebody says something. I don't think this is really going to solve much; it's just a lot of procedure that's not really in the City's best interests.

Mayor Daoust stated please limit your comments to three minutes. Brian went a little bit over but I didn't tell him ahead of time, so that's fine.

Jay Ellis, Gresham resident, stated I wasn't aware of these situations. I think going to a public vote is a little cumbersome and expensive. Echoing some comments from other Councilors, I think relooking at this through a citizen's advisory committee would be beneficial and save time and energy. If it doesn't pass muster with a citizen advisory committee.... I'm going to group all these points together for Items 5.1, 5.2 and 5.3, because I have to leave after this comment. If Council were to agree to accept this resolution, why spend that time and energy taking it to the voters? If you take them to a citizen's advisory committee, I think there's a lot more notice now of this situation and you're going to have more attendance and participation. That might address the issue without having to go to a citywide vote. Those are just my comments, thank you.

Mayor Daoust stated, just to be clear, any Charter amendment has to go out for a public vote, so we will be deciding later whether to send it out for a public vote.

Jon Lowell, Troutdale resident, stated I think this is inappropriate right now. You folks have a copy of the full description of what we're talking about but as citizens we don't. It wasn't put on the agenda, so I think the citizens need a chance to see what we are being asked to discuss before they come up for discussion.

Mayor Daoust asked is that a true statement? Was this on the website?

Sarah Skroch, City Recorder, replied the meeting packet is online.

Ed Trompke stated I think what he said technically was right, the whole language is not in the agenda, it is in the packet, which is behind the agenda. It's only the title that goes on the agenda.

Mark Kelsie, Gresham resident, stated just one question. If this resolution moves forward, who or what is going to be the policing body over these potential rules? An unbiased body that looks at this and says this Councilor, this person, has made this error? Who is that body going to be?

Councilor Wilson replied we have passed it on to our attorney in the past.

Mark Kelsie stated so somebody accuses someone of breaking these rules and regulations and then that goes to the attorney, so, you are policing yourselves, basically then. Is that what you are saying?

Several Councilors responded it's a majority of the Council.

Mark Kelsie asked and that's an unbiased approach, right?

Councilor Morgan replied that's currently how it is done for censures as well. Any Councilor can be censured at any point in time with the majority of the Council.

Mark Kelsie stated but you are policing yourselves. You have each other watching each other to see who says what. Is that correct?

Ed Trompke stated it's the way all governments operate. If you look at even all the way up to impeaching a president, politically elected bodies make those determinations. That's the "American Way" if you will. You either trust your elected officials or you don't.

Councilor Morgan stated Council also could ask for an internal review by a third party like what was done in 2010 when we hired Bev Russell to do an internal investigation.

Mark Kelsie asked so fundamentally then, as an example, if you are talking Executive Session, and a while back the Mayor went to the General Store and discussed, is that fundamentally a break in this policy and he would then be approached by you and then that goes before Council because it is a step out of Executive Session?

Councilor Morgan replied there's currently no process for anything like that to get punished.

Mark Kelsie asked, that process is necessary, you feel?

Councilor White stated actually, the answer we got on that was the mayor is the political head of the City and the rule didn't apply to him.

Ed Trompke replied that was not my legal opinion. I said he is the political head of the City, the Charter says that and because of that, he can go to meetings with other Mayors and other government bodies and have discussions. I didn't say anything about Executive Sessions.

Richard Goldie, Troutdale resident, stated I have a question which I hope you can answer. Who was on the City Organizational Review Subcommittee? Were there any actual citizens on there or who was on it?

Mayor Daoust replied three Councilors and they held public meetings.

Richard Goldie stated a lot of us in the City have noticed there are four certain people that stick together quite a bit and you three are on that. Thank you very much.

Councilor Wilson asked, can I address Mr. Goldie for a second? I just want to say there were a lot of issues brought up that the three of us did not agree on and it took all three of us to make the agreement to bring it forward to Council. So, not everything that we talked about or discussed or wanted or thought needed to be a Charter amendment got brought forward because we all did not agree. So, I can say the four of us don't always agree up here, too, and I can say there are times when I agree with other Councilors and not necessarily the Mayor, and he knows that also.

Richard Goldie asked is it just blind luck that not one of the other three Councilors were on this Committee?

Councilor Wilson replied we didn't appoint ourselves.

Richard Goldie asked who appointed you?

Mayor Daoust replied I did. I appoint every subcommittee.

Richard Goldie stated that's my point.

Councilor Morgan stated just like the Mayor appointed you for a committee, the Mayor has the authority to appoint for committees.

Richard Goldie stated I get it. I just hope you guys get what I'm saying, too.

Ed Trompke said Mr. Mayor my recollection is that you asked for volunteers that night. I believe you said "Who wants to be on it?" Look at the meeting minutes from when the mayor did it, he did it in an open forum.

Paul Wilcox, Troutdale resident, stated you all know, I'm sure, that I actually read this stuff in detail. I have additional comments, but I want to get to the language before I run out of time. For 5.1., Line 9, says "Council need not follow any particular procedure in determining the fact of disclosure or imposing that discipline." It sounds to me like guilty until proven innocent. That's my briefest comment you are going to hear tonight, but I will use a couple more of my minutes to say that I agree completely with Councilor Ripma that this Subcommittee has dropped this on the balance of the Council and the Mayor also without any advance notice. And the timing of this, you have it scheduled for the May ballot, the primary ballot, which means there has to be a public hearing tonight, and a public hearing two weeks from tonight and that's your timeline. If you don't get it done this month, it doesn't get on the May ballot. There should have been a work session between the Subcommittee's decision or recommendation or whatever on these amendments and the full Council. Like Councilor Ripma says, it's the first you have seen it, and now, you're under the time pressure if you want to get it on the May ballot, you've got to do it.

Councilor Ripma stated there isn't even a second reading. This is it, it was dropped on us, you never brought it to Council and we never got to discuss it.

Rob Canfield, Troutdale resident, stated while I believe the intent of the Subcommittee in proposing this Charter amendment was good, I think the step of fining a fellow City Councilor for divulging information from an Executive Session is a little far reaching. There are already State public meeting laws that cover what is allowed, there are already City rules and City Council rules in the City ordinances that cover this, and there's always the option of censuring a City Councilor as has been done before if the City Council feels that an individual City Councilor has deserved it. But I think it is going too far to fine someone; it becomes political in a financial way. It's over reaching and I don't think it is necessary. I would urge you to reject taking this to the voters. Thank you.

Tanney Staffenson, Troutdale resident, said I would just echo what has already been said this evening. I think it is a little reaching, and although you don't have something of this magnitude, you already have methods in place and procedures to accommodate a breach of confidentiality. These things do happen and they have to be addressed, but I don't know if fining each other and kind of holding a court is the answer to that. The other thing I would say, I would hope this would have gone to CAC to get their opinion before we move it forward. The other thing is when we do a Charter amendment I am hoping that any of these that go forward to the voters are 7-0, 6-1, something like that because we are going to be looking to you for direction on how to vote because all of these are going to impact you more than the voters. If the Council is split, what do we think the citizens are going to do? How does that work? Whatever we send to them should be something like, "This in the best interest of Troutdale, we agree upon it, we support it, please back us on this to make the City better." Thank you.

Bruce Wasson, Troutdale resident, stated I agree completely with Councilor Ripma that the City Council should not be imposing fines on anybody without due process. And voting to fine somebody or censure them deep enough to where they couldn't come to meetings is inherently wrong. I would remind you that history teaches us many lessons and we don't learn from them. Vice President Andrew Johnson, when ascended into the presidency upon the death of Lincoln, was impeached by the House and barely won the trial in the Senate. It was a political witch-hunt and we do not wish to descend into a political witch hunt on City Council because that is what it could become, particularly if somebody is falsely accused. Somebody can say something and it may not be true. So the criminal justice system or the State rules should govern how that is done, not the City Council. I would be very opposed to this. Thank you.

Sam Barnett, Troutdale resident, stated I've gained a lot more knowledge on this just listening to the people speak before me. I had some notes that they covered, so I don't really have a lot to say other than the fact that censorship has its process here in the City and has been used when necessary. What you are talking about tonight, there is really no real process to it. Obviously, the City Attorney would bring the case forward and then he would go around the room and represent. Who is going to represent the Councilor defending himself and at what cost? Would that be the chore of the City Attorney to represent both sides? It just seems really silly to me. Is this the most trust that we all have in each other here? I do think that if history has proven itself, it will become a political witch hunt. And I hate to say it, but I think that is, in some ways for some of you, its true intention, and that bothers me a lot. I come up and I complain quite a bit and probably

more often than I would like to for sure; but there is so much dissension with this Council. I think it is embarrassing to even to consider putting this in front of voters. Thank you.

**Mayor Daoust closed the public hearing at 8:07 p.m.**

**MOTION:** Councilor Ripma moved to deny adoption of Resolution 5.1, a resolution submitting to the Electors of the City the question of amending Section 14 of the 1994 Troutdale Charter to allow discipline of Elected Officials for disclosing confidential information. Seconded by Councilor White.

Councilor Morgan asked, can we just approve or not approve 5.1, instead of going the other way? It doesn't matter, if that's your motion, that's your motion, but we are going to be voting yes versus no and no versus yes, as opposed to just voting in favor or against.

Mayor Daoust stated that's what I was going to clarify. It's a little awkward when you say don't approve something and then we are wondering whether we vote yes or no on it. So just to clarify, your motion is to not approve 5.1, so if we want to go along with that we would vote yes.

Councilor Ripma replied yes, I understand that because I don't want to make a motion to approve it. We can handle it. It's very straightforward. I agree, Councilor Morgan, but since I got there first, I urge this Council to please vote "yes" to not approve this.

Councilor White asked Ed, hopefully I won't be putting you on the spot because I've asked you this question before and I think you explained it to me that the Supreme Court ruled that it is Freedom of Speech and bottom line there can be no consequence. It may be unethical and it may not be gentlemanly liked. I take it very serious, but the bottom line at the end of the day is it doesn't pass muster with the Oregon Supreme Court.

Ed Trompke answered that Oregon doesn't have a free speech amendment, it has a free expression amendment. I'm paraphrasing but the last line of it says "but every man shall be liable for the consequences of their speech." So that means you may be criminally liable, you may be civilly liable, or anything else for the consequences of your speech. That doesn't prohibit laws against disclosing confidential information. They exist lawfully under the Oregon Constitution because while it is very broad, it isn't absolute. Does that answer your question?

Councilor White replied it is a little different from the last time you answered it, but I think I get it. My question is for the Subcommittee. Usually, we see the results of a vote and I think when Councilor Anderson presented he said this was Councilor Morgan's idea, and you were very specific about that. Usually, that would mean it would die in committee then, if the majority of the committee wasn't in favor of this.



Councilor Wilson stated no, I think what was said was that Councilor Morgan wanted the Council to know that he was the one that brought this forward.

Councilor White asked were all three of you in favor of this?

Councilor Anderson replied to bring it forward to this point, yes.

Councilor Wilson stated everything that's on there, all of us agreed on. Nothing is in here that there was any two-one vote, or however you want to mix it up.

Councilor Morgan stated let me be very clear, not everything that is on here, I support. I support it for the dialogue with Council as a deliberative body.

Councilor White stated normally we see how the vote works. I've been on a few subcommittees.

Councilor Morgan stated the votes are tallied and there are minutes.

Councilor Anderson stated I voted to bring all these things to this point, because I want to hear what the public wants to say. I want to hear what the Council has to say. Plain and simple. These are concepts, these are ideas, they may go down in flames, but I'm not going to lose any sleep over them if they do.

Councilor White stated one other concern with the Subcommittee is the original scope of work was to provide balance between Council and the City Manager. It wasn't this election engineering, for lack of a better word, that I'm seeing tonight.

Councilor Anderson replied we discussed Council rules, which will come forward at a later date. The reason these are on the agenda tonight is because in order to get them on the May ballot, action has to be taken in the month of February. That's why these are here tonight, and the Council rules that were also discussed aren't coming forward yet.

Councilor Ripma asked why do they have to be on the May ballot?

Councilor Anderson stated if you're going to do something like 5.3, and there's a Mayoral election coming up, you probably want that on the May ballot if you're going to do it.

Councilor Ripma asked is that what it's for, just to help Mayor Daoust? These Charter amendments usually go through a public process and the Council at least gets to have a Work Session, as Mr. Wilcox pointed out. There's no rush, this is our Charter.

Councilor Morgan stated this isn't a Charter review. They just happen to be Charter amendments. So there's a difference. This is an Organizational Subcommittee that looked at the Charter. A prime example is something that has also been discussed,

and I believe is still being worked on, is the transient lodging tax and other things that have nothing to do with the Charter.

Councilor Ripma replied I know, but these things don't need to be on the May ballot. They could be considered deliberately, let public input be engaged, let the people comment on it, and we can decide if these are good ideas.

Councilor Wilson stated this particular resolution was brought over because of the consistency of people speaking outside the Executive Session to the public. I could delete \$500 from this resolution, but the fact remains that as Councilor Morgan has asked, and as our Attorney has said, there's really nothing in our Council rules that if you break the confidentiality the Council has any power of doing anything. And it just doesn't apply to one or two of us, it applies to all of us, including the people that put this together. So, it isn't a way of trying to control anybody because we are all under the same guidelines.

Ed Trompke stated there is nothing in the public meetings law that purports to restrict anybody's or to put any consequences on violation of confidentiality. There's nothing in the statutes, that's why Cities are adopting regulations about this.

Councilor Allen stated so what I'm seeing here is that the Council is split on important issues, that the people that are oftentimes in the majority are more comfortable with this than those of us that are in the minority. I think we can all agree that it is wrong to release Executive Session material without a formal agreement from the Council. I think we can all agree that's wrong. However, this proposed amendment has nothing to do with disclosure and liability. The majority of the Council can violate these rules like a Portland parking meter and they will probably never go after themselves. It's going to be used as a tool to go after the minority opinion of the Council. That's why this thing is so dangerous. How is a minority member of the Council going to defend themselves when they are not able to talk about Executive Session material, how can they do that? It's not possible. What are the legal costs going to be according to this? How many times are you going to fine somebody over and over again? It has nothing to do with whether things will be discussed about Executive Session or not, it's going to be used as a tool for the majority of the Council to attack the minority of the Council. I strongly suggest that this does not go forward.

Mayor Daoust replied this applies to everybody.

Councilor Allen stated the majority would never go after themselves.

Mayor Daoust stated the wording applies to every single person on this City Council. If I said something that I wasn't supposed to say under Executive Session, you guys could come after me. It applies to everybody sitting here, not a group against another group, that's not the intent. The intent is to hold us all accountable.

Councilor White asked why do we have so many Executive Sessions? I think we've set a new record, and they can be used as a political weapon to silence the opposition.

Mayor Daoust replied I don't know what to do with that, sorry. There are strict rules for Executive Sessions.

Ed Trompke stated I know of a City that has at least 2 a month and has for decades. It's all at the preference of that Council.

Councilor White asked isn't it true though, that you can release the information once the issue has been resolved, and at that point, it can be released to the public? My concern is the public is left in the dark.

Ed Trompke replied with a majority vote. There was something in the newspaper last month about an attorney's opinion that the Council wanted to keep confidential, I think it dated back to the 1980s, 30 years ago, and the Council decided for whatever reason, that it should remain confidential and it's still confidential. And, in the case of the attorney/client privilege, it is intended to put the City as a unit - the City - on the same basis that every other person or corporation has, which is to keep some of its attorney discussions private, and that's all it is. A municipality is a municipal corporation that is treated constitutionally, just as Intel or PGE or any other corporation.

Councilor Morgan stated I don't know what was said while I was gone. I don't know what was said about me or what have you but I have been talking about the Charter for quite some time, about some discrepancies in the transient lodging tax. And for me, this is just to try to have a conversation about better ways to modernize it. I think we all can agree that we don't have a procedure in place that allows for accountability. I don't know if a majority vote is the best or a fee or what have you, but the goal is to try to find a solution towards that. If the Council doesn't think 5.1 is the best avenue to find equity, and it's going to be used as a weapon and we're afraid of that, then I would gladly entertain any kind of a solution, compromise, or recommendation specific to 5.1, because as God is my witness, the goal here is not to use anything as a weapon. The goal is to protect the negotiating position the City might have in certain negotiations and have a recourse that currently wasn't available since 1994, and that's it.

Councilor White stated I would rather pay \$500 than face our current rule of public censure. I would gladly pay that than go through public censure, so I think we do have plenty in place. I don't think it needs to be modernized.

Councilor Morgan asked so you're talking about having a \$500 fine?

Councilor Wilson replied no, he's saying that he'd rather pay the \$500 than public censure.

Councilor Ripma stated we have harsher censure penalties now.

Councilor Morgan asked than a \$500 fine?

Councilor Ripma replied yes, if it comes down to it.

Mayor Daoust stated well, there's a reason this is on the agenda, based on things that have happened in the past, where the damage had already been done, so there's a reason for this. I guess that's all I'll say. It wasn't just cooked up as a method to strangle a section of the Council. It is here because things have happened in the past, where words got out and the damage was done, and there was nothing the Council could do about it.

Councilor White asked why weren't they censured?

Mayor Daoust replied I suppose we could have done that, but we didn't.

Councilor Ripma asked why don't we put this to a Work Session and discuss these Charter amendments because we've only just seen them. Let's discuss them and decide whether we want to refer them to a committee or something before referring them to the voters. I know you want to rush them right to the voters. The thing is, we should only refer things to the voters that we think are actually good ideas. We really should. It is a waste of time and money to do that otherwise. We should be recommending it to the voters. That's what we've always done. We are leaving out a big step out here.

Councilor Morgan asked all of the Charter amendments, not just one?

Councilor Ripma replied all of them. They deserve some deliberation.

Councilor Morgan stated I agree, but I feel like there has been a lot of deliberation. These were public meetings. A lot of the public wasn't there. I have talked about it for months now about how we have to do a better job of outreaching on our website and all of that.

Councilor Ripma stated well, this is purely contrary to that because we just got them. The public doesn't even have a copy. There's been no public discussion. It's just totally contrary to being clear and transparent.

Mayor Daoust stated you cannot deny the fact that the Subcommittee held public meetings. There was a Subcommittee, not the Council, which held public meetings that people could have come to.

Councilor Ripma replied not with the wording we have here, Mayor Daoust. They didn't have that until Mr. Trompke wrote it last week. I'm serious, that is the important issue.

Councilor Morgan stated every meeting that the Council discussed had public input, we gave recommendations for language to Mr. Trompke in the meeting.

Councilor Allen asked has there ever been a point in Troutdale's history where the majority of the Council voted to censure themselves? It just doesn't happen.

Councilor Wilson asked can you say for 100% percent certain that it has never happened, Councilor Allen?

Councilor Allen replied I am not aware.

Councilor Morgan stated I'd like to call the question on Councilor Ripma's motion.

Councilor Allen asked wait, right in the middle of me speaking, you're going to call the question? What ever happened to I could speak twice? I was told I could speak twice. I've been very patient. Now, you tell me I can't.

Mayor Daoust stated parliamentary procedures say that if a Councilor calls for the question, then we move to calling the question, is that true?

Ed Trompke stated you vote on whether or not to continue the debate as to whether to call the question. There's a vote without further debate as to whether to move to a vote on the matter.

Councilor Morgan replied I would love a debate about substance and not a fight.

Councilor Ripma stated well, let's continue the discussion.

Councilor Morgan replied if we can have a civilized discussion, I would love that.

Ed Trompke said you're debating a non-debatable item here. You simply vote on it, because everyone either believes that they have heard enough or not.

Councilor Morgan asked can we have a discussion?

Councilor Ripma stated let's keep discussing. I vote no.

Councilor Morgan stated I will vote no on my call of the question.

Mayor Daoust stated all right, we are voting on whether to go ahead and call the question, and just vote on this. That's what we are voting on right now.

Councilor Wilson asked just so I'm clear, which point is which?

Mayor Daoust replied I'll just make it simple. Does the Council want to continue the debate? Okay, I can count, let's continue.

Councilor Allen stated I am merely trying to point out that if a majority of the Council is upset with the minority of the Council over a particular action, it doesn't even have to be true, they can just vote fines and I'm not assured that they won't. That's what concerns me. This is a terrible thing in democracy, to have a majority be able to manipulate the minority in such a manner. We make \$50 a month here.

Mayor Daoust stated all right, so I think that's the end of the discussion, at least, I'm sensing it. We will wait until Councilor Anderson returns. The motion on the floor is to reject this resolution; a vote yes to reject 5.1, or no, not to reject 5.1 and send it out to the electorate of the City.

Councilor Allen stated a yes vote rejects sending it out to the voters.

Mayor Daoust replied a yes vote says you don't want to send it to the voters, a no vote says you do want to send it to the voters.

**VOTE: Councilor Morgan –Yes; Mayor Daoust – Yes; Councilor White – Yes; Councilor Allen – Yes; Councilor Wilson – Yes; Councilor Ripma – Yes; and Councilor Anderson – Yes.**

**Motion Passed 7 - 0.**

Mayor Daoust called for a 10 minute break at 8:32 pm and reconvened the meeting at 8:44 pm.

**5.2 RESOLUTION:** A Resolution submitting to the Electors of the City the question of amending Section 21(l) of the 1994 Troutdale Charter to allow the Mayor or City Councilors to discuss employment matters, contracts, or property with the City Manager.

Ed Trompke stated this came out of the same Subcommittee. Section 21 of the Charter and other sections of the Charter were amended two years ago due to the fact and/or perception of improper conduct by the prior Mayor who was alleged, I'm not making any statements about fact or not, to have interfered with the way the City Manager ran the City and about staff and/or contracts. And so, a Charter amendment was adopted at that time, and it's been interpreted in different ways and inconsistently, perhaps, over time. This is to clarify that City Councilors and the Mayor can talk with the City Manager about contracts and employees because the delivery of services to the public by employees is a matter of importance to the Council and the Manager. They need to be able to talk about that. And the same with City contracts to talk about the strengths, weaknesses of contracts, and the benefits or detriments of contracts, without living in fear that a person might be sanctioned for it. This just says that those discussions can be held. They can be held privately at the discretion of the participants by telephone call and not just as a matter of public record. And in light of some of the most recent public meetings law decision of the Court of Appeals, in which a County Manager alleged to have had a serial meeting with a couple of Councilors by virtue of an email and a telephone conference, that shouldn't be allowed and that's why it says "but shall conform to the requirements of law". So, it doesn't allow the Manager to go get 4 votes on the Council by talking to 4 Councilors

in secret, because that would violate public meetings law by having a serial meeting. It does allow Councilors to call the City Manager to talk about issues. It's worded as tightly as can be done under the existing public meetings laws to allow the free exchange of ideas that have to do with matters of public concern, primarily delivering service to the public. And this would again be referred to voters on the May 17<sup>th</sup> ballot.

**MOTION:** Councilor Anderson moved to approve Resolution 5.2, a resolution submitting to the Electors of the City the question of amending Section 21(i) of the 1994 Troutdale Charter to allow the Mayor or City Councilors to discuss employment matters, contracts, or property with the City Manager. Seconded by Councilor Wilson.

Councilor Ripma asked is there anything in our Charter, as it is now, that prevents a Mayor or Councilor from discussing staff needs, property, contract needs, with the City Manager? I just couldn't tell that there was.

Ed Trompke replied it's not clear. It depends on how you interpret the language that's in there. This clarifies it. It says no there is nothing in there that's meant to and that's the problem. When I first came to this City, I was told that everybody understood that it did expressly mean that, whether or not it was clearly stated, I was told that is what it meant.

Mayor Daoust stated with the language that's been in place since 1994, it was kind of understood by the Councils that we couldn't coerce the City Manager in certain staff decisions; that was not the Council's role, so we've kind of understood that for a long time.

Councilor Allen stated I'm always looking at safeguards. Am I right to assume that 4 Councilors couldn't actually meet and collaboratively decide to individually go meet with the City Manager in an effort to change their mind? That's correct, right?

Ed Trompke replied if 4 City Councilors got together to discuss any City business, then that is a violation of the public meetings laws, unless it's done with prior notice in a public place and you've got accessibility and all the requirements, so the requirements are there.

Councilor Anderson stated taken at its most literal sense, this Charter that was enacted in 2010, we can't tell the City Manager if an employee is doing a good job.

Councilor White stated this might be the only one that passes. Is it worth doing all of this and putting it before the voters when we could handle it in house, from what it sounds like?

Ed Trompke replied it's a Charter amendment and Charter amendments have to go to the people. So, if you were to adopt an ordinance that said something like that, that's not necessarily going to be upheld, depending on how the Charter itself gets interpreted, because the Charter is sort of like the constitution for the City.

Councilor Anderson stated, in response to Councilor White, as we discussed in the committee, we're basically undoing what we thought was a wrong to begin with because it was too stringent, too restrictive on Council. That was the mindset behind bringing this one forward as it's written.

Councilor Allen stated I may not be interested in this if it has to go to the ballot in May and become a special election. Do we have the option of sending it to November instead, so we're not paying more?

Ed Trompke replied you may not be able to send something in now for November. I would defer to Ms. Skroch, if she knows. I think they do have a first and last date for sending something in, and I know we're way off from the November 1st date. That's somewhere in July I think. That's just off the top of my head.

Councilor Allen asked we're talking about referring this to the voters, but when?

Ed Trompke replied this would go in May per the terms of the resolution.

Councilor Allen stated you're saying it can go in May, but it wouldn't be able to go to the General Election in November?

Ed Trompke replied no, I said it can't be processed and turned in because they won't take it at this point.

Councilor White stated Mr. Ward, maybe you can help me make this decision. My concern is there's a possibility you could be pulled in 7 different directions as people approach you. You're not concerned?

Craig Ward replied I actually welcome this. When the Organizational Subcommittee talked to me about this, my sense is that I work for all 7 of you. If you have concerns, if you have input, I would rather hear that directly and be able to talk about that than have everybody worried that somehow they're violating the Charter and they could be punished for that. I think it's important that the caveat be in there that essentially you all understand that talking to me does not obligate me. I'm collecting information and opinions, and I want that. To me, this just sort of lubricates the policy making process and helps me make wise decisions.

Councilor Ripma asked if we refer this to the ballot in May would that cost the City, or is May a regular election so we don't have to pay extra?

Sarah Skroch replied I contacted the County elections office and they said because it's the primary election, we wouldn't have to pay for this one.

Mayor Daoust opened the public hearing at 8:56 pm.

Paul Wilcox, Troutdale resident, stated I'm kind of confused about exactly how long this existing language has been in the Charter. The Mayor says 1994 and Councilor Anderson



says 2010. The attorney was referring to pre and post Mayor Kight. It's kind of irrelevant, really, but I was just curious about the timing.

Ed Trompke stated some of the language dates back to 1994; some of it came in in 2010.

Paul Wilcox asked are you talking about up to the part that's not underlined?

Ed Trompke explained no, most of Section 21 is from 2010, but it interacts with other sections that aren't actually in here that were modified in 2010. And I believe part of 21(i) was modified in 2010, but I couldn't tell you off the top of my head which piece of it. I did look at it at one point.

Paul Wilcox stated for 21(i), the existing language, is actually a copy and paste of the League of Oregon Cities model charter language, so I don't know how long that's been there. I doubt that they borrowed your language. And then, I don't know where you are getting this thing where you can't talk to the City Manager. The last sentence of the existing language says, "In Council meetings, Councilors may discuss or suggest anything with the manager relating to City business." Anything is a pretty broad ranging word. In your new language, I have a problem where at the very bottom it states, "Discussions may be held privately." If you can discuss absolutely anything public, why do you need to meet in private? That's what I have on that item.

Councilor Wilson stated it could take longer than just a few minutes in a Council meeting to get a discussion and get clarity on what your concern or what you feel is going on. We may be able to say a few sentences, but we're not able to fully vet, I guess, what may be on our minds, and being able to have a private discussion with him I think is a good thing.

Councilor Morgan stated I can give a tangible example of that issue. When Councilor White and I worked on the fire contract, it could have been very closely understood since it wasn't in a public meeting. We were tasked by the Mayor to be on the subcommittee. When talking about things like contracts and/or documents, we would have to go to the City Manager, but not coercing him and not steering him or guiding him. Basically, this allows Councilors to work with staff and/or the City Manager on issues of consequence without fear of coercion or undue influence. This freely allows for the citizens to have a representative that can engage with staff on certain issues of consequence.

Councilor White stated I share Mr. Wilcox's concern, too. When I read the date on here, I thought the entire Charter was reviewed in 2010.

Councilor Morgan replied just the parts with the Mayor. Before Debbie left, she said one of the big issues was the entire Charter should be completely looked through because it hasn't been done since 1994, except for the section about the Mayor.

Brian Sheets, Troutdale resident, stated I support this. I think it's a good current policy and it's a good common sense solution to clarifying the Charter and making the Charter a bit more bulletproof for interactions with the Councilors and City staff. I think it's a good idea.

Mayor Daoust closed the public hearing at 9:01 pm.

Councilor Allen stated I like that you kept the language that we may not directly or indirectly attempt to coerce the Manager, meaning we can't say, "You will do this or you're out of here"; that kind of thing. I like that the protection is still in there because I'm always looking for protections. But protections go both ways, because we currently can talk to our City Manager about a number of different issues, but we don't. That's left to interpretation and there's been discussions as to whether or not we could or couldn't. But we can, so I like that this bottom section actually clarifies that you can talk to him as we do, you just can't coerce him. And, going along with what our attorney said that we still can't collaborate as a majority, and then tell him what to do, so I like that as well.

Mayor Daoust stated history has actually brought us to this point for all 3 of these Charter amendments. There are reasons all 3 are here. The City Council knows that the only people that we "supervise" or have the ability to hire and fire, is the City Manager, the City Attorney, and the Judge; 3 people. Other than that, we have no authority as a Council to discuss with the City Manager the strengths, weaknesses or anything else about any other staff. That's how it's been understood. So, in my mind, this just clarifies the fact that we can get into conversations with the City Manager about how the staff is functioning in the City, because we are interested in customer service. That's one thing we've been hounding on for a long time. Some of us felt we just couldn't bring staff customer service issues up to the City Manager because managing the City staff was totally under his purview. That's just one example of why this is here. I think it's a good idea.

**VOTE: Council Morgan — Yes; Mayor Daoust — Yes; Councilor White — Yes; Councilor Allen — Yes; Councilor Wilson — Yes; Councilor Ripma — Yes; and Councilor Anderson: Yes.**

**Motion Passed 7-0.**

Mayor Daoust announced the Charter amendment will go to the electorate in May.

**5.3 RESOLUTION: A resolution submitting to the Electors of the City the question of amending Section 27(A) of the 1994 Troutdale Charter to require Council to resign to stand for Election to another office.**

Ed Trompke stated the current Charter provides that there are 2 classes of Councilors: those whose terms expire at the same time as the Mayor's, and those which expire 2 years after the Mayor's, and that creates a disparity if a Councilor wishes to run for the Mayor seat. Those whose terms expire will then be out of office when they run for Mayor and don't win; whereas those who still have 2 years remaining can remain in office for the 2 years so it's kind of a free pass to become Mayor. In conversations, it came out that prior to the 1994 Charter, the Mayor's term was 2 years so that alleviated the problem. The Mayor had to run every 2 years so, there were 3 who could run on a free pass in 1 term, and 2 years later the other 3 could run against the Mayor on a free pass. It still didn't create quite equality because the Mayor's position might become vacant in 1 of those

years and not the other. So there still might not be equal treatment for the different Councilors. So what this does is say that any Councilor who files for the position of Mayor or any other elected office thereby vacates the seat of Councilor and is no longer a Councilor and can then run for whatever office they want. There are other Cities that have this provision, but Cities are all over the board on what they do with this kind of question.

Councilor Morgan stated procedurally, I would like to make an amendment, but I don't know if that could be entertained or discussed after public hearing, or if the public and/or the Council will suggest we make the amendment prior to. That's the question.

Ed Trompke stated there should probably be a motion to consider it or approve it before you make a motion to amend it, just from a parliamentary position.

**MOTION: Councilor White moved to not approve Resolution 5.3, a resolution submitting to the Electors of the City the question of amending Section 27(A) of the 1994 Troutdale Charter to require Council to resign to stand for Election to another office. Seconded by Councilor Allen.**

Councilor White stated I have a point of order question. Forgive me, Mayor, if you were planning on saying this, but I'm concerned that this issue would be a conflict of interest for you since you could benefit financially with your \$500 a month stipend. It primarily affects you. It doesn't affect the rest of the Council as much as it affects you, specifically, since you are the Mayor.

Mayor Daoust replied yes, I was going to say something similar to that, but I wasn't going to state I have a conflict of interest. I think the City Attorney would agree with me.

Ed Trompke replied I think that's right, because any Councilor who was thinking about filing for the Mayor's position would have the same conflicts.

Mayor Daoust stated the statement I was going to make was that I would like this discussion to focus on what the Council wants to do going into the future. Don't focus this on what benefits Mayor Daoust, because none of you know whether I'm going to run for Mayor or not this term. So, let's remove the discussion from what benefits the current Mayor, and talk about what we want to do as a City Council for every Mayor from now on or every person that applies to be Mayor. In my mind it's an equity issue that's unequal in the current Council set up that we have.

Councilor Allen asked how about if we make that true so that on this particular one, it would go to the people in November. That totally takes that out of the discussion.

Councilor Morgan stated just for context here, because this is, unfortunately, another controversial issue, this is modeled after the County's Charter and was something that I've looked at for quite some time. This was about whether the Mayor should have a 2-year or 4-year term, whether a Councilor should resign at the time they declare like the County currently has in place, whether the Councilor that might challenge 2 Councilors would then assume office or resign at the end of

the year. So there's a lot of nuance behind that. It just so happens we're in an election year in which the County, which has term limits, is now thinking about reversing those oddly enough, and they're also thinking about whether this resign to run is viable as well. So, it's something that's kind in the air; other Cities have it and others don't. In this same line was a discussion about buzzers and other procedures for the City Recorder, etc., as well as procedures for the Council as a whole. This was a big discussion that was modeled over the County Charter.

Councilor Anderson stated we're talking about the Mayor but the way this is written is if any of us want to run of any office and we lose, we're out, right?

Ed Trompke replied, it says that when you file you're out.

Councilor Morgan stated that's why I wanted to make an amendment.

Councilor Ripma asked is there some procedural way to hear what Councilor Morgan's suggested fix on this is?

Councilor Morgan replied my amendment was going to be that the person running for; this is specific to Mayor or Commissioner or Legislator or Governor; that they do not resign until the end of that calendar year. So, in this case, it would be December 31, 2016, so they would hold their seat for that period of time. It would also allow for that Council position that might have 2 years available to be filled in that General Election, whatever it might be.

Councilor Allen asked that can be added as a friendly amendment can it not?

Councilor Ripma stated I like that much better, but this is a reason why I think this deserves a discussion of the Council in a Work Session. The current Charter has this anomaly, and I agree it needs to be fixed. And, with Mayor Daoust's admonition that we shouldn't focus on November and having this in place by November, let's take some time with this, gentlemen, and talk about it at a Work Session.

Ed Trompke stated this issue was raised with me. I was prevented by the public meetings laws from discussing it with the rest of you, because I couldn't have a serial meeting under the most recent decision. I'm passing around a revised resolution that says that the vacancy shall be on December 31<sup>st</sup> of the year of the candidacy, and is otherwise the same as the resolution in front of you, so you could do either. And, this court of appeals decision prevents me from talking to you as freely and openly as I would love to under the guise of public meetings transparency.

Mayor Daoust stated so this is the same thing Councilor Morgan brought up, basically.

Ed Trompke replied: yes, I believe it is.

Mayor Daoust stated so we could withdraw the motion on the table if we wanted to approve this one?

Ed Trompke replied yes if the first motion's withdrawn. Otherwise, you need to vote on the first motion, and then you can move to the amendment.

Councilor Wilson stated I just wanted to say, Councilor Ripma, years ago when you were running for Mayor against Jim Kight, something that you brought up to me in a discussion that you and I had was that if you were not elected to Mayor, you would lose your seat, whereas Jim would not give up his seat because it was in an off year for him. This has been on my mind for a long time, not just since I got on City Council.

Councilor Ripma stated Jim (Kight) ran against Paul (Thalhofer) and didn't have to resign. I ran against Jim and I did, and I recognize it's anomalous.

Councilor Morgan asked you didn't run for your term again?

Councilor Ripma replied no.

Councilor Wilson stated he couldn't. He was in the off year, so he had to give up his seat anyway.

Councilor Ripma stated you can't file for both.

Councilor Morgan stated so he didn't resign, he just didn't seek re-election.

Councilor Wilson stated this has been my thought for a very long time, that it puts some people in at an advantage or a disadvantage depending upon who you are. This is one of the things I thought should be moved forward to us so that everybody's put on equal footing. And with the amendment that Councilor Morgan brought up, it will help keep the Council balanced through that year of the election, too.

Councilor Morgan stated we had 3 Councilors and a Mayor or 3 on the Council running at the same time and it was kind of chaotic. This wouldn't allow for the electorate to actually be voting in that current election for an actual seat and it balances the whole thing out electorally, at least for the voters, too.

Councilor Morgan stated we have 2 resolutions in front of us. A motion was made this current resolution, right?

Ed Trompke replied that motion is on the floor and it's been seconded.

Councilor Morgan stated Councilor Anderson's motion is to outright reject 5.3. This is a completely new proposal, so in essence, you could vote against the current motion on the table before it, and then reintroduce this resolution.

Ed Trompke replied but, if you're going to vote on the first one up or down, you do have to have a public hearing first. Then if you raise the second one, you'll have to have a second public hearing.

Mayor Daoust stated we could withdraw the first motion and have the public hearing.

Ed Trompke replied that would be the most expeditious manner.

Councilor Allen said I just have a clarification that's kind of timely on something Councilor Ripma said. So, correct me, but you didn't actually resign your seat, you served your full term?

Councilor Ripma replied yes.

Councilor Allen asked you just didn't run for the same position, right, for a different position?

Councilor Ripma stated because you can't file for both seats. I filed for Mayor and I couldn't then file for my Council seat. I might add, Norm Thomas had brought up this very fix back in Paul Thalhofer's term. That's why I voted against the 1994 Charter because of this.

Mayor Daoust stated we've talked about this same thing for years.

Councilor Anderson stated I just think maybe knowing where this came from or what the Subcommittee was after here would help the public comment and it would help the Council in their debate. This is a problem, and the Subcommittee recognizes that it is a problem, all for different reasons. Politics are getting more heated; they're getting more personal everywhere, not only here. I've watched these post-election hangovers happen where it grinds this body to a halt because you have people who are campaigning against other people. I can't stop that. I'm only trying to contain it if I can, so my intent here is to really keep the City Council moving forward without the politics of an election year hijacking it. Is this the perfect solution? I don't know. That's for the public to decide. Tonight, it's for us to decide here and ultimately for the voters. This is the solution that we came up with. It's not the only one. We've discussed 2-year terms for Mayor. We discussed going back to the pre-1994 to get everybody on even footing. What we wanted to avoid was something that happened in the early 2000s where 2 City Councilors, who were in the middle of their terms, had nothing to lose, they ran against a beloved Mayor because the beloved Mayor was being challenged by somebody that wasn't as beloved. And so these two others got in the race, allegedly to split the vote and the desired result was achieved, the beloved Mayor won. I believe he would have won anyway, but, that's neither here nor there. That's the kind of thing that we're trying to prevent as a Subcommittee and it's the kind of thing I'm trying to prevent as a member of the Subcommittee. But, I'm not by any means married to this as the sole answer. I'm not married to it being put on the ballot in May.

Mayor Daoust stated so one option is to withdraw the motion that's on the floor and have the public hearing so people can say what they want to say, knowing that we do have another option.

Councilor Allen asked, can we do this as a friendly amendment and have a motion prior to this resolution? Because it doesn't say when you do an amendment, how much you have to amend. Would you accept this date change as a friendly amendment?

Ed Trompke stated technically, the way it would be done is since you have a motion on the floor is there's a motion to amend it. If the motion to amend gets a second, then you have the hearing on the whole thing and then a public hearing. Then you have a vote on the motion to amend, and then a vote on the final matter, whether it's the amended or the original one. You have two votes, one on the motion to amend and then on the original motion.

Councilor Anderson stated I'd like to make a motion to amend Resolution 5.3 to change Section 27(A)(5) to include, as written, what we see here in this alternate resolution.

Ed Trompke stated if I may help you with that. On Page 2 of the resolution, the Caption is changed to read "Councilor resigns December 31..." rather than "upon candidacy". And for the Question it's changed to read "Shall a councilor's position become vacant on December 31 following candidacy for another office". And then, in the Summary in the last line is changed to read "...is deemed to be vacant on December 31 on the year of candidacy...." Those changes would be part of your motion.

**AMENDED MOTION:** Councilor Allen moved to amend the main motion (see Mr. Trompke's changes above). Seconded by Councilor Anderson.

Councilor Ripma stated the motion on the floor is to reject this. We're amending a motion to reject, but more than that, gentlemen, could I say that before we get any further down this road, why not have a Work Session to also consider the option of another possible fix, like a two-year Mayor term. There's not a need to try to cobble this together tonight in such a confusing way. There isn't a rush. If it isn't for Mayor Daoust, it really doesn't need to be done this quickly. I think it's a good fix. I'm generally in favor of the idea, but most of our long serving Mayors, in the years I've been in Troutdale, Glenn Otto and Sam Cox, all served under 2-year terms and that was a tradition in Troutdale. I remember the 1907 Charter had 1-year terms. I don't know when that got changed. I think we're all in agreement we want to fix this, but, could we just consider putting it off now.

Councilor Allen stated we don't have a good answer now, so I would support doing a Work Session.

Councilor Morgan stated I support the amendment with recommendations for May or November to take effect. It is up to the voters, ultimately. But, again, I'm just going to echo what Debbie had mentioned. I think this is a good fix for this election and a good fix on both parts. But the entire Charter needs to be completely looked at; and the more substantive questions of 2 years versus 4 years and looking at some of the other Kight amendments, the entire document itself needs 20 plus years of revisions. I think this is a good fix for the time being. We shouldn't kid ourselves to think that we aren't just going to look at the entire thing. We have to, I believe, with some seriousness, like with the community and having a task force for that.

Councilor Ripma stated it's the same problem we had with the first one really and with the second one. You guys brought these resolutions to put on the ballot without the Council or the public having any opportunity to see it or review it. What kind of open process is that?

Councilor Morgan stated but my point with that this is a conversation that's been going on for a year plus. We started this conversation last summer. We've had 6 months now of meetings on this and the Council has been plugged in, the community has as well, and I've mentioned it several times. We have a lot of stuff to do. We made a motion last February to extend Urban Renewal for 10 years, and we promised the voters we'd reach out, and we've yet to do any reaching out to that. We make a lot of promises, so I don't think we need to pick and choose on that. But I've said this for quite some time, this is important, and until we can look at the entire document itself; this is a quick fix I think for this election. And then I think we should have a really big discussion about the entire document itself. But we haven't done that for 20 plus years except for a change to the Mayor's powers in 2010, which I think now we're reversing course on because it was a bad fix at the time.

Councilor Ripma stated well, Mayor Daoust was saying, we shouldn't do it for this election.

Councilor Allen stated I didn't closely monitor the Subcommittee meetings because I was waiting for the promised Work Session on this. I thought the whole Charter was going to be involved. That's why I didn't do that.

Councilor Ripma stated we knew nothing about it. The language wasn't even written until last week.

Councilor White stated I think Councilor Morgan just confirmed my statement earlier that the Subcommittee's guilty of scope creep. What we were told and our main objective for that Subcommittee being formed, the idea was to look at the balance between Council and the City Manager, period. Now, I'm hearing from our newest Councilor that the whole Charter needs to be looked at. It hasn't been looked at.



Councilor Morgan replied as a matter of consistency, I know we like to pick and choose, but we had a task required. For the Fire Contract, we didn't get tasked from the Council to look over new options, we were asked to renegotiate the contract. So, being an elected official working on behalf of the citizens, things do evolve, but to insinuate or assert that this is somehow shape shifting or a switching of the hands is not consistent. Just like I think what we ended up finding out with the fire contract was, there were a lot of bodies buried, and it was important to get the bodies back. I think all these Subcommittees are tasked at finding the best practice, doing the most homework, and doing the best research. That's the same thing. We haven't seen yet what's coming up with the transient lodging tax and other things. This was an Organizational Subcommittee which was designed to work at the organizational structure from top to bottom, and that's a very open ended discussion because the intent was to do that, to look at top to bottom, and we're having that conversation now.

Mayor Daoust stated yes it was, the Council Rules and the Charter. That was the goal of the Subcommittee. That's pretty broad. Getting back to the motion that's on the table. I guess I'll have to clarify what Councilor Ripma brought up. The original motion was to not pass 5.3, but then we amended that to something we liked better. I'm a little confused whether we vote on the amendment, which we all seem to think we like, but the original motion was to deny the whole thing. You see what I mean? So, that's why I said, why don't we withdraw the original motion and start over again.

Councilor Allen stated my motion to amend is just as Councilor White has stated with the changes that our Attorney had mentioned. So, it's still a motion not to pass it with this change, which actually makes it more palatable.

Councilor Anderson replied I get it. It's just like the first one.

Ed Trompke stated I'm not sure what that means, again. If a person votes no, not to pass it, does that mean that if 7 people vote no that it is passed? Is that the intention of the Council?

Councilor Morgan replied yes.

Ed Trompke stated first, we have to vote on the amendment.

Mayor Daoust stated we're voting on the amendment first. So if we like the amendment, you vote yes.

Ed Trompke stated you should probably have the public hearing first, just to make it even easier.

Mayor Daoust opened the public hearing at 9:53 p.m.

Zach Hudson, Troutdale resident, stated thank you, Mr. Mayor and the City Council. Whether you decide on this change to the Charter tonight or in a Work Session, one thing

I'd like to suggest is whether it should apply to all elected positions. There are people around the community who serve in more than one elected position in different bodies that don't conflict with each other.

Councilor Morgan replied it does.

Zach Hudson asked it does address that?

Councilor Morgan replied yes.

Zach Hudson asked so it wouldn't impede someone from running for school board, for instance?

Councilor Morgan replied correct.

Councilor Ripma stated no, it would apply to someone running for school board. We would be unable to run for school board.

Zach Hudson stated I only wish to make sure that everyone is aware that if you pass it and you therefore would require somebody who wishes to run for the Gresham-Barlow School Board to step down from this Council, you may be making an unnecessary requirement, because those 2 positions don't conflict with each other in the way that the City Council and Mayoral positions would. An example of someone serving in this capacity is State Representative Carla Piluso who also serves on the Gresham-Barlow School District Board and does a very fine job in each. It would be a shame to prevent someone from taking on that kind of service. Thank you.

Rob Canfield, Troutdale resident, stated I love my town. When the election occurred with 2 City Councilors plus the private citizen running against Mayor Thalhoffer, I thought it was wrong then that those 2 City Councilors got a free ride. They had nothing to lose and it was not fair and it's not fair now. I heard most of you say that what happened then was wrong. It's still wrong now. There needs to be a way to level the playing field, and I think if a post Charter amendment, even with Councilor Morgan's amendment to hold to a certain length of term, is the way to go. We have to level the playing field because nobody should get a free ride. This has to be fair. The other thing that happens when someone runs like that, you're questioning their motives. I think it diminishes the integrity of a City Councilor if it looks like you're doing it for your own personal advancement, instead of doing what's best for the City. If you get a free ride people are going to question, did they just run for the City Council so they could run for Mayor later? It's just wrong. It's plain old wrong to let City Councilors have a free ride. If you can run for Mayor, you ought to resign or lose your seat, so you have skin in the game. It's just not fair to let somebody have a free ride against the Mayor or any other position. I also agree with what a lot of Cities are doing, if you do want to run for School Board, State Legislator, Governor, or even dog catcher, I'm a voter, I want you to commit to your 4 years on the City Council. If you want to run for something else, then run for something else. You should never have run for City Council. You should complete your term first, and then do something else. I don't want you to use City Council as a stepping board and get elected and then leave. I want you to commit to your 4 years. In addition, if you're a City Councilor and you want to run for

Mayor, you should give up your seat. I also believe if you run for any other office, you should say, "Hey, I'm out of here. I can't commit to the City anymore because I want this other job."

Tanney Staffenson, Troutdale resident, stated Mayor and Councilors, a few things. In 2004, Barbara Kyle, Jim Kight, Norm Thomas, Paul Thalsofer, and Roman York all ran for Mayor, with Thalsofer winning. Interesting thing was in 2006, Kyle, Kight, and Thomas all won their elections. That's a pattern that you see. I'm sorry to pick on you, Councilor Ripma, but when you lost, you won your next election. What it kind of tells me is in some frames, the voters felt that someone was worthy to be on the Council, but maybe not their first choice for Mayor. I think this is something that needs to be fixed, but I've heard a lot of things tonight. One of the terms that I did hear was free pass. I find that to be interesting because I don't think there's such thing as a free pass. I don't believe it. You spend close to \$10,000 to get elected to the City Council for a 4-year term, and that involves all sorts of things, not limited to going door-to-door in the rain, and I can go on and on. So, I don't think there's a free pass involved for anybody. There's a lot of ways to fix this. I can think of half a dozen solutions in my own head. I'm sure you guys have gone back and forth with those, so I don't know that we're going to get there tonight. But, you are elected by the voters for a 4-year term. You're serving that term. And when you resign, one thing we lose is the experience because you're gone, and that's a negative thing because how many years you've been on Council is gone when you leave. Maybe you run again; you spend the extra \$10,000 to run 2 years later and get back on and maybe you don't. But then when you're running 2 years later, who are you running against? Maybe it's somebody else that's on Council that you don't want to run against, so you're out. You stay out. Is that the best thing for the City? I don't know. We all have reasons for running for Mayor. You did 4 years ago. I know this isn't about you, but, there was a reason for that. And I think that's the case with everybody. So I just think it's something that needs to be looked at. I'll say again, whatever you decide, send it to the voters as you have the other ones, unanimously; something they can get behind and support. Thank you.

Paul Wilcox, Troutdale resident, stated there are so many elements to this. I'm going to have to read my comments so they are intact in the minutes, which is always good I think.

Paul Wilcox read his written statement into the record. A copy of his statement is attached to the minutes as Exhibit A.

Diane Castillo, Troutdale resident, stated pardon my little bit of rambling because I'm still not sure what was presented. I did get a chance to look at what was in the packet, so I can try to form an opinion, do some research, and look at it. I think that's appropriate for people who are interested in what's on the agenda to take a look and to digest, analyze, and ask questions of their leaders. So I'm just putting it out there. I still don't understand what's out there now, so I'm just going to make some points. I don't agree that if 1 person, let's say Councilor Morgan or Councilor Wilson might want to run for Metro at the same time that they should give up the position. I think that you are still qualified enough to perform Council duties while running for another position, so I don't begrudge somebody that has talents seeking other office out there. Also, I don't know if a resolution has to be posted for a period of time, so I'm questioning the amended version again with the audience being confused as to why it's even being proposed. I'm fine proposing a Work

Session. I don't think there should be a rush. If these people don't understand what's being proposed at this time, then I highly doubt everybody else out in Troutdale has time to digest and understand. And not wanting to be disrespectful to Mayor Daoust, I will assume you'll run in August, and I've been asked by 1 of the members of the Subcommittee many times if Councilors Ripma or Allen are going to run for Mayor. So, although we want to say maybe there isn't politics, and I always welcome a good freedom of speech, healthy debate on any topic before City Council, I still feel that factors into this proposal. That's all I have to say.

Sam Barnett, Troutdale resident, stated I am a little confused, but I'll keep it brief. I think that the public comment that you're hearing right now is for something that's going to be declined here in a minute and replaced with the amended version that was passed out a little while ago. First I wonder why we're trying to model ourselves after the County. I believe this resolution fundamentally breaks down the foundation of the City Council and most Mayors come from the City Council and commonly run against each other, obviously. A little double jeopardy in there; you've lost your bid for Mayor, now you've also lost your seat, and a lot of you have been on City Council for many, many years and have been very valuable to the City of Troutdale for a long time. I don't think that you should be punished for losing a race for the opportunity to be Mayor for the betterment of Troutdale. Now you can't go back to your seat and continue the good work that you've done for years if you've lost that race if you're midterm as a Councilor. I just don't think that's fair. There are Senators right now running for President that aren't going to lose their seat if they don't win. But, that part of it I don't like, as far as all the rest of it, I'll leave that up to you, but I sure hate to see good Councilors go for losing the race for Mayor.

Mayor Daoust stated so it's not so confusing, the difference between the two resolutions is fairly simple. The first one says that the Councilor would resign upon filing. The second one just says they have until the end of the calendar year. That's really the only difference. It's not more confusing than that, unless I'm over simplifying it.

Councilor Morgan stated I have one word to the attorney. I've made one up kind of in my head, but does that also stipulate the election to replace the remaining 2-year term is in that next General Election as opposed to an appointment? I don't think it does, and I can be wrong.

Ed Trompke replied no, but any resignation that is tendered is statutorily irrevocable 3 days after its tendered. So, by filing for a position, it would be irrevocable 3 days later, and the Council could declare the vacancy and have it put on the ballot in November.

Councilor Morgan stated my point is that it doesn't automatically refer that appointment, or that vacancy to the voters in the next General Election.

Ed Trompke replied, no, but I think by operation of law it does as the law works now.

Mayor Daoust stated I hate to bring this up, but I'd like clarification on something. The language states that the Councilor becomes a candidate for any other elected office, okay, we got that. But the summary only mentions Mayor, so, what are we talking about

here? Are we talking about just running for Mayor? I heard Councilor Anderson say it's for any elected office. The summary conflicts....

Ed Trompke replied the summary may be under inclusive rather than conflicting and doesn't say other offices, so we should probably fix it by adding a sentence to it. Because it was the intention to direct this towards the Mayor's race, but it is actually broader than that. The wording "A Council position becomes vacant, not only on filing for Mayor, but also for any other elected office" can be added to the Summary. We have 185 words we can use in the summary and we're not anywhere close to it.

Mayor Daoust asked, would we need to rewrite the summary in any fashion?

Ed Trompke replied no, Sarah can. I can give her my handwritten words and then she can incorporate those in, and they can be part of the resolution being voted on if that is accepted by the person making the motion to amend.

Councilor Allen stated it's clearly a clerical fix, so I would accept.

Ed Trompke said okay, so I'll give it to Sarah then.

Mayor Daoust stated that wording clarifies the fact that we're talking about any elected office.

Ed Trompke answered yes.

**Mayor Daoust closed the public hearing 9:59 pm.**

**Councilor Allen stated I'd like to amend my amendment to include the changes read by the Attorney and passed to the City Recorder.**

**FRIENDLY AMENDMENT: Councilor Allen moved to amend his amendment to include the changes read by City Attorney Trompke's (A Council position becomes vacant, not only on filing for Mayor, but also for any other elected office). Seconded by Councilor Anderson.**

**Ed Trompke stated that amendment doesn't require a vote because it was a friendly amendment.**

**Mayor Daoust stated so now we're voting on the amendment.**

**Ed Trompke stated yes, you're voting on whether to substitute the amendment to the original question.**

**Mayor Daoust asked so a yes vote means we want to?**

**Ed Trompke replied yes means yes, you like these changes.**

Councilor Ripma asked can we discuss the amendment briefly? The amendment is okay with me. The original resolution is bad, but it still suffers from not being available to the public, for not having been published, for not having been discussed at a Work Session, although we've had a lively discussion here but, it's not as good as having a Work Session where we can consider it at a little bit more length. I will favor the amendment, but I'm still going to vote to not support this resolution. I just wanted to say that.

Councilor Morgan stated I get the frustration on that. It's just one of those things where I don't think this is a silver bullet to solve the issue. I sincerely believe in my heart this is the right step and letting the voters decide. But, I hope that maybe out of this, or maybe if the majority of the Council is willing to do it, we could task a Charter specific citizen committee, with a couple of Councilors too, and committee members, and all committees to look at the entire thing. I think we really have to bring this document back into line with everything from top to bottom.

**VOTE: Council Morgan — No; Mayor Daoust — Yes; Councilor White — Yes; Councilor Allen — Yes; Councilor Wilson — Yes; Councilor Ripma — Yes; and Councilor Anderson - Yes.**

**Motion to Amend Resolution 5.3 Passed 6-1.**

Mayor Daoust stated okay, the amendment passes. Now, we vote on the original motion, which was to reject 5.3.

Councilor Allen stated I looked at City Charters like I would a constitution. It is the key document for the City, and it should not be easily changed. It's something that requires great thought and wisdom before you change it. Now, I have been waiting for what I believed to be promised, a Work Session on this prior to getting to this point. I feel that it's being rushed for the purpose of affecting this particular upcoming election, and if it's not, then we have time before next November to ensure that the changes are properly vetted. It seems to me that it doesn't stop the free ride. You could still use the Council as a stepping stone to another position. It's not going to stop us politically disagreeing, as we do right now. We just don't need an election to disagree. If the subject is important, we naturally do. I would only support this if it was combined with a 2-year Mayor position. Council is a part-time job. You can actually do this job and run for another position. It's not that demanding, so I'm at a loss as to what we're actually trying to fix. And I don't see this actually fixing what has been presented as needing to be fixed. It's just a change to make a change that may affect the next elections.

Councilor Ripma stated I completely agree with Councilor Allen. I think the thoughtful public comment that we got was basically bringing up lots of issues that I think aren't considered in this. In a hundred years of Troutdale, more than a hundred years, I would venture almost all of the Mayors came from the Council and went to become Mayor. This, I think, has the effect of discouraging the best qualified, best prepared people from running, at least a bit. It's also overkill in that it prevents someone from running for a School Board, which I hadn't even thought

of before but Zach has a very good point on that. As you've said Mayor Daoust, it doesn't need to be rushed through for this election. Let's have a Work Session and decide, maybe refer it to a citizen committee as Councilor Morgan is talking about. I think it should be rejected and I urge your yes vote on this motion so that we can consider this in a more thoughtful way, or at least have one Work Session on it. We never have, so please, please vote yes.

Councilor White stated I appreciate the public here tonight. I think your input was extremely valuable. I appreciate it. I'm a big fan of Work Sessions. We can cut up the rough edges before we're on camera and doing it in front of an audience and confusing the audience. I think that's what happened here tonight. I would agree with having a Work Session and not rush this and get it right. It's serious stuff. There is no free ride when you run for an office.

Mayor Daoust stated well, then you'll reject the motion on the table and we can talk about our Work Session later if it fails.

Councilor Morgan stated there are a couple of things. Councilor Allen, you would support this in totality with a caveat for a 2-year Mayor, is that what I understand?

Councilor Allen replied if I remember correctly, we had a Council meeting. I don't think I was a Councilor at the time. I was watching from the audience. I could be wrong on that, but, I remember that the discussion did come up as to whether or not the Mayor's term should remain 2 years, or whether it should be 4 years. Part of agreeing to it becoming a 4 years was that the Councilors in the off-cycle weren't disadvantaged should they decide they want to also run for Mayor. So, by having the mayorship be every 2 years, then a Councilor on either cycle can fulfill their term and run for Mayor.

Councilor Ripma stated it's a better fix.

Councilor Wilson stated back to 2010 when they had another Charter Review Committee, Matt Wand, Barbara Kyle, and Norm Thomas discussed whether or not to switch back to the 2-year Mayor and voted it down.

Councilor Ripma replied it might be the time to do it or at least consider it. Let's support this resolution to not refer this now and consider it more. We want the fix, but let's do it right.

Mayor Daoust stated I'll just make a point. We've been talking about this for years and believe me, I'm not defending my position because you don't know whether I'm going to run or not, so I'm talking about the facts. I agree with Mr. Canfield that it's an equity issue for the Council. We've been talking about it for years, people. This is not brand new. It's not fresh out of the box and we're just bringing it up now. It's been an old discussion topic and I think we need to handle this one piece. If we went ahead with a Work Session on other parts of the Charter, and we can even talk about a 2-year term for Mayor afterwards. But, I don't have any problem trying

to fix this one inequity. I agree with Mr. Canfield that it needs to be fixed, because right now it's not fair.

Councilor Allen stated I would question, how does it become fair that 3 Councilors can complete their full term and run for Mayor, and 3 other Councilors, if they ever want to run for Mayor, have to cut their term short. It's saying it's not fair, so let's make a change and make it not fair the other way. It's not a good answer.

Councilor Anderson stated for the record, I'm going to be out of here when you guys take this up. I am a proponent of the 2-year Mayor. It solves a lot of problems and I hope that you do it. I hope that you go through with whatever Work Session you'll have and go there because it is a problem and it does need to be fixed, and that's why this is in front of us tonight in this forum. It's addressing a problem.

Councilor Allen stated I'd be willing to consider this along with or after we do a 2-year Mayor.

Councilor Wilson asked if this doesn't pass, could we entertain a Work Session next Tuesday and then bring it to a vote the following week?

Mayor Daoust replied bring what to a vote.

Councilor Anderson stated whatever is decided in the Work Session.

Councilor Wilson stated that depends on how the Work Session goes, I suppose.

Sarah Skroch stated in order to get this on the May election, I believe you have to take action by the 17<sup>th</sup>, so I don't believe we'd be able to that on the 23<sup>rd</sup>.

**VOTE: Council Morgan — Yes; Mayor Daoust — No; Councilor White — Yes; Councilor Allen — Yes; Councilor Wilson — No; Councilor Ripma — Yes; and Councilor Anderson: Yes.**

**Motion to Reject Resolution 5.3 Passed 5-2.**

**6. PUBLIC HEARING/RESOLUTION: A Public Hearing on a resolution declaring a vacancy on the City Council and designating a procedure to appoint a person to fill the vacancy.**

Councilor White stated point of order question. We already have a procedure in place that we've been following, the past practice. I'm wondering where this is coming from or who actually wrote this resolution.

Ed Trompke replied this came about because at the last Council meeting, I mentioned to more than 1 Councilor and the Mayor that I had been at a City Council meeting the night before in the City of Brookings and they had followed an expedited procedure to take applications to consider them in a public meeting or a special meeting before their Regular meeting, and then they had all 6 of them appear. Each Councilor asked 1 question, the



same question of all the candidates, and then they were either going to reduce it to 1 or, as it worked out, they decided to reduce it to 2. There was consensus on the 2, so then they brought those 2 back in and talked to them for another 5 minutes each and they then chose 1. That person was sworn in, sat down, and voted on the next agenda item which was my agenda item. We had somebody who was brand new on Council voting on my agenda item. I sort of tucked that away and said, "That's an interesting thing. I hope I never have to do that myself." But then, the next day Councilor Anderson resigned. They just go out to the community, get interest, get the applications in, and decide. There's no use wasting time with a vacant position. Move it along and get it done, so you have a full Council.

Councilor White stated this has come up twice since I've been in office and I prefer the procedure we have in place currently over this resolution.

Ed Trompke replied I'm not aware of what the procedure is.

Councilor Morgan asked which is what?

Councilor White stated if the remaining Councilors decide whether to wait for the election and run without that Councilor or take applicants. But it doesn't involve the exiting Councilor or Mayor.

Councilor Ripma stated this might not either. Wasn't it true in Brookings that it was just 6 Councilors and the 1 who resigned didn't participate? Councilor Anderson, are you planning to participate in the selection and appointment of a replacement or not?

Councilor Anderson replied it's the role of the Council.

Councilor Ripma stated if you didn't want to participate, then I don't really have a problem with this procedure as long as it's clear that you're not participating. I think it is better that we, the ones who are staying on the Council, pick the new person, and if you're okay with that then I'm okay with that.

Ed Trompke replied there is no requirement that he abstain from it. I checked with the Secretary of State's Office because there is a specific statute.

Councilor Ripma stated I'd offer an amendment to this resolution to that effect if you're okay with it.

Mayor Daoust stated Councilor Anderson is in the position until the end of March.

Councilor Ripma replied right, but he wouldn't have to participate in the interviews and selection, in which case, I'd be okay.

Councilor Anderson stated my fear is that you aren't going to be able to agree on anybody and it's going to be a 3 to 3 gridlock. I don't think that's going to be good for the City, personally, but again, I've resigned, so I'm out. I'm not going to do something that's going to have poor optics, but I'm certainly not going to sit back and watch this thing deteriorate

into a knockdown drag-out where you've got a 3-3 gridlock and you guys have beat each other up over who to appoint.

Councilor Ripma replied think it will be better. We'll reach a consensus on somebody that we all agree on or a majority of us. I think it's a better chance of that than the 4 of you decide on somebody that the 3 of us don't like.

Councilor Wilson stated that's unfair Councilor Ripma. You're putting us in a box.

Councilor Ripma replied it's very likely what would happen.

Councilor Anderson stated let me say this about what you just said. The Charter amendment that I just voted against, by the way, was something I'm very passionate about, and I heard you. I heard the comments tonight from the public. I heard the comments tonight from the Council. And that carried the day. My determination was there is a better solution out there, so please don't think that for a minute that I'm going to go on a block because that just went out the window.

Councilor Ripma replied all right, fair enough. But you don't have to participate. State law does not require, even if you're on the Council, that you participate, and if you're willing not to I would support this procedure.

Councilor Allen stated I don't think it's a bad thing that somebody is chosen that's amenable to the majority of the Council. You were talking about 3 to 3. It's not a bad thing that you find somebody that most people like. A question for our Attorney, if Councilor Anderson were to make a decision to resign earlier, could a Councilor be picked in this upcoming election?

Ed Trompke replied I don't know the filing date cutoff.

Councilor Morgan stated its March 8<sup>th</sup> for Multnomah County.

Ed Trompke stated I believe you'd file with the City Clerk, the City's Elections Officer, and I don't have the Code in front of me. There may be a separate procedure in there. I haven't looked at that. Under the statues that would apply, if the Code doesn't govern it, then March 8<sup>th</sup>.

Councilor Allen I don't like ending Council meetings early, I just don't, but it is past 9:30. Are we going to be continuing or are we going to end?

Mayor Daoust stated well, I sense we want to continue. Is that what the Council wants to do?

Councilor Wilson replied that's fine with me.

Councilor Ripma stated we also have an Executive Session.

Mayor Daoust stated we're going to be up late anyway. We have an Executive Session after this. We'll continue I guess.

Councilor White stated I did quite a bit of research on our surrounding cities. Gresham has a mandatory 45-day waiting period. All the other Cities around us including Fairview, Wood Village... I have copies that I'd like you to read (a copy of the handouts can be found in the meeting packet). I could actually use a short break for about 5 minutes. That might give Council time to look at this.

**Mayor Daoust called for a break at 10:23 pm and reconvened the meeting at 10:30 pm.**

Mayor Daoust stated as we come back with Agenda Item 6, I'm going to propose that we postpone this, possibly until the 8<sup>th</sup> or 9<sup>th</sup>. We could also take it up on the 23<sup>rd</sup>.

Councilor Morgan asked are we meeting the 16<sup>th</sup>? If we're not, then we might meet the 23<sup>rd</sup>.

Ed Trompke stated I don't think that's been decided yet.

Mayor Daoust stated this topic could be brought up at the February 23<sup>rd</sup> meeting, and then we could discuss how we want to handle this rather than trying to deal with it tonight.

Councilor Anderson stated it would give us time to read this. Does that please the Council?

Several Councilors replied yes:

Councilor White stated my preference is always to let the voters pick their Councilors, and I don't know if there's any way we could get this thing in the May election.

Councilor Morgan replied we have until the 26<sup>th</sup>.

Councilor White stated okay, there is time.

Mayor Daoust stated if we meet on the 23<sup>rd</sup> we could go that route. The people that apply, the applications I think should still be open tomorrow morning, so we can get people to start to apply, so we know who's going to apply. We did say that they would be open at 8:00 tomorrow morning and would close at 4:30 on the 23<sup>rd</sup>. So, I guess I'll have to think on whether we're going to do interviews on the 23<sup>rd</sup>, maybe not. If we decide at the Council meeting on the 23<sup>rd</sup> to go with a public vote on whoever wants to run, we wouldn't have to have interviews on the 23<sup>rd</sup>. We're going to have to think that one through.

Councilor Morgan stated we can notify the applicants that they can apply to the County to run.

Councilor Anderson stated you can notify them when applying that they're under consideration for an election in May.

Mayor Daoust replied ok. I just don't want to jump to that conclusion tonight.

Councilor Allen asked, does having them apply lock us into a procedure?

Mayor Daoust replied no, but knowing who applies may simplify what we want to do. I think we should still take applications just to see who's interested in being on the Council. And then on the 23<sup>rd</sup>, we can decide which way to go. We can decide ok, we have a good crop of people, let's just interview them and go with it. Or, we could decide to put it out for public vote.

Councilor White stated I have a conflict on the 23<sup>rd</sup> myself.

Ed Trompke stated if there is a potential that you're going to be acting on these applications, it probably should be done by a formal motion to take the applications, use the form in the packet, if that's what you want, and subject to the time for filing if the people want to be considered, when the Council takes it up for possible action on the 23<sup>rd</sup>.

Councilor Allen asked on this form, can we change the word from "will" to "may" just above the signature? It's basically their understanding that they will be interviewed by the City Council at a special City Council meeting to be held on Tuesday, February 23<sup>rd</sup> at 5:30pm. Can we change that to say "may", they may be interviewed, so they're not promised an interview, in case we change the procedure?

Mayor Daoust replied actually that whole sentence should be taken out, because we're not going to interview at 5:30pm.

Councilor Allen stated all right. That would work.

Mayor Daoust stated I think we should have a motion tonight to reword that last sentence to say we're not going to interview at 5:30pm, but still have this application out there, so we know who's interested in being on the City Council.

**MOTION: Councilor Anderson moved to open the application process at 8:00 am on February 10, 2016 to fill an upcoming vacancy on City Council and amending the application by removing the sentence stating, "I understand I will be interviewed by the City Council at a special City Council meeting to be held on Tuesday, February 23<sup>rd</sup> at 5:30 pm." Seconded by Councilor White. Motion passed unanimously.**

Councilor Anderson stated given that we've been at this now three hours and forty minutes with an Executive Session on the back end, I'd like to get the Council's pulse and see if we can just cut to the Executive Session.

Councilor Allen stated I asked that earlier, if we were going to continue or not, but I actually have something under Councilor Concerns. Perhaps I could have the City Attorney look over what I have and present it at the next Councilor Concerns.

**7. DISCUSSION: A discussion regarding Federal Legislative Priorities.**

Councilor White asked are we going to have time to do the legislative priorities before they go on the trip?

Councilor Ripma stated I didn't have any problem with them.

Councilor Allen stated I didn't have any problem with them either.

Mayor Daoust stated ok that will be the list, so we're good on the Washington DC trip.

Councilor White stated I'm fine with that.

**8. STAFF COMMUNICATIONS**

Due to the late hour, the Council ended the meeting early to adjourn into the Executive Session

**9. COUNCIL COMMUNICATIONS**

Due to the late hour, the Council ended the meeting early to adjourn into the Executive Session

**10. PROVISIONALLY ADJOURN WITH THE POSSIBILITY OF RECONVENING AFTER THE EXECUTIVE SESSION**

**MOTION:** Councilor Ripma moved to adjourn into Executive Session. Seconded by Councilor Morgan. Motion passed unanimously.

Meeting adjourned at 10:43 pm to convene the Executive Session.

**\*\*AN EXECUTIVE SESSION WILL BE HELD UNDER ORS 162.660(2)(E)—REAL PROPERTY TRANSACTIONS\*\***

**11. POSSIBLE RE-OPENING OF THE PUBLIC MEETING**

The Regular City Council meeting was reconvened at 11:47 pm.

**12. RESOLUTION: A resolution to Adopt Real Estate Sales Agreement.**

Mayor Daoust stated I think all we need to talk about is just reiterate the fact that we're going to have an Urban Renewal Agency meeting next week at 7:00 pm. My only question is, I know this will be made public tomorrow, but we're going to have to have something to move on.

Ed Trompke stated a resolution, and that resolution has been drafted, it somehow got left out of what we sent to Sarah.

Craig Ward stated I say we get that resolution with this letter attached to it. What you won't have is a staff report when we reconvene. We can publish the resolution in this.

Councilor Ripma asked and we don't necessarily have to act on it?

Craig Ward replied correct.

Mayor Daoust stated so we will have a resolution.

Ed Trompke answered yes, and the resolution, as it's now written, directs the City Manager to execute it in substantially the form delivered, but you can change a word on it.

Erich Mueller asked what other material do you anticipate wanting in the packet? Part of what I brought tonight was the existing term sheets that have already been adopted. They're on the record, but you're definitely going to get questions from people in the audience about what you adopted on the record before compared to what you're considering.

Councilor Morgan asked could you have the adopted plan with the numbers, the purchasing site, some of that? Could you compile a document?

Erich Mueller replied I guess that's what I want to clarify is what you're going to want for this discussion next Tuesday night.

Mayor Daoust asked do we need anything else?

Craig Ward stated we can bring those documents without a staff report explaining how those fit into the context of the resolution, I think it will just be confusing to people. We can always come in after the fact and do a more thorough term sheet or staff report and the like, but have all of those documents, including the Urban Renewal Plan, attached if you'd like.

Mayor Daoust stated we might ask you to do that.

Erich Mueller stated I think what you're really going to want is financials. You're going to want a process of all the various elements and we're not going to have that without the packet. Just because we're going to draw up a resolution and attach a staff report doesn't obligate you to act upon that.

Mayor Daoust stated but if time is of the essence, I would appreciate having something. We can either vote for it or not vote for it.

Councilor Allen stated I can understand the time frame you're bringing up, but if Council members strongly objecting to it, would you hold off on voting on a resolution?

Mayor Daoust replied sure.

Councilor Ripma stated it's been negotiated in secret for years, and now we have something to publish and there are going to be questions.

Mayor Daoust agreed, let there be questions.

**13. ADJOURN**

**MOTION:** Councilor Anderson moved to adjourn. Seconded by Councilor Morgan. Motion passed unanimously.

Meeting adjourned at 11:51 p.m.



**Doug Daoust, Mayor**

Dated: 9/16/16

**ATTEST:**



**Sarah Skroch, City Recorder**

**CITY OF TROUTDALE**  
**CITY COUNCIL – Regular Meeting**  
**Tuesday, February 9, 2016**

**PLEASE SIGN IN**

Name – Please Print	Address	Phone #
Richard Goldie	TROUTDALE	
Frank Winkler	Corbett	
David Becker	Troutdale	
Lynn Jurney	Troutdale	
BRIAN Sheets	Troutdale, OR	
Claude Cruz	Troutdale	
Zach Hudson	Troutdale	
Paul Wilcox	TROUTDALE	
Steve Scott	Troutdale	
Rob Canfield	Troutdale	
Bone W...	TROUTDALE	
Shaw Castillo White	Troutdale	
Jon Brown	Troutdale	
VAY ELLIS	TROUTDALE	
Carol Allen	Troutdale	
TANBY STAFFORSON	TROUTDALE	



## Exhibit A

February 9, 2016 Council Meeting Minutes

### Comments on "Resign to run"

1. Regarding the formatting of Caption/Question – the Caption calls for resignation, the Question relates to vacancy created. These are two separate issues. Generally, the question repeats or re-phrases the caption, as in the fuel tax measure.
2. The resignation requirement applies to any other elected office, so this would have applied to Matt Wand running for Oregon House, or anyone else running for any other public office. Lake Oswego's applies strictly to Councilors running for Mayor, and Tigard's applies to any City office because they have term limits which could cause the Mayor to run for Council. Those two cities, by the way, are the only two in the entire state that I'm aware of that have a "resign to run" requirement, and I've reviewed nearly 150 City Charters. I also noticed that in the summary section of the measure there is a section which refers to "the position of any councilor who runs for mayor". So, is it "any" office, as stated in the caption and question, or just the office of Mayor, that requires resignation?
3. The question asked "Shall councilor's position become vacant upon candidacy for another office?" Is this intended to mean that the resignation is effective immediately? Both Lake Oswego and Tigard allow the effective date to be when the replacement candidate would take office.
4. I won't attempt to explain the summary portion of the measure since I think anyone who has attempted to decipher it was probably completely befuddled.
5. What I will address is the idea of "resign to run".
6. This measure will tend to thwart the half of the Council who are mid-term during the Mayor's election cycle from running for Mayor. They are being required to forfeit the remaining two years of their terms whether they win or lose. Those running at the end of their four-year term on the Mayor's election cycle are only foregoing the opportunity to run for re-election, which is their choice. They can also come back two years later, as Councilor Ripma did.

7. If this were put into effect it should be accompanied by a return to a two-year term for Mayor, as was the case prior to a 1994 Charter Amendment, so that all Councilors could run for Mayor at the end of their four-year term if they chose. This would create a level playing field.

8. The "resign to run" requirement without a mechanism for guaranteeing that the vacant seat will appear on the same ballot with a two-year term could result in a two-year appointment. The Council might not have as much "lead time" as Councilor Anderson has provided to assure there will be candidates for the open position. This scenario could occur if the Councilor running for Mayor did not file until near the deadline, leaving insufficient time to advertise the position and recruit candidates.

9. "Resign to run" creates a vacancy whether the Mayoral candidate wins or loses. Realistically speaking, how often will an off-cycle Councilor run for Mayor, especially if there is an incumbent? Councilor Kight ran mid-term, but there was no incumbent. How often have incumbent Mayors lost in Troutdale besides Mayor Kight?

10. If Councilor Kight had lost his bid for Mayor, or if Councilor Wand had lost his bid for Oregon House, they would have retained their Council seats. The voters approved them for a four-year term, so I see no basis for denying them the balance of their term.

11. Assuming that the Councilor has been forced to resign and loses, how would the remaining Council respond if he then became an "applicant" for his old seat?

12. Tigard had a reversal of "resign to run" on their ballot last fall, which lost by 5%. There was also another measure lengthening their term limits. In the Council discussion, Mayor Cook cautioned about whether the changes should apply to the current Councilors so as to not appear "self-serving". "Resign to run" didn't, but term limits did, which lost 80%-20%. I also just discovered this past weekend that "resign to run" in Tigard was instituted in 1978, when the Mayor's term was two years. The Mayor's term didn't become four years until 1990. For them, the main advantage of "resign to run" was to ensure that the open seat would appear on the same ballot,

avoiding the cost of a special election. This would of course only be an issue if a Councilor chose to run for Mayor mid-term.

13. In all fairness, I should also describe what the result is if the Councilor wins the Mayor's seat. Under the current system, there would indeed be an "unexpected" vacancy of his previous Council Position, subject to an "appointee" serving up to two years. So, bottom line is, either way there will be a "new" person in that Position, whether elected or appointed. Although I really don't like the idea of "appointed" Councilors, and would like to see an election held at the May Special Election, my over-riding preference is that a losing Councilor be allowed to retain his Council Position.

14. My final point is related to the language and placement of the changes within the City Charter. Lake Oswego created an entirely new section within Form of Government. Tigard also placed theirs in Form of Government under "Mayor and Council". Writing it into "Vacancies in Office" Section 27, seems redundant since "resignation" is already listed, and the sample language makes no reference whatsoever that the resignation is mandatory and immediate. There should be a more specific description in either Section 10 (Councilors), or Section 13 (Qualifications for elective office).

15. The only reason for this measure to be on the May ballot is so that it would apply to the Mayoral election this November. However, this measure as written is far from being ready for prime time, not to mention that I don't think it's necessary. Since Charter Amendments require voter approval, changes shouldn't be made unless they are strictly warranted because it requires another measure and election to "undo" or modify them.

Submitted by Paul Wilcox