

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

**Tuesday, October 11, 2005**

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

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

**PRESENT:** Mayor Thalhofer, Councilor Gorsek, Councilor Ripma; Councilor Thomas, Councilor Canfield, Councilor Kyle, and Councilor Daoust.

**ABSENT:** None.

**STAFF:** John Anderson, City Administrator; Jim Galloway, Public Works Director; Rich Faith, Community Development Director; Marnie Allen, City Attorney; Debbie Stickney, City Recorder; Kathleen Leader, Finance Director; Jack Hanna, Code Enforcement Officer.

**GUESTS:** See Attached.

**2. CONSENT AGENDA**

- 2.1 ACCEPT MINUTES:** June 28, 2005 Regular Meeting and July 12, 2005 Regular Meeting.
- 2.2 RESOLUTION:** A Resolution adopting the concept plan of the Halsey Street Conceptual Design Project.
- 2.3 RESOLUTION:** A Resolution approving a First Revised and Restated Declaration of Restrictive Covenant on use for a driveway at 4402 SE Sweetbriar Lane.

**MOTION:** Councilor Daoust moved to adopt the Consent Agenda. Seconded by Councilor Thomas. Motion Passed Unanimously.

**3. PROCLAMATION:** Proclaim October 2005 Crime Prevention Month.

Mayor Thalhofer read the Proclamation (a copy of the Proclamation is included in the packet).

**4. PUBLIC COMMENT**

Kevin Young informed the City Council that he received a citation for violating the “clear vision” regulation for a fence he built in accordance to the specs he received from the City Planner. Kevin Young asked the City Council what they could do to help him resolve this issue.

City Council referred the matter to John Anderson, City Administrator and Rich Faith, Community Development Director to assist Mr. Young in resolving this issue.

**5. PUBLIC HEARING / ORDINANCE (Introduced 9/27/05):** An Ordinance amending Chapters 1, 3, 4, 5, 7, 8, 9, 10 and 11 and Appendix A of the Troutdale Development Code (Text Amendment No. 36).

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

Rich Faith, Community Development Director stated this matter was introduced to the Council on September 27<sup>th</sup>. This is a series of amendments to the Troutdale Development Code affecting a wide range of issues. At the last meeting I reviewed all of the proposed changes. The one item added to the staff report since the last meeting was the copies of the minutes from the four Citizens Advisory Committee (CAC) meetings which Councilor Canfield had requested. All of you should have received a copy of a letter that we received today from Handy Investment Group dated October 11, 2005. I would like to respond to a couple of matters mentioned in that letter. Mr. Handy, and others that are also listed on the letter, are basically asking that this matter be postponed or continued because of some discrepancies that, I guess, were brought to their attention. Specifically, he points out that in a meeting that Neil Handy had with John Anderson and myself last week, I had mentioned, in trying to explain the proposed 5’ side yard setback in the Central Business District (CBD), that one of the considerations to that was a discrepancy that we have in that our Development Code requires a certain amount of window area on dwellings in the Town Center (TC) and in the CBD. For example on a side building plane we have a standard that a minimum of 10% of the wall area is window. The discrepancy that I was talking to him about is that under the Building Code if you build within 3’ of a property line then you can not have any openings in that building wall. That is a fire, life and safety issue. You need to provide a 1 hour fire wall and in addition there are no openings such as windows, doors, ventilation systems, etc. Part of what we were trying to do here with a side yard setback was to address that discrepancy. Mr. Handy brought up a point, which I subsequently followed up on, that it didn’t seem to make sense if the building is adjacent to the street. For example, if you are street side or even a front setback where we have buildings set right on the street, those certainly have windows and doors so that can’t be correct. He made an excellent point and I went back and checked on that and confirmed that if the building wall is adjacent to an alley or a public way, such as a street, then that is an exception to that requirement or prohibition on openings. So in that instance you can have windows and doors but if we are talking about a common property line between different properties then if you were to build right up to or within 3’ of that property line and there is not an intervening road, right-of-way or alley then the Building Code would not allow for openings. The other issue Mr. Handy raised in his letter is that in the CBD if you take a full block, which in our downtown area is a 200’ x 200’ grid, and the fact that you can have 20’ wide lots if you are talking about attached housing such as row houses, that with this setback provision in place then you effectively would reduce the number of lots

that you could create from ten 20' wide lots to only nine in order to allow for the setback. That is true but there is something that is being overlooked here in which Mr. Handy does not point out. Currently in the CBD, which is the zoning of Mr. Handy's and Mr. Windust's property that are at issue here, you can not build attached housing. The best you can do is build multi-family housing meaning apartment complex or you can build up to a duplex or a triplex unit if they are on the same lot, meaning two or three units on the same lot. You can not build individual duplex, triplex or anything greater than that on individual lots. That was one of the issues that had been raised in the past by these property owners. They made an argument that they didn't understand why that was the case. I agreed and we have built that into these proposed amendments that attached housing on individual lots, whether it is two units, three units or any number beyond that, are listed as a permitted use in the proposed amendments. So in affect if that amendment is adopted it is going to allow for the type of housing that they want to build which I guess in some respects enhances the value of their property. Yes, the side yard setback would mean that they couldn't create ten 20' wide lots, but as it stands today they can't do any of what they want to do, so the proposed amendments are an enhancement over what is currently allowed. The final comment I would like to make on the letter submitted by Mr. Handy today is that Mr. Handy and the others are asking for additional time to let their attorney review this ordinance to see how it affects their property. Surely that request is one that they are entitled to make but I guess I am puzzled as to why they are making that request now, the day of the second hearing on these amendments when these amendments have been going through a review process for most of this past year. The properties owners have known about them and have had the opportunity to participate and in fact Mr. Windust has attended some of the CAC meetings. Prior to the amendments going to the Planning Commission (PC) for public hearing, they were given notice as were over 200 other property owners that could be affected by these amendments. There has been ample opportunity to be involved, review, discuss and suggest changes, which has occurred, but to say that there has been insufficient time to evaluate these amendments to see how they will be affected by them, I have some difficulty with that. I just wanted to point out some of that background information to you.

Councilor Kyle asked a maximum of ten political signs at one time on a tax lot, does that mean I personally can have ten signs on a tax lot or is that ten total?

Rich Faith replied it is ten total and that is any lot other than a lot occupied by a residence.

Councilor Kyle stated in the last election there were five people running for Mayor and others running for council positions. If every candidate and every issue had a sign on a lot there would be more than ten. So I don't get to have ten signs, it is a total of ten signs by everybody?

Rich Faith replied it is a total of ten signs. That means that the property owner is going to have to determine what candidates or what issues are most important to them in terms of which signs they allow to go up.

Councilor Daoust asked is Mr. Handy, in his letter, challenging the 5' side yard setback?

Rich Faith replied yes I believe that he is opposed to the proposed 5' side yard setback for the CBD.

Councilor Daoust stated I don't understand what he is looking for. The letter makes it sound like he wants to be able to put in ten units and no setbacks. I don't quite understand what the issue is.

Rich Faith stated the issue is that currently in the CBD there are no setback requirements of any kind regardless of what type of housing or if it is commercial, it is all treated the same. I think the fact that we are going from zero setbacks to some setbacks is the issue here. Setting aside the fact that we are opening up the uses and allowing more uses than what we currently allow seems to be of secondary importance to the fact that there is now going to be a setback requirement.

Councilor Gorsek asked in Mr. Handy's letter where he says "this would cause a 10% devaluation of the affected property I would suggest that Measure 37 would come into play", is he accurate in that assessment?

Rich Faith replied obviously there is a lot of speculation as to whether or not this devalues the property or not. On its face if you were to say I am presently allowed to create ten lots on this property and with this change I can only create nine. I think one could certainly conclude from that, it likely will reduce your value. But again, the issue here that I believe is relevant is in terms of being able to even create any of these lots for the types of uses that he is talking about, presently would not be allowed. The fact that he may only end up with nine instead of ten, that is eight more lots than what he could do now. Obviously there are a lot of variables but the bottom line is that there are more opportunities that are allowed by these proposed changes in terms of opening up uses than would devalue it because of a 5' side yard setback standard.

Councilor Gorsek asked Marnie Allen, would you concur with Mr. Faith that it is actually creating more opportunities than taking away?

Marnie Allen, City Attorney replied that is how it appears. I also would point out that regulations that are required for safety are exempt from Measure 37 claims and if this setback is required to comply with the Uniform Building Codes so you don't have fire hazards with openings, it may be an exempt regulation for safety purposes.

Councilor Gorsek asked is that one of the driving forces for the 5' side yard setback?

Rich Faith replied that was certainly the case in terms of where you have a property line where you have units on either side of that property line. I think that the Building Code factored that in when you are talking about the end units next to a street because then it does grant that exception with the understanding that there is not going to be a building within a certain distance. In thinking about this, if you want to consider a slight change that I think may satisfy them, if you go to page 12 of the amendments, Dimensional Standards, Section 3.134(2)(b)(c) reads, "25 feet at the front setback line of a corner lot", which allows for that 5

foot setback. If everyone is comfortable with apartments, row houses or whatever it might be on the street side, that is adjacent to a side street, being built right on the property line but would still be separated from the street by the sidewalk then that 25 foot dimension could be reduced to 20 feet for the corner lot. Additionally, on page 13 under side yard setbacks, Section 3.134(C)(2)(c) street side yard setback could say zero instead of 5 feet unless the street side yard is going to be used for a driveway then we need the setback to allow for the parking to occur in the driveway. What that would do then is it would allow for the end units, adjacent to a side street, to be built right on the property line with no setback.

Councilor Gorsek asked regarding snout houses, I am not clear why we would only do it in the TC if we are not going to impose it on the whole city?

Rich Faith replied that is not entirely correct. It is going to be applied citywide if we are talking about anything other than single-family detached.

Councilor Gorsek asked why not single-family detached?

Rich Faith replied first of all the notion of not having the snout houses, with the garage projected out in front of the front door, was a concept that was spoken to in the TC Plan. The origin of that whole idea here in the City of Troutdale was the TC is a unique area, it is intended to be pedestrian friendly and oriented and therefore we want to orient the houses more to the street. That is where it was first implemented. In 2002 we adopted a new section in our Site, Design and Review Chapter specific to duplex, triplex, attached and multi-family housing, which is called our multi-family design standards. We carried that concept forward when we built design standards for those types of housing units, which is everything other than single-family detached, with the idea that citywide if you are building those types of housing units then we want the garage set back behind the rest of the unit but we are not going to impose that for the conventional single-family detached dwelling in our single-family neighborhoods.

Councilor Gorsek asked on the water depth for swimming pools, why 24"?

Rich Faith replied that is to coincide with what is in the Building Code.

Councilor Ripma asked regarding the proposed change for the zero side yard street setback, are there any residential units built like that right now in the older part of the city?

Rich Faith replied I don't believe there are residential units built that way. We certainly have some commercial units that way.

Councilor Ripma asked is this setback the same for commercial?

Rich Faith replied if you are abutting another commercial zone you would not have a setback but if you are adjacent to the R-4, R-5 or A-2 district then there is a 20' setback.

Councilor Ripma asked are we changing side street requirements to be anything less than the normal street width?

Rich Faith replied this changes nothing in terms of our standards for streets. That is not even established in the Development Code, that is in another city document.

Councilor Ripma stated I just want to understand the effect of changing the Mixed Office/Housing (MO/H) district where there are currently no dimensional standards for lots. In your report you mentioned the residential standard is one dwelling unit per 2,000 square feet and that in the MO/H and under the CBD you had a similar comment about no dimensional requirements for lots in the CBD district except abutting R-4 and R-5. How does this set of changes affect the minimum densities for residential if at all? The reason I am asking is in MO/H we don't expect every building to be residential and I don't want to impose maximum residential densities that will then trigger the minimum residential densities that are such a problem, with me anyway. This wouldn't happen to trigger any minimum density would it?

Rich Faith replied yes, if we have an exclusive residential development then there are minimum and maximum densities standards.

Councilor Ripma asked that aren't there now?

Rich Faith replied there are standards now. Right now, for example in the MO/H district the maximum density is one dwelling unit per 2,000 square feet of net land area and the minimum is 80% of that. That is still going to be the case here except it is not one per 2,000; it is a variable depending on what type of units you are creating because that affects different lot dimensions.

Councilor Ripma asked if you had a lot in the MO/H, which is one of the things we are changing, and you wanted to build a house on that lot and it was one lot, would that trigger the minimum density and a person would not be allowed to build one house and would that be true now or would that be imposed with these changes?

Rich Faith replied it is currently not possible to build a detached single-family dwelling in the MO/H zone unless it is built on a lot in conjunction with other permitted uses. So basically what that is saying is you can have a single-family detached house but it is going to have to be on a lot that already has commercial use or you might have a duplex or apartment complex, but an individual single-family detached house is not a permitted use in the MO/H zone.

Councilor Ripma asked if you have MO/H and you wanted to build an office building that had a residence in it, would these new rules require that the person couldn't do that, they would have to build two residences or three just because of the lot size?

Rich Faith replied no. Anytime that you build on a lot that has commercial or non-residential uses you are not subject to minimum and maximum densities. That is only if you are going to be building an exclusively residential development.

Councilor Ripma asked is that what you mean by the residential density standard is now one dwelling unit per 2,000 square feet of net land area? You mean that only applies if it is exclusively residential?

Rich Faith replied yes. To read specifically from the text rather than my staff report, the standard as proposed on page 16 of Exhibit A, Section 3.144(F) Maximum and Minimum Density reads, "Maximum and minimum residential density for exclusively residential uses shall be the same as the CBD density standard". Section 3.144(G) reads, "Apartment units built in conjunction with a commercial use are not subject to the maximum and minimum density standards".

Councilor Ripma stated that is unchanged.

Rich Faith replied correct.

Councilor Ripma asked is that everywhere? Is that true in the CBD?

Rich Faith replied it is not worded the same but that is certainly how I would interpret it that this is referring to exclusively residential development. We do say on the top of page 15 in the CBD zone that apartment units built in conjunction with a commercial use are not subject to the above maximum and minimum density standards. Anytime we are talking about mixed use type development with commercial on the bottom and residential above, behind or below then it would not be subject to minimum and maximum density standards.

Councilor Ripma stated currently there are no dimensional requirements for lots created in the CBD and there are no dimensional standards for lots created in the MO/H, I presume we are changing that to impose dimensional standards. Why?

Rich Faith replied that goes to the rationale that I mentioned last meeting and in my staff report that the whole genesis of these changes are because we have found, as we have been dealing with residential developments in the Town Center area, that the housing units don't often fit the lots that they want to create. With a density standard of one dwelling unit per 2,000 square feet most developers want to maximize that by creating 2,000 square foot lots. We have seen that in the single-family subdivisions that are going on further to the west and with row houses here as well. Consequently, when you are creating lots that size, if you are not doing attached housing then we run into all kinds of problems in terms of setbacks required in the Building Code and we have found that our Code is broken and we need to address dimensional standards and setbacks that accounts for the types of housing units that could be built.

Councilor Thomas asked in the CBD why did you decide to create 20' wide lots?

Rich Faith replied is your question regarding the 20' wide lots for the interior units?

Councilor Thomas replied yes.

Rich Faith stated the 20' wide lot is only allowed if that is an interior unit of a 3-unit row house or multiple attached row houses. We had quite a bit of discussion at the CAC over that standard. First of all part of the answer is that we have in Chapter 7 of the Development Code, which is the Land Division Chapter, a requirement for minimum lot frontage and the standard is 20'. So what Chapter 7 says if you are going to subdivide or go through a land division process to create lots and there are lots fronting on the street, they have to have 20' of frontage. So that was the starting point and if that is what Chapter 7 says then the minimum width of any lot created should be 20'. The CAC had a lot of discussion specific to row houses, which are attached single-family units where each unit is on its own parcel and can be sold with the land. The question was what is the market out there and is 20' wide realistic in terms of the market. Ultimately the CAC decided that if we are talking about units on individual lots, presumably that are going to be sold for homeownership, 20' wide should be the minimum. If you want to build units all on one lot, such as condominiums, this wouldn't affect that. You could build the interior units of attached condominiums as narrow as you want. There is no limitation because you are not creating individual lots.

Councilor Thomas asked what would it take to go to a 16' interior, which actually makes a lot of sense? What kind of changes would it take to Chapter 7 to do that?

Rich Faith replied the change to Chapter 7 wouldn't be that much. We would also need to make changes in the CBD as well, or anywhere else that you wanted to apply that standard.

Councilor Thomas stated if you look at the CBD and if you build a business only structure you don't have to abide by any setbacks, but as soon as you say it is going to be residential then you have a problem. That seems to be a double standard.

Rich Faith stated part of the reason for that is, I guess, a carryover or a continuation of a standard that we adopted after Cherry Park Plaza development came forward and the folks in the R-7 zone behind that development were quite unhappy with the imposing structure that was going to be built right behind their houses and how close that structure could be to them. It was the Council's wish that we take a look at this whole issue of setbacks next to residential neighborhoods. So we built those higher standard setbacks into those zones and the fact that in the CBD we allow for both commercial and residential units, and we are expanding upon that to allow for these attached row houses on individual lots, I guess the thinking was is that the same issues could apply here. We have CBD backing up to R-5 zoning here in the downtown area.

Councilor Thomas stated if I am not mistaken the whole discussion on that really had to do with multiple stories and not having setbacks to maintain their view.

Rich Faith replied right, depending on the height whether you have a single story to a three story affects the distance that you have. The same is true in the CBD, that the distance that you set back is a function of whether you have a one, two or three story building.



Councilor Thomas asked is it based on the story itself that has to be set back or the whole building?

Rich Faith replied the whole building but the distance that it has to be set back varies on whether it is a single story or multiple stories, but the whole structure would have to be set back.

Councilor Thomas stated you are talking about setting the same depth ratio for both swimming pools and hot tubs. The swimming pools I don't mind but the hot tubs I question. If it goes to the 24" like you are proposing, who set that in the Building Code? Did we set that or did somebody else set that?

Rich Faith stated that is part of the Uniform Building Code or as they now call it the Structural Specialty Code.

Councilor Thomas asked does it specifically call out hot tubs or does it say any water feature?

Rich Faith replied in Appendix G of the 2005 Oregon Residential Specialty Code regarding swim pools, spas, and hot tubs it states that any structure intended for swimming or recreational bathing that contains water over 24" deep must have a barrier. It also talks about what the standards are for the barrier.

Councilor Thomas asked would you be opposed to striking the language in paragraph three Chapter 10, Signs, which is the maximum number of signs allowed on a piece of property? I know I made the original request of the CAC but I didn't realize that it may be a free speech issue.

Rich Faith replied I don't have any strong opinion on that one way or another. We were asked to take a look at this by the Council.

Councilor Thomas asked what about your thoughts on changing it from 10 square feet to 6 square feet?

Rich Faith replied which is the current size limitation. That would mean that if you are going to put more than one sign on a support, like a wooden stake, that you would still be restricted to a cumulative of 6 square feet?

Councilor Thomas replied yes.

Rich Faith replied I don't have an opinion one way or another.

Mayor Thalhoffer asked the letter from Mr. Handy and Mr. Windust asking for some additional time, even though it is possible that they could have taken care of all of this over a period of time prior to now, what would be the problem with giving them additional time to have their

attorneys look over all of these proposed amendments? Is there a time limit that we are facing or would it be permissible to let them go ahead and do that?

Rich Faith replied there is no specific deadline that we are trying to meet. I guess if there is one individual that we have been trying to please that would be Mr. Windust himself. He is the one that has been in somewhat of a hurry to get these changes in so he could develop his property with rowhouses. That was one of the deficiencies in our Code that precipitated these changes and I know there have been periods in the couple of years that this has been in preparation and being developed that he has expressed some impatience with how long it is taking. So if he is contempt to let it rest for awhile I can live with that.

Mayor Thalhoffer asked would there be any problem with just eliminating any rules or regulations regarding political signs except the size and the stacking maybe?

Rich Faith replied I think you have quite a bit of latitude as the legislative body of the city to set whatever rules and regulations you wish regarding political signs.

Mayor Thalhoffer asked can we put something in here that if a candidate puts up signs on a persons property without permission, whether commercial or residential, could there be a requirement to stop that from happening? That seems to be one of the problems that we have.

Rich Faith replied when we have received complaints about that my response has usually been that you as a property owner have every right to remove the sign if it was put there without your permission. That in fact would be considered trespassing. If you want the city to step in, and on top of everything else, impose penalties, who would the penalty be imposed upon, the candidate? The person who put the sign there? Maybe the candidate had nothing to do with it.

Councilor Canfield asked if I understand correctly in the CBD you can build condominiums on a single tax lot with a 16' interior?

Rich Faith replied not presently. Currently you can not build anything more than three units and they would have to be on the same lot, or you can build an apartment complex on one lot.

Councilor Canfield stated I read the CAC meeting minutes and it looks like there was quite a discussion on this and there wasn't really a large agreement one way or another on this. What is the difference between allowing the 16' wide lots for a single-family, condominium or townhouse versus apartments when the living space is essentially the same? What would be the harm?

Rich Faith replied with the attached rowhouses, I guess the assumption is that they are going to have some frontage on the street and will be visible from the street and you see the door and the front elevation. In conferring with several other developers of these types of residential developments they expressed their opinion that they would not build anything less

than a 20' wide rowhouse. In their opinion they considered something less than that junk or trash housing. Again that is a subjective opinion. But in their opinion because of design and layout their belief was that 20' wide is necessary to allow for stairways and bedrooms that would be able to accommodate a queen size bed. They had all of these facts and figures in their head and I don't recall all of them but in their opinion 20' is really the minimum size for a decent rowhouse that is going to be sold.

Councilor Canfield stated that is just an opinion.

Rich Faith replied yes.

Councilor Canfield asked but it would be possible to build those if we wish?

Rich Faith replied yes, you only need to look up the street at the five-unit rowhouses which are 16' wide.

Councilor Canfield asked with respect to the political signs, with all of the candidates and different ballot measures, are we really restricting the speech of the property owners if we restrict the total number of signs given the number of potential candidates and issues?

Marnie Allen, City Attorney replied these regulations don't regulate the content of the speech, so in that regard they don't restrict speech. If you look at the definitions in our Code they don't refer to content. If you look at the regulations they regulate the number of signs, the size of signs, and where the signs can be located. For example, a person can put up, sixty days prior to an election, a sign that is temporary that meets these requirements that relates to a sell that is taking place on their commercial property and that would be allowed and it would meet what is being referred to as political signs. So not only does this regulation allow for things that are unrelated to political speech so we are not regulating speech, it also allows political messages in other signs that meet the requirements of our Code. So in that regard, there are other avenues available to property owners to express their views and to exercise their free speech rights.

Councilor Canfield asked instead of having the city restrict the speech you are basically putting that responsibility on the property owner themselves by forcing them to restrict the number of signs?

Marnie Allen replied I guess the way that I would look at it is that we are trying to control the aesthetic issue associated with a large number of signs and we are trying to limit safety hazards on arterial roads near commercial areas in the city associated with no limitations on size or number of signs. That is what I believe the intent is here.

Councilor Canfield stated in effect if we were to approve these amendments, I don't think what we are talking about is the aesthetics. We are talking about restricting the speech of whoever wants these additional signs up. Technically we would be okay, and technically it would be defensible but we are just putting the responsibility off on to the property owner just to get out of having the city restrict them.

Marnie Allen stated I would not encourage the Council to adopt an ordinance if the intent of the Council is to try and restrict specific content of political speech, that would violate the Oregon and the US Constitution. My advice would be don't adopt regulations that you are intending to restrict content of speech. Secondly, in terms of shifting the responsibility to the property owner, it is true that as a property owner if there is a limitation on the number of signs that can go on your property you are then put in the position to decide which ten signs you are going to allow to be put on your property.

Councilor Canfield asked if the proposed amendments were adopted is it true that in a residential area someone could place hundreds of signs on their property because the rules would be different for residential tax lots?

Marnie Allen replied right. The size limitations would be the same but the limitation of ten signs per lot would not apply.

Councilor Canfield why would we allow such a discrepancy between a non-residential lot and a residential lot?

Rich Faith replied the concern that had been raised, at least how we understood it, had to do with visual blight. The thinking was that blight is usually on the main streets as you drive through town, that is where people get their impression and that is obviously where people want to put their signs so that they get the highest visibility. It is primarily vacant and commercial type lots, because they are larger in area, where you get the proliferation of signs. Their thinking was if we are trying to minimize visual blight, then we need to address the properties where it most likely occurs and that is along these arterials or main streets which are typically zoned commercial. If you drive into a residential neighborhood you have much less visibility so candidates aren't competing with each other to get their signs up inside of a residential neighborhood, so it is really not an issue of preserving or eliminating visual blight.

Councilor Canfield stated as far as a speech issue goes, what you are saying then is an owner of a vacant lot or a commercial property has less speech rights than residential property owners.

Rich Faith stated I think that the City Attorney has said that we have not violated any ones right to free speech by this proposal.

Marnie Allen stated it is a little bit hard to answer that because there are a whole variety of other signs, different sizes and different types, that are allowed in a commercial area. So in a lot of regards they have more speech rights if we looked at all of the signs that are allowed in our code and what the sign limits are for residential property versus commercial and you looked at the total sign face area. My sense is that there is probably more sign face area allowed in the commercial and industrial property than in residential.

Councilor Canfield asked doesn't the courts see political signs as a little more consideration than commercial signs?

Marnie Allen replied not under the Oregon Constitution, it all has to do with whether or not the regulation is content neutral.

Councilor Kyle stated thank you for pointing out that nobody is pushing this on us, it was initiated by the Council. The attached housing that was 16' wide that you referred to earlier, how is the parking handled there?

Rich Faith replied they have driveways in front of the units. They have a single car garage as well as a driveway for additional parking.

Councilor Kyle asked typically with widths like that in a town center aren't you assuming that there is more public transportation available to cut down on the number of cars that would need to be parked?

Rich Faith replied in town centers, as a general rule throughout the Metro area, it is assumed that they have a higher level of transit service, that is correct.

Councilor Thomas stated I would like to clarify one thing regarding the quantity of signs. My original request when I took this to the CAC was two signs per candidate or issue. Then the free speech kicked in regulating content. After that the CAC decided on ten signs. The original request really had to do with the blight issue.

Frank Windust stated I have been opposed to these changes through the Citizens Advisory Committee to the Planning Commission and now here. I am opposed to all of the added restrictions in the CBD. The CBD is probably 90% developed; there is only 10% of it left. Why should we be penalized? Why change it now? I was talking to Sue Barker, who was the planning director here at the time that the downtown plan was put together and I told her that you were making all of these changes now and she said why, and that is what I am asking you, why? I don't think there are good reasons for this at all. I think it could cause some problems as far as Measure 37 goes. Mr. Handy is looking into that right now and I certainly will be also if these setbacks stay where they are because it stopped my development. I tried to start something almost one year ago and because of the setbacks that were on the burner here I held off on building twenty-seven units over there. More specific, my setbacks increased on my property that abuts houses up on 4<sup>th</sup> Street. Those four houses on 4<sup>th</sup> Street were zoned C2 for a period of time. At the time they were zoned C2 I didn't have all of these setbacks. Then the property owners from 4<sup>th</sup> Street came down here and asked the City to change their zone to a residential zone because they didn't want to be a non-conforming use and the city gave them that. I don't remember ever being notified that there was going to be a zone change on that. But when it was C2 we didn't have a setback, they changed the zone and down zoned the property and that is where the problem comes now. Here is what is going to happen, when the city builds a police station there and we build commercial on our property next door, those people in those four houses on 4<sup>th</sup> Street aren't going to want to sit there and look at those parking lots and have all of those fumes from the

police station and the other parking lots and all of the activities that will be going on down there, and they are going to be right back in here and they are going to say that their property is valuable now for some kind of a commercial use. They are all good houses and they would make great attorneys offices, accountants offices or whatever. Then they are going to come in here and say this is all commercial and we want our zoning changed backed to C2. At the time I leveled that site, there were two falling down houses on it and it sloped all the way up to those houses on 4<sup>th</sup> Street. We went in there and we tore out those houses, they put 257<sup>th</sup> in and we leveled that site out like it is so it looks like it is ready to be developed. At the time we were told we had a 10' setback from that back property line and we took all of that top soil out of there and all of those rocks and we cut the bank 10' back from the property line and sloped it two to one, which is what was required, assuming that we were going to be able to develop up to that 10' mark. When the zoning was changed from C2 to R5 then it went to 15' and that is what it is now. We can live with 15'. Now he wants to turn around and change it to 20' to 30' back. That means our units are going to sit out in the field and I am going to have to haul dirt in to fill in behind those units after I hauled it all out. That is unfair. If you knew the lay of the land the footings of their daylight basements are actually a story and a half above me from the base of where I would be putting my foundations. Remember we are already down one and a half floors below their basements, but I am going to have to setback 30', that is totally unreasonable and we will fight that. I will not develop that property until we get that straightened out. There is no need to have 30' setbacks from their yard. Their houses set up close to 4<sup>th</sup> Street. They probably have 35' or 40' back yards now and we have to set back another 30', that is 65'. What are we doing? This also pertains to the city property that you purchased from me, you will have to setback 30' and that is unnecessary. Why have the setback 30'? Rich referred to the Handy property where they built the care facility up on 257<sup>th</sup>, those houses are on the same level as the three story building, that is not what it is going to be like on my place because I am already a story and a half below the houses so that should be treated differently and he doesn't have any options for that. Rich also talked about the 20' wide units; I think that is totally ridiculous. My units are 16' wide and people are fighting to buy them. I don't know why you think that they have to be 20' wide. If you are going to build a three story row house and it has to be 20' wide by the time you go back 40' you are going to have a 2,500 square foot building and it is going to be like a \$400,000 townhouse. People aren't buying those kinds of townhouses in downtown Troutdale. 16' wide is enough. In Fairview Terrace they have 14' wide and they are selling like hotcakes for \$200,000. Evidentially there are some people who would like to live in those. I might just mention that some of those townhouses up there, the ones that he says are trash houses because they are two skinny, they are selling for \$229,000. We have a developer with some interest in my property, the Handy property and any other adjacent property that may be available and they want to do a project like Fairview Village or downtown Gresham and they are not going to buy the property with these kinds of restrictions. I think that your planning director is out of step with the times and I don't think he knows what is being developed in some of these other areas. I think we need someone who can go out there and find out what other people are doing. I would like to have this postponed until we can go out and hire some developers and some consultants and we will bring them in here because I think Mr. Faith is off base on this.

Councilor Ripma asked what did you think of the proposed change in the side yard setback along streets that Rich mentioned?

Frank Windust replied we have no streets that we would be contending with on my property. It is just the back yard that I have a problem with.

Councilor Ripma stated Rich mentioned that you had desired some of these changes so that you could divide up into two single lots, is that not true?

Frank Windust replied that is not true now but it was at the time. I had thought that I might develop some row houses on individual lots but that is not necessary. I would go with condominiums; I wouldn't even do row houses now especially since they have to be 20' wide.

Councilor Ripma asked so you would rather that these changes didn't go through and...

Frank Windust interrupted and stated I don't care about the row houses any longer. I am not going to build any more row houses in this city.

Councilor Ripma stated that was one of the reasons mentioned in the letter for delaying this to allow this to be studied...

Frank Windust interrupted and stated yes, because I would like to sell the property and I don't think I can get a developer to go in there and develop that property under these restrictions. We have been talking to developers and they have some problems with these things.

Councilor Ripma stated so you are not asking for a delay for your lawyers to look at it and analyze it, what you are asking for is that we don't do it at all?

Frank Windust replied yes, first I am saying don't do it at all then I am saying that if we haven't sold our story to you folks then we want some more time because we think we are right on this. We know what they are doing in other jurisdictions and why do they have to be different here? We have to compete with Fairview Village, Fairview Terrace and downtown Gresham. If they are doing things that our lots are going to cost us \$30,000 more then we can't compete. Maybe that has something to do with why some of this downtown is undeveloped and why those buildings are sitting empty over there. We need to get some high density development down here so you have some people to go and use these shops down here. This is a ghost town.

Councilor Ripma stated you are asking for no change, that is what I am hearing anyway, yet the current situation is unacceptable is also what I am hearing.

Frank Windust stated we have got a Measure 37 claim here. We are asking that you go ahead and remove some of the restrictions but don't add other restrictions. We don't want more restrictive zoning.

Councilor Thomas asked do you think that the existing codes that we have are more restrictive than other cities in the area?

Frank Windust replied yes. It is very difficult to get through this system here, the CBD zone with the Town Center Overlay. It is very restrictive. It is micromanagement at its worse.

Councilor Thomas asked so if we were to change it, it would be even worse is what you are saying?

Frank Windust replied I don't want it to get more restrictive like they are trying to do right now. I want to be able to sell my property and with these restrictions we are going to have trouble selling the property.

Larry Krause stated we are interested in purchasing the Handy and Windust properties. Our goal is to establish a well designed user friendly residential/commercial project that enhances the livability of Troutdale and increases the tax base for the city. We have something similar to the Fairview Village project in mind. I am asking you to consider our request to emulate a workable plan that is already in place in a community next door.

Dennis Kelly stated I work with several developers and builders in the area and we have built about 300 condos and row houses and very few of them are 20' wide. We build in many areas and I am just not seeing this restriction. Part of it is affordability of entry level homes. One thing that I wanted to address is the front setback for a project here. The 20' setback I think would make for, no offense to the buildings up here, but that is more or less what they would look like with a long driveway and a garage in front. We would like to have a 5' setback on the front similar to some properties in Gresham. That allows for rear road garages so that you have an alley or private street emptying onto a public street. That also allows for the traffic moving forward onto the public street rather than backing into the right-of-way.

Mayor Thalhoffer closed the public hearing at 8:49pm.

**MOTION: Councilor Thomas moved to approve Chapter 10 and defer the remaining proposed amendments to the Development Code until after the City Council holds a work session to further discuss the proposed amendments, with the following changes being made to Chapter 10: 1) Strike paragraph 3; 2) Change paragraph 2 from 10 square feet to 6 square feet; 3) Renumber the paragraphs. Seconded by Councilor Canfield.**

**Council clarified that the work session would be set for November 1<sup>st</sup>.**

**Councilor Canfield stated the changes to Chapter 10 that Councilor Thomas proposed are acceptable to me.**



**Mayor Thalhofer stated personally I think striking paragraph 3 makes sense but I don't see any reason to change paragraph 2.**

**VOTE: Councilor Canfield – Yes; Councilor Kyle – Yes; Councilor Daoust – Yes; Councilor Gorsek – Yes; Councilor Ripma – Yes; Councilor Thomas – Yes; Mayor Thalhofer – Yes.**

**Motion Passed Unanimously.**

Council asked staff to provide the following information to Council for the November 1<sup>st</sup> work session: 1) documentation on the change in the zoning from C2 to Residential and back to C2 that Mr. Windust referred to. 2) Information to compare the Fairview Development Code regulations that apply to the Fairview Village development to the proposed amendments to our Development Code to respond to comments made that our proposed amendments are more restrictive than Fairview Village.

Mayor Thalhofer called for a break at 8:57pm and reconvened the meeting at 9:12pm.

Marnie Allen, City Attorney informed the Council to adopt an ordinance that just approves the amendments to Chapter 10 of the Development Code would require a change in the ordinance title, which would require us to bring back an new ordinance with a new title. Staff needs direction on whether or not Council wants us to prepare an ordinance with a new title which would require two new public hearings to adopt the amendments to Chapter 10 or if Council would like to delay adopting the ordinance that approves the amendments to Chapter 10 and have staff fold that into the ordinance that comes back with the rest of the Development Code amendments after the work session.

**MOTION: Councilor Daoust moved to delay the adoption of the Chapter 10 amendments and fold them into the entire ordinance amending the Troutdale Development Code with the changes made in the previous motion to Chapter 10. Seconded by Councilor Thomas.**

**Councilor Daoust stated I understand the fact that we all agreed on something and we just wanted to get it taken care of but it just doesn't fit the process. I would rather just go with the regular process and deal with the ordinance as a whole.**

**Councilor Ripma asked does setting this over to a work session still stand?**

**Marnie Allen stated the prior motion is still valid and the motion was to approve those changes so when this ordinance comes back with what was approved for Chapter 10, under Roberts Rules of Order you have to make a motion to rescind that if you wanted to change anything in Chapter 10. You are not really changing that prior motion, which is to set over everything else and approve what is in Chapter 10, we are just folding it into the right ordinance and process to get it adopted.**

**VOTE: Councilor Canfield – Yes; Councilor Kyle – Yes; Councilor Daoust – Yes; Councilor Gorsek – Yes; Councilor Ripma – Yes; Councilor Thomas – Yes; Mayor Thalhofer – Yes.**

**Motion Passed Unanimously.**

John Anderson, City Administrator stated we have had a request by Mr. Faith to change the order of the agenda and hear agenda item #7 next so that the Gresham representative here doesn't have to wait any longer.

Council agreed.

**7. PUBLIC HEARING / ORDINANCE (Introduction): An Ordinance amending Troutdale Municipal Code Chapter 15.12, Fire Code and fire Life and Safety Regulations.**

Mayor Thalhofer read the ordinance title and opened the public hearing at 9:17pm.

Rich Faith, Community Development Director stated we are proposing that we adopt the current fire code which is the Oregon Fire Code 2004 Edition, as amended and administered by Gresham Fire and Emergency Services, as the City of Troutdale Fire Code. This is really just a housekeeping amendment to bring our fire code up to date and make our fire life and safety regulations consistent with Gresham's, which makes for more effective delivery of services.

Councilor Ripma asked does this make any difference in the number of inspections?

Gus Lian, Gresham Fire Marshal replied no. Every few years the model code is revised at the national level. We went from the Uniform Fire Code to the International Fire Code last October. When those model codes are changed we look to see what needs to be done in the State of Oregon that might be different from other areas of the United States and then as an exempt jurisdiction in Gresham we look at it to see what is particular to our small region, which includes Troutdale. We make amendments to that which is passed by the State Fire Marshal. Those model codes do not have any thing to do with inspections. We still strive to inspect businesses on a yearly basis, although our cycle right now is about eighteen months because of staffing.

Councilor Thomas asked why do we have to call out the City of Gresham specifically in this ordinance since we contract with them?

Marnie Allen stated I think the reason why it says the City of Gresham is because for example, the time period between when Gresham updated their code and now, they have been enforcing their code in our city even though Troutdale has not yet adopted the updated code. When there is that gap and they are enforcing the amendments that have occurred in Gresham because that is what they enforce everywhere, they will be without jurisdiction if they cite someone for violating that fire code and our code says the City of Troutdale instead of the City of Gresham and we have not yet adopted those amendments.

Councilor Thomas asked by contract aren't they required to enforce our codes?

Marnie Allen replied no, I think we are required to adopt their code in our IGA with Gresham.

Councilor Thomas stated my concern here is that Gresham makes changes that aren't necessarily part of the Uniform Fire Code and we may not want to get stuck with those if we don't want them.

Gus Lian stated we can't do that. It is not allowed by Oregon state law and in fact even though we are an exempt jurisdiction any changes that I make to our fire code as it is adopted in Gresham has to be approved by the State Fire Marshal.

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

No testimony received.

Mayor Thalhofer closed the public hearing at 9:27pm and stated this is the first reading of this ordinance. A second hearing will be held on October 25<sup>th</sup>.

**6. PUBLIC HEARING / ORDINANCE (Introduction):** An Ordinance amending Troutdale Municipal Code Chapter 8.28, Nuisances, reducing the abatement period for some nuisances from ten days to three days and making other changes and amending Troutdale Municipal Code Section 10.12.100 relating to vehicle storage on streets.

Mayor Thalhofer read the ordinance title and opened the public hearing at 9:27pm.

Rich Faith, Community Development Director stated this is a set of amendments to Chapter 8.28 of the Troutdale Municipal Code which is our nuisance chapter. We have several things occurring within these amendments. The proposed amendments will expand and clarify a section in our current code relating to parking across a sidewalk to include parking or storage of personal property on the public sidewalk or in the right-of-way in a manner that obstructs the flow of traffic or movement of pedestrians. In other words we already have in our code a provision that says that parking a vehicle across the sidewalk is a nuisance violation, now this is simply saying that there are things other than a vehicle that can be stored or parked on the sidewalk that would constitute a nuisance. This is an attempt to get at things other than a motor vehicle, such as trailers and so forth that are often times parked or stored across the sidewalk and obstructs pedestrian use of the sidewalk. We are adding a definition for personal property to clarify the types of things that we are intending to capture. The second thing that the amendments do is to make it a nuisance to store vehicles and personal property on public right-of-way for more than 72 hours. Actually this provision is already in the Municipal Code in Chapter 10.12 which pertains to parking violations. We are proposing to move it into the nuisance chapter instead. In conjunction with that move we would then be eliminating that provision in Section 10.12.100 of the Municipal Code so that we don't have duplication in the Code. The primary reason we are moving that from the parking chapter into the nuisance code is that by doing so these types of violations can be abated much sooner than is possible under the provisions and procedures of Chapter 10.12. Along with this, in terms of storage of personal property on a public right-of-way, we have also taken into

consideration the past decisions and exceptions that the City Council has wanted with respect to basketball hoops or basketball stands being placed in public right-of-way and that exception is built in and would only apply if by placing them in the right-of-way interfered with the flow of traffic. Thirdly these amendments will require immediate abatement of the nuisances that I have just spoken to and in addition it would require immediate abatement for repeat nuisance violators. That would be someone who is the same owner that repeats the same violation multiple times over a twelve month period. The immediate abatement means that it needs to occur as soon as possible but not more than 72 hours from the time the notice is given. The normal abatement timeframe is ten days. The particular nuisances that we are talking about here can be very easily corrected and it doesn't seem necessary that they would need to have ten days to correct them. A person who has been notified of a particular nuisance violation and if they correct that and then several weeks or months later they repeat that same violation they should not be afforded that full ten day period to abate it again when they have already been duly notified and gone through a process to get that violation corrected. The fourth area being changed with these amendments is we would make the placement of newsstands in the public right-of-way a nuisance. The reason that this is being done is that we have received complaints about newsstands in the city that have been placed on the public sidewalk. In the wintertime strong winds tend to blow those over and the contents are often blown all over the neighborhoods and down the streets and it creates a litter problem. Some also feel that those newsstands are unsightly and would prefer not to see them on our streets and sidewalks. The fifth category of change in these amendments is that we will impose a requirement that a single violation notice would serve as notification for all similar violations on that property for the following twelve month period. This avoids having to continually send notices to someone who corrects a nuisance violation, an example would be an abandon vehicle, and then repeats that violation again and again. So after correcting that violation they bring in another vehicle that is not properly registered or is inoperable and then we have to go through that same process. So we are proposing that one notice will be considered sufficient notice for that particular violation on that particular property for a twelve month period of time. There are a couple of minor revisions that we would like to propose at this time to the amendments as they were prepared and presented to you. On page 3 of the redlined copy under Section 8.28.060 Notice Procedure, the first sentence says that notice of violations shall be in writing in letter, summons or citation. We would like to simplify that by proposing that it just reads, **notices of violations shall be in writing**. That provides us a range of means by which that can be done. We actually do attach written violation notices on abandoned vehicles and other things. Letters, summons and citations are also used in extreme cases. There are a number of different means by which notice is given and by simply saying in writing it would cover those various options. Under that same Section, subsection "C" talks about the type of mailed notice that we would be providing. 8.28.060(c) says notice of a violation provided in accordance with Section 8.28.095 of this chapter may be affixed to the property or mailed to the property owner, if mailed it shall be mailed certified or registered mail return receipt requested. We have found out that there is another means of mailing a notice to assure us that the person that we are sending the mail to has received that notice. Normally with registered or certified mail they would be signing off on a card that is returned to us so that we have physical evidence that they have received the notice. There is another mechanism that the postal service has which is called signature confirmation where you can go onto a web site that would show that the

letter had been received which serves as confirmation that they did receive the notice and they had signed for it. The advantage of this is it is quicker and it is cheaper to use this mechanism than to use the certified registered return receipt process. We would like to suggest that we add to the language at the end of that sentence in Section 8.28.060(c) **or signature confirmation**. That change would also need to be made in Section 8.28.060(d). Also in that section we need to clarify that notices of abatement means notices of abatement by the city. So Section 8.28.060(d) should read, "Summons, citations, and notices of **city** abatement, liens and penalties shall be mailed certified or registered mail, return receipt requested **or signature confirmation** or personally delivered to the property owner. Those are changes that we would like to recommend to these amendments. These amendments were reviewed and discussed by the Citizens Advisory Committee. I have included, as an exhibit, the minutes of that meeting.

Councilor Canfield asked where is the definition for right-of-way in this chapter?

Rich Faith replied there isn't one.

Councilor Canfield asked right-of-way is the area between the sidewalk and the street is that correct?

Rich Faith replied the street right-of-way would be from property line to property line, the area between the privately owned properties is the public right-of-way.

Councilor Kyle asked on the newsstand issue, I believe that I read that the issue with the newsstands was mostly a downtown issue, is that right?

Rich Faith replied I think that is an accurate statement.

Councilor Kyle asked did that come from a lot of people or just a couple of people? My problem with this would be is if it is a downtown problem I am not sure that I would be comfortable enforcing it throughout the city if nobody else in the city is complaining about that. I am curious about the number of complaints received and did they just come from one area.

Jack Hanna, Code Enforcement Officer replied the complaints on the dispensing boxes in general, not just newspaper boxes, I have received from all over. I have received complaints from the Walgreen store because there is a couple of them in front of their store and when the door is left open or they are recently filled or they fall over and they are on the sidewalk they are blowing in the door into the Walgreen store and they are blowing into their shrubs and landscaping. The first couple of times they called me they expected the city to come out and clean it up because it came from the sidewalk. I have received numerous complaints from downtown. I have received complaints on 257<sup>th</sup> across from the Outlet Mall. The last one that we had serious problems with was at 257<sup>th</sup> and Columbia River Highway next to the bus stop and it blew over and I bet there were over one-hundred brochures blowing around.

Councilor Gorsek stated I think we should add a definition for right-of-way.

Councilor Ripma asked in the section about vehicles parked or stored in such a way as to obstruct the flow of traffic in the right-of-way or the pedestrians on a sidewalk, does that require 72 hours?

Rich Faith replied no that is for any amount of time.

Councilor Ripma stated public personal property means any tangible item. The thing that impedes walking on a sidewalk that I have encountered is the carts and trash cans on trash day and it is perfectly reasonable for people to put them out. It almost seems like this wording prohibits that. I don't know if there is some way to make an exception for that or not.

Jack Hanna stated the ordinance also says that it will be abated by the city within 72 hours. So if they put their trash carts out on Monday morning and they are gone on Monday afternoon they are well within that 72 hours for correction. We do exempt basketball hoops; we could add an exemption for trash containers on trash day.

Councilor Ripma replied that might make it cleaner. You could work on some language and bring that back at the second hearing.

Councilor Thomas stated I wouldn't worry about the garbage cans myself. In regards to the right-of-way, I understood the right-of-way to be the ends of the sidewalk, the outside edge of the sidewalk to outside edge of sidewalk, correct?

Rich Faith replied the right-of-way line generally includes the sidewalks, sometimes there is actually more right-of-way behind the sidewalk. As a general rule of thumb it is to the back edge of the sidewalk.

Councilor Thomas stated which means that piece of property where the grass is actually sits in the public right-of-way.

Rich Faith replied that is correct, the landscape area between the curb and the sidewalk is within the public right-of-way.

Councilor Thomas stated I disagree with the basketball hoops in the streets but that is a discussion that has been had in the past. Having had to deal with those it is a major safety factor.

Mayor Thalhoffer stated I have a problem with the one notice fits all violations for a year. For example a trailer that is crossing the sidewalk is a violation that receives a notice and six months later it is something else completely different.

Jack Hanna stated it has to be the same violation on the same property with the same property owner then they shall receive one notice. So if you park your trailer across the sidewalk and we send you notice you are aware that you shouldn't put the trailer across the sidewalk six months later. If I send you a notice for your trailer blocking the sidewalk and you

remove it and then you put a vehicle in your yard with no tires and no engine, that is not the same violation and you will receive a notice for an abandoned vehicle. Obstructing the sidewalk is not the same violation as an abandoned vehicle and it is not the same as high weeds and grass. If you repeat the same violation throughout the year one notice will suffice. A different violation will receive a new notice.

Councilor Thomas asked what happens in the case where you have a perpetual violator?

Jack Hanna replied there is a section in the ordinance on repeat offenders. After I take you to court and you are found guilty on your third violation, that is any violation of Chapter 8, the Judge will then fine you the maximum fine and order you to clean up the violation at which time you would be brought in for contempt of a court order not the nuisance ordinance.

John Anderson asked in a few locations in town people have either paved or put gravel between the back of the curb and the sidewalk and parked their vehicles there, if that isn't blocking the sidewalk or the traffic can they continue to do that?

Jack Hanna asked and it is still in the public right-of-way?

John Anderson replied it is in the public right-of-way but it is not blocking the sidewalk or the street.

Jack Hanna stated there are certain neighborhoods where they built that parking strip between the curb and the sidewalk, Sweetbriar being one of them. They are not doing that any more. It is still technically the public right-of-way. It would be no different parking between the curb and the sidewalk in Sweetbriar than it would be to park on the curb on 2<sup>nd</sup> Street, it is still storage within the public right-of-way.

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

No testimony received.

Mayor Thalhoffer closed the public hearing at 9:56pm.

**8. MOTION:** A Motion authorizing the expenditure of \$5,000 in FY 2005-06 for the Confluence Project.

John Anderson, City Administrator stated this is coming before Council to determine if you would like to make a financial contribution to the Confluence Project. Maya Lin plans to build a facility for bird watching on the Sandy River Delta where it intercepts with the Columbia River. The Confluence Project is a multi-year project and the idea is to honor the Lewis and Clark expedition and the Native people who assisted in that expedition down the Columbia River. There is going to be seven specific sites and Maya Lin will be working on all seven. The proposal for the Sandy River confluence with the Columbia would be a wildlife and bird watching site. They also plan to have a trail into the site from the highway. Exhibit A is a letter from Jane Jacobsen that lists the contributions made by other cities and suggests that Troutdale might entertain a contribution of \$5,000 per year for two years. After receiving that

letter I had a conversation with the Chamber of Commerce to see if they would be willing to participate in that since the site would probably be a tourist attraction. They have agreed to that and we have included as Exhibit B a letter from the Chamber. Staff is recommending Option A in the staff report of a one time contribution of \$5,000 in Fiscal Year 2005-06.

Councilor Gorsek asked in Exhibit A, the contributions listed from other agencies, are they actual contributions?

John Anderson replied they are pledges, I can't tell you if they have paid all or a portion.

Councilor Ripma asked are we being asked to make a budget transfer?

John Anderson replied if you approve the \$5,000 then we would prepare a resolution for a general fund transfer out of contingency to make the expenditure this year.

Councilor Ripma asked the monies listed in Exhibit A are the pledges towards this \$23 million project?

John Anderson replied correct. There are major pledges by some states. In the letter it mentions that the State of Washington has pledged \$3 million. They have had quit a few other pledges.

Councilor Ripma stated I am just trying to get a sense of whether or not this is really going to happen.

John Anderson stated they have been designing and planning construction in 2006-07 for this project at this confluence.

Councilor Ripma asked are you asking us to accept in some formal way the Chamber's offer?

John Anderson replied that is just information. The Chamber has made a commitment.

Councilor Ripma asked so the Chamber has made a commitment to match what we do?

John Anderson replied correct.

Councilor Gorsek asked haven't they started work on the Ilwaco project?

John Anderson replied yes.

**MOTION: Councilor Gorsek moved to go forward with the \$5,000 grant to this project and do it as described by the Finance Director. Seconded by Councilor Daoust.**

**Councilor Gorsek stated obviously this is a really important historical issue along the Columbia River and we will benefit by having a project right out here on the Columbia**



River. In terms of doing our part and being a part of what I think is a historical dedication, especially since it also celebrates Native Americans, not just Lewis and Clark. I think this is a wonderful thing for us to be involved in and it is a one-time deal.

Councilor Daoust stated this is a great project. I love these public-private partnerships where we contribute towards the greater good. It is going to augment what the Forest Service is doing on the Sandy River Delta. It is a good thing for us to get involved with.

Councilor Kyle stated I was excited about this project when I first saw it. I think it is going to be wonderful for our area.

Councilor Ripma stated I will support this even though it really isn't in Troutdale it will benefit us. I commend the Chamber for stepping forward with matching funds.

Councilor Thomas stated my concern with this is I would rather take that \$5,000 and put it towards the Troutdale Champion. We have restricted that to four issues per year instead of six issues. If I was going to take money out of the contingency fund I would use it to communicate with the public more so than I would be concerned about putting it towards a project on the Sandy River.

Mayor Thalhofer stated I am going to support the motion because I think it is an excellent plan. I am also glad the Chamber is contributing.

John Anderson asked for clarification that the motion is approving Option "A" in the staff report which is the one time contribution of \$5,000 in FY 2005-06.

Council agreed.

**VOTE: Councilor Canfield – Yes; Councilor Kyle – Yes; Councilor Daoust – Yes; Councilor Gorsek – Yes; Councilor Ripma – Yes; Councilor Thomas – Yes; Mayor Thalhofer – Yes.**

**Motion Passed Unanimously.**

**9. RESOLUTION:** A Resolution establishing the Troutdale Ad Hoc Downtown Redevelopment Committee.

Mayor Thalhofer read the resolution title.

John Anderson, City Administrator stated this is before the Council based on action taken at your September 14<sup>th</sup> meeting to pursue downtown redevelopment with urban renewal as one of the tools. In doing that we had discussed creating a Downtown Ad Hoc Committee that would assist in formulating the urban renewal boundaries, the length of the debt service that might be involved and also the specific projects that might be involved. We have a fairly tight

timetable which is attached as Exhibit B. I have talked to legal counsel about our normal process for establishing a committee. If it is a standing committee it is by ordinance and we go through a formal recruitment process and review by council. Since we are trying to expedite this I had a conversation with the Mayor and I am proposing a nine member committee with the Chamber of Commerce recommending three members who would be involved in the downtown directly, two members that would be Chamber members but not involved downtown, one Parks Advisory Committee member, one Citizens Advisory Committee member, and two citizens at large. To try and expedite this I was volunteering to come up with some names and present those to the Mayor and then have him make the formal appointment. That process is outlined in Option 1 of my staff report. Option 2 outlines a process where we would have the list brought back and reviewed and approved by Council. Staff is recommending Option 1.

Mayor Thalhoffer stated I have agreed on this process because of the short timeframe. But past practice is that we have always brought these appointments to the Council to approve the appointments and I feel that is how we should approach this.

Councilor Ripma asked do you mean that you will have already appointed them and then we will get a chance to speak to the appointment.

Councilor Thomas stated we would essentially be ratifying the appointment.

Mayor Thalhoffer stated correct.

Councilor Canfield asked have you already made the appointments?

Mayor Thalhoffer replied no.

Councilor Ripma asked who are they going to be?

Mayor Thalhoffer stated John Anderson will be working on putting together a recommended list.

Councilor Ripma stated I have reservations about that.

John Anderson stated I would be basing the recommendation on the names I hear from the Chamber of Commerce. We did go to the Citizens Advisory Committee and that group selected a person to serve should you agree to this structure. I am going to the Parks Advisory Committee meeting on the 18<sup>th</sup>. I was looking for citizens at large and have talked to two potential folks. One is Jerry Stitzel and the other is Sharron Nesbit.

Councilor Canfield stated nothing against the Chamber, but what is the reason behind reserving five spots for only Chamber members?

John Anderson replied I was just trying to use the existing organizations as the base for making recommendations. The Chamber members are heavily involved in the area that may be impacted by a new development district. That was the reason.

Councilor Kyle asked do you have a feel for the kind or number of people that will step up and volunteer for this because I personally would like to maybe have a work session and brainstorm with these people before. I think that it should be the Councils decision who they put on the committee. I know there is a time constraint but it would be nice if we had more than nine people to choose from. Do you think that might happen?

John Anderson replied when we asked the Citizens Advisory Committee members two members expressed interest. That is the only example I have.

Councilor Daoust stated it looks like the timeline we are trying to meet is to get this committee in place prior to November 7<sup>th</sup>.

John Anderson stated since I drafted this I have received a recommendation from our consultant Jeff Tashman that we look at the timeline and consider moving some of the meeting times back a little bit. He was looking at the Citizens Advisory Committee meeting that was scheduled for December 12<sup>th</sup>, he and Rich and I had looked at the possibility of putting that at the first meeting in January.

Councilor Daoust stated I was just curious about the loss in time between Option 1 and 2. It sounds like the Council could get involved and not affect the timeline that much. If we are going to have a work session on November 1<sup>st</sup> would you have a list of names ready by November 1<sup>st</sup> that we could look at?

John Anderson replied I think we could have the list ready by then. We could have the Chamber provide more than five names so you have some to select from.

Councilor Gorsek stated on the first page of your staff report in the second paragraph you talk about the charge to the committee, it says the committee will evaluate the recommended boundaries for the urban renewal district. I thought that we had already settled on what the boundaries were so I guess I am puzzled as to why we need them to do that?

John Anderson replied my understanding of what we did was you decided that it would be the three parcels down there and if there was new information to explain how it might be utilized for the Marino property or the block just south of Columbia River Highway, that we could bring that back. That was my understanding.

Councilor Gorsek stated I believe that we were only talking about the sewage treatment plant site, but I would like to hear the other Councilors input in what they perceived.

Councilor Ripma stated I thought we excluded the Marino property for sure. These were all 4 to 3 votes. I do not agree with the way that you characterized it. I thought we decided to limit it to the sewage treatment plant site.

Councilor Kyle stated I agree.

Councilor Thomas stated the discussion was that the Marino property be dealt with as a total separate issue.

John Anderson stated we can take that out of the committee charge.

Councilor Gorsek stated I think the Council is pretty set, at least the majority is set on the idea of where we want the boundary to be, which was the sewage treatment plant site. I think it is really important that we do this as quickly as we can but that the Council has input into this. It is always better to have a bigger pool of names to select from then it is to have a smaller pool. For the positions at-large, Sharron makes sense to me but I thought Jerry Stitzel was part of the Chamber so in my mind he is not a member at-large.

Councilor Ripma stated the question about should we provide some parameters, I think we just did provide some parameters about the boundaries. We all want to do the sewage treatment plant, we disagree exactly on how but we are going forward with urban renewal. I wondered if you considered just using the Citizens Advisory Committee (CAC) rather than forming a new committee. If we are going to pass urban renewal we need the voter's approval and I wonder if you considered using the CAC?

John Anderson stated I was trying to make sure that the stakeholders had a presence on the committee.

Councilor Ripma stated my concerns are allayed by the direction on the boundaries and the fact that it is going to come back to the Council for the appointment.

Councilor Thomas stated I think the committee is weighted to heavy with the Chamber. I would say that we need to involve more property owners themselves. It would be nice to have someone on the committee that is not necessarily in favor of urban renewal to help balance it out.

John Anderson stated this is just a proposed structure. If you want it to be only 4 chamber members and 5 other members we can do that.

Councilor Thomas stated my preference would be to only have 3 chamber members; the affected property owners which you essentially have two (the Yoshida and Chelsea properties); one member from each the Citizens Advisory Committee, Parks Advisory Committee and the Planning Commission; and a couple of at-large members. I also don't like the name of the committee.

John Anderson stated I specifically left the affected property owners off of the committee.

Council agreed with that.

John Anderson stated they could attend the meetings and be a resource.

Councilor Thomas stated as long as they are not left out of the process.

Mayor Thalhoffer stated we need downtown people on this committee. As far as I am concerned we just need a good mix of people but we certainly need some stakeholders from downtown.

John Anderson asked for some clarification. As I heard it the Council wouldn't be interviewing candidates, you would just review the list of candidates and make a selection.

Council agreed.

**MOTION: Councilor Ripma moved to establish an Ad Hoc Downtown Redevelopment Committee and direct the City Administrator to bring a list of names of possible committee members to the November 1<sup>st</sup> work session for the City Council to review and make a recommendation to the Mayor and the Mayor will appoint committee members from that list. Seconded by Councilor Gorsek.**

**Council agreed that the list of names will be created by: 1) Invite the Chamber to nominate some people; 2) Include members from the Citizens Advisory Committee, Planning Commission, and Parks Advisory Committee.**

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

**Motion Passed Unanimously.**

## **10. STAFF COMMUNICATIONS**

John Anderson asked the City Council if Wednesday, November 16<sup>th</sup> would work for a Budget Committee Work Session to discuss how, if at all, we will be incorporating a possible operating levy and its implication for next years budget to cover fire service costs. It would also be an opportunity to take a more strategic look at our budget situation.

Council would need to check their planners and confirm whether or not the date will work.

John Anderson stated I am still attempting to get a date confirmed for the TMA report from the Chamber. It is tentatively scheduled for the Regular Council Meeting on November 8<sup>th</sup>.

John Anderson stated I am still working on scheduling a representative from Tri-Met to attend a Council meeting. I am attempting to schedule that for the October 25<sup>th</sup> Council meeting.

John Anderson stated the League of Oregon Cities is asking cities if they are interested in bidding on hosting the Annual Oregon Mayor's Association Conference in 2007 or 2008. I have discussed this with the Mayor, the Chamber, and the City Administrators from Wood Village and Fairview to see if they would like to partner. I am working on putting together the application for the 2008 Conference and will bring back more details at a latter date. If the Council decides they don't want to participate we can pull the application before the Board makes a selection.

## **11. COUNCIL COMMUNICATIONS**

Councilor Ripma asked staff not to schedule Council Work Sessions to start before 7:00pm. I have asked for this before and we have agreed to it.

Councilor Thomas suggested having the City Council involved in judging Christmas lights and possibly present a Mayor's award and a Council's award to recognize people for all of the work that is put into decorating their house with Christmas lights for the holiday season.

## **12. ADJOURNMENT:**

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

Meeting adjourned at 10:47pm.

**Paul Thalhofer, Mayor**

**Approved February 14, 2006**

**ATTEST:**

**Debbie Stickney, City Recorder**