

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

**May 13, 2003**

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

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

**PRESENT:** Mayor Thalhoffer, Councilor Gorsek, Councilor Ripma, Councilor Thomas, Councilor Kight, Councilor Kyle, and Councilor Daoust.

**ABSENT:** None

**STAFF:** Erik Kvarsten, City Administrator; Jim Galloway, Public Works Director; Rich Faith, Community Development Director; Clyde Keebaugh, Parks and Facilities Supervisor; Marnie Allen, City Attorney; Debbie Stickney, City Recorder.

**GUESTS:** See Attached List.

Mayor Thalhoffer asked are there any agenda updates?

Kvarsten replied we have no updates this evening.

**2. CONSENT AGENDA:**

**2.1 Accept Minutes:** April 22, 2003 Regular meeting.

**2.2 Motion:** Authorizing the Mayor to sign a Letter of Agreement between the Cities of Gresham, Fairview, Troutdale and Wood Village and Multnomah Fire District 10 for a Fire Feasibility Study.

**2.3 Resolution:** A Resolution providing for budget transfers and making appropriation changes for Fiscal-Year 2002-03.

**2.4 Resolution:** A Resolution declaring certain personal property as surplus and authorizing disposal.

**2.5 Resolution:** A Resolution requesting the transfer from Multnomah County to the City of Troutdale of tax foreclosed property for public non-housing purposes.

**MOTION:** Councilor Thomas moved to approve the consent agenda. Seconded by Councilor Kight. Motion passed unanimously.

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

Brian Roberts stated I was last before you on April 22<sup>nd</sup> in regards to the nuisance ordinance amending Chapter 8.28.075, storage of a commercial vehicle. At that time I was in violation. When the council decided to update the ordinance I asked if I could have an extension until

the update took effect. You informed me that I would have to get that extension from the Code Enforcement Officer, Jack Hanna. He is the reason I am here tonight. I went to him the next day to ask for the extension and as always he was rude and threatening. He told me that nothing was going to change until 30 days. He also said I was in violation and he would cite me. Since then I have been parking my vehicle somewhere else at night and bringing it home during the day. Mr. Hanna has recently cited me for violation of Troutdale Municipal Code Chapter 8.28.075 while my truck was parked in front of my house during the day. Chapter 8.28 says it is storage of a vehicle, it does not address just parking it there while you are making a stop at home. When I went to see him about the ticket I was not happy. Again he was rude and threatening. He even threatened me physically. I am here tonight to formally and publicly file a complaint against Mr. Hanna. Mr. Hanna is rude, uncooperative, threatening, harassing, and I do not believe that he has the maturity to handle the job he has been given. I love Troutdale and the people here. As a citizen of the community I believe that we deserve someone that cares about our citizens and the community we live in. In my opinion, Mr. Hanna is not that person. As a tax payer and a citizen of Troutdale, I ask that the Council seek replacement for Mr. Hanna.

Mayor Thalhoffer stated we will refer this matter to the City Administrator.

- 4. PUBLIC HEARING / RESOLUTIONS:** A public hearing pertaining to the following:
- 4.1 A Resolution adjusting the rate and capital improvement plan for water system development charges and rescinding Resolution No. 1601.
  - 4.2 A Resolution adjusting the capital improvement plan for sanitary sewer system development charges and rescinding Resolution No. 1602.
  - 4.3 A Resolution adjusting the capital improvement plan for transportation system development charges and rescinding Resolution No. 1603.
  - 4.4 A Resolution adjusting the capital improvement plan for storm water system development charges and rescinding Resolution No. 1604.

Mayor Thalhoffer read the resolution titles and opened the public hearing at 7:08pm.

Jim Galloway, Public Works Director stated before you tonight is the annual review of the system development charges, which are one-time fees assessed against development to help compensate for the impact that they have upon the infrastructure. The first step in reviewing these charges is to update the capital improvement plan associated with those fees. Changes that were made to the capital improvement plans are indicated in my report (copy included in the packet). Once we have updated the plans we update the cost estimates for the projects. Where we don't have a specific cost estimate for a project we use the construction cost index for the Seattle area as published in the January 20<sup>th</sup> edition of the Engineering News Record magazine. In this particular case it showed no increase for the prior twelve-month period. In going through the calculations the net affect is the water system development charge had an increase of \$113.00 or 11.9%; sanitary sewer, transportation and storm water would remain the same. The net affect for a new single-family home in the city would be an increase of \$113.00 or 1.6%. Exhibit "A" of my report (copy included in the packet) shows Troutdale's rates compared to nine other cities. This shows that four cities have rates that are substantially higher than ours, two have rates comparable, and three have rates that are substantially lower than Troutdale. We have complied with State Law in regards to providing notice of this hearing to the two entities that have formally asked us to notify them. They are Home Builders Association and The Manufactured

Housing Association. We have also had a notice summarizing the results that I have just outlined to you available at the permit counter in the Community Development Department for nearly the same 90-day period that the notices were provided.

Councilor Daoust asked what determines what funding year these projects get done in?

Galloway replied it is a variety of factors. One factor is trying to time the improvement to a related development and secondly is the availability of money. We try to rank the projects in priority order and if there is a particularly large dollar value project we may go several years basically just accumulating the funds necessary to accomplish the project without borrowing.

Mayor Thalhoffer asked why is the water SDC fee the only one increasing?

Galloway replied we have a fairly significant project, which is a waterline on 257<sup>th</sup>.

Councilor Kight asked on the Capital Improvement Plan for Transportation, there is a project listed to construct pedestrian accessways at various locations. Will this address the area on Troutdale Road where we have breakage in sidewalk areas from the intersection of Troutdale Road and Stark Street going either direction north or south especially where the bridge is?

Galloway replied Troutdale Road is a county road, so the primary responsibility lies with the county. I believe the county's position is that they are somewhat reluctant to do a stand-alone sidewalk project there when they ultimately hope to do some widening there. However, I believe that is going to be many years in the future. I have had some prior discussions with the county about trying to address what I believe to be a safety problem in the area you identified. I think the bridge is the holdup. We could probably, with a modest amount of money and perhaps some joint funding between the city and county, address the sidewalk needs north and south of the bridge. As I understand from the county, doing anything to the bridge would require them to bring it fully up to the current standard which would cost in excess of \$1 million dollars, so I doubt that is going to occur anytime in the near future. That bridge, along with a couple of others, are included in some projects that the county is currently seeking money both at the federal level and the 2004-2007 regional transportation improvement plan process.

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 7:23pm.

**MOTION:** Councilor Kight moved to adopt the resolution adjusting the rate and capital improvement plan for water system development charges and rescinding Resolution No. 1601; the Resolution adjusting the capital improvement plan for sanitary sewer system development charges and rescinding Resolution No. 1602; the Resolution adjusting the capital improvement plan for transportation system development charges and rescinding Resolution No. 1603; the Resolution adjusting the capital

**improvement plan for storm water system development charges and rescinding Resolution No. 1604. Seconded by Councilor Daoust.**

**Councilor Kight stated I think this is a very modest increase. We may want to take a future look at the transportation SDC's to address some of these projects that have been stalled the last 10 to 15 years that are critical to the livability of our community as well as safety.**

**Councilor Daoust stated I have reviewed the capital improvement plans for all four SDC's and I think they are well put together priority wise. The only increase is to the water SDC's. There are seven out of the ten cities that we compared with that have higher SDC's then we do for water.**

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

**Resolutions approved 7-0.**

**5. PUBLIC HEARING / RESOLUTION:** A Resolution adopting the capital improvement plan and adjusting the rate for parks and recreation system development charges and rescinding Resolution No. 1605.

Mayor Thalhofer read the resolution title and opened the public hearing at 7:26pm.

Rich Faith, Community Development Director stated the City has had a parks SCD in affect since 1992, which was initially set at \$374 per residential unit. In 1995 we adopted our current Parks, Recreation and Greenways Plan, which identified a number of park related acquisitions and improvements to upgrade our parks system. In 1998 we retained the services of a consultant to reevaluate our Park SDC rate against the projects listed in the Park Plan. The consultant prepared a methodology and a report that was presented to the Council and at that time it was determined that a Park SDC rate should be \$790 per residential unit. Last year we adjusted the rate to account for inflation and the adjustment was based on the construction cost index for the year 2001, which increased the rate to \$811. Last November we had a \$3.4 million parks bond measure on the ballot and that bond measure failed. As a result of that failure there was some concern among the Parks Advisory Committee (PAC) members in terms of how we would be able to find the revenue source to make the necessary improvements and upgrades to our parks system, including the acquisition of new park land to meet our growing population. We took a look at our SDC fee against other fees being charged throughout the Portland Metro region and some select cities in the state (copy of this chart was included in the staff report as Exhibit "B"). In looking at the comparison chart it is quite evident that we were way down on the list in terms of the rate that we charge in comparison to others. At that point the PAC felt that we needed to take a look at our methodology. We hired Don Ganer, who specializes in parks SDC's. Don has completed his work under the guidance and direction of the PAC with assistance from city staff. He has prepared a methodology report that looks at not only the growth related needs and those impacts related to residential growth, but also for non-residential development. In

the past the city has not charged a park SDC for non-residential development. In this methodology the PAC instructed Mr. Ganer to look at applying the Park SDC fee to non-residential growth, which is being done more and more by communities around the state and is generally applied to the employment related to businesses and non-residential development that might occur. Following the guidance of the PAC, the report that Mr. Ganer prepared, which is attached at Exhibit "A" to my staff report (copy included in the packet) identified that the city was justified in charging the maximum Parks SDC rate of \$5,117 per new residential dwelling unit and a \$198 per employee for new non-residential development. The PAC held a joint work session with the Council on April 15<sup>th</sup> to go over the findings and conclusions and recommendations of this methodology report and at that time the Council offered no suggestions for modifying the methodology, therefore the PAC is forwarding this report to you without modifications. It is their recommendation that the Council adopt the resolution, which would impose the maximum SDC rate of \$5,117 per dwelling unit and \$198 per employee on non-residential development. I think it is important to point out to the council that these rates are the maximum rates based upon the methodology. That methodology is one in which seeks full funding for the various types of parks and recreation facilities that the citizens of Troutdale use and are a part of our parks system. The methodology and the capital improvement plan that goes along with the methodology, however, could be modified to adjust those figures if that is the wish of the council. Mr. Ganer will be able to provide you with some options for adjusting the rate if that is your direction. One last item, each of you have received a copy of two additional letters that were submitted since your April 15<sup>th</sup> work session; one from Ken Fletcher and one from Habitat for Humanity. At the April 15<sup>th</sup> work session you were given a copy of a letter that was submitted by the Home Builders Association, which I have attached to my staff report as Exhibit "C" (a copy of all three letters are included in the packet).

Don Ganer stated on page 9, table 3.7 shows the level of service standards, which were adopted in the 1995 Parks Master Plan, there are some additional standards but we focused on these key standards with the understanding that there were some additional standards that would be included within the projects that would be built. For example, there are specific standards for ball fields that would determine that they be built in a community park. We have identified the key level of service standards that were used in identifying the deficiencies. SDC money can not be used to remedy existing deficiencies so we had to identify other alternatives for potential sources for revenue. We have also identified the growth needs in Table 3.8. The capital improvement plan, which is attached, includes all of the needs that are identified as being deficiencies under the surplus or deficiency column and also the growth required units column. The capital improvement plan has dollars attached and the dollar amount is what is used as the basis for the SDC amounts. On page 10, Table 3.9 identifies the deficiency repair costs. These are costs that have to be paid from a source other than the SDC's. If they are paid for from bonds or other property tax revenues, we have to account for those payments that new development will pay in the future. We have calculated this based on the concept that sometime between now and the year 2015 the city could potentially request voter approval of some bonds to pay for repairing these deficiencies. We have calculated the credit as if those bonds were approved and in place so that if new development were paying the full fee, they wouldn't be paying also through the property tax, they would be getting a discount on the fee for the property tax payments, so they are not paying twice. On page 11, Table 3.10 shows the growth costs. We have broken down these costs between the residential and non-residential. Primarily the difference is that mini parks

and neighborhood parks are considered to benefit residential development only. The other facilities, including the natural areas and trails benefit both residential and non-residential development. The rate calculations for the residential needs are shown beginning on page 11 through 14. The proposed rate of \$5,117 is the maximum rate that the city can charge, this is the concept that growth would pay 100% of all of the growth needs for achieving and maintaining a level of service that is in the adopted standards. Following that we have the calculation of the non-residential fee, which is charged on a per employee basis beginning on the bottom of page 14 through page 16. The number of employees is based on the type of business. In Table 5.5 we list the standard industry classification from the Metro Employment Density Study. This gives some objective criteria for staff to use in identifying and determining what fee should be charged to a business.

Don Ganer provided the council with a document that outlined some additional options available for the SDC fee. (Copy included in the packet)

Councilor Kyle stated Exhibit "B", shows what system development charges are in other cities. West Linn has a hefty fee, was that imposed to deter growth?

Ganer replied I can't speak to the reasons for that fee being what it is, but I can say that the fee has been contested and it is in court, there has been a lawsuit filed over the methodology that was used for that fee.

Councilor Kyle asked with the non-residential fee, how do we know that we are not double charging? For instance, if there is an employee that is also a citizen.

Ganer replied that is taken into account in the calculation. In Table 3.5 on page 8, you will see that there is a breakout between residents related and employment related, the two of those are further broken out between a resident non-employee and resident employee. The calculations take into account that if it is a resident employee they aren't considered to be an employee for the purposes of the calculation they are considered to be a resident.

Councilor Kyle asked is this assessment on future development?

Ganer replied yes, only when development occurs.

Councilor Kyle asked do we currently charge SDC's on open space within a development if we require there to be an open space area?

Faith replied we apply the Park SDC for any building permit related to residential development. So any new dwelling is going to be charged a park SDC fee. A developer who sets aside parkland or undevelopable land, to my knowledge we have never given a credit to that developer. Most of the dedicated parkland that we have in the subdivisions took place before we ever had park SDC's.

Councilor Daoust stated West Linn's single-family residential SDC is \$8,228 and our maximum SDC could be \$5,117. West Linn's methodology is being challenged. Is your methodology more legally defensible?

Ganer replied yes.

Councilor Daoust stated when you compare what different cities charge for single-family residential versus multi-family residential, maybe about a third of the cities charge the same amount for single-family and multi-family, which is what you are proposing for Troutdale. Why do the rest of the cities charge a lower rate for the multi-family?

Ganer replied in some cases it is actually a higher rate for multi-family. They have different fees for different types of dwelling units. It is specifically up to the city. What we have done in this methodology is use the blended number of persons per dwelling unit where we calculated it based on all types of dwelling units. Some cities prefer to have more of a break down than others. It is strictly a policy decision.

Faith stated that was discussed at the PAC meetings and it was their decision that we apply one rate for all housing types.

Councilor Daoust asked when you say that the \$5,117 is the maximum in order to cover all of the growth required needs in the parks system in the city, you also have \$198 per employee for non-residential, so don't you have to add those two together to cover our total parks need into the future? If we decided not to charge new businesses \$198 per employee, but just relied on SDC's for new resident dwelling units, would the fee be more than \$5,117?

Ganer replied no. The needs were calculated based on the level of service standards and the standards were applied to everyone. We considered the needs of the businesses when we developed the capital improvement plan. If we weren't going to charge them a fee we would simply not consider the needs of those businesses. The same standards were applied so it would just be applying the standards to a smaller number of people and the amount would remain the same.

Councilor Daoust asked if we decided not to charge the \$198 per employee, what types of things would drop out of the capital improvement plan?

Ganer replied we would have a smaller number of facility needs. On page 11 we show the dollar amounts by type of facility. It would be fewer acres of community parks and linear parks and so on. It totals just over half a million dollars.

Councilor Gorsek asked in the Nolan v. California Coastal Commission 1987 case, it talks about an essential nexus and it says a central nexus requirement means there must be reasonable connections between the nature of the development and the facilities being funded. Have we made a really strong connection between the employee driven side and the use of those facilities?

Ganer replied by identifying the specific types of facilities that are available for use and would be used by employees, we have done about the best that we can. This methodology is one that was developed for the City of Tigard following the Dolan case. They looked at the nature of the different types of facilities, which types would be available and which types would not be available. It has not been tested, but this is the strongest connection that there is available.

Councilor Gorsek asked in relation to this, if we were to go with the \$5,117 for residential and the \$198 per employee for non-residential, that puts us at the 2<sup>nd</sup> highest rate in the Metro area?

Ganer replied that is correct.

Councilor Gorsek asked has there been any studies done as to the affects of this on cities who have imposed the fee per employee for non-residential development in terms of economic impact?

Ganer replied not to my knowledge.

Councilor Ripma asked the methodology that you used, I take it is completely different than the previous methodology that we used to arrive at our current SDC rate? Can you summarize what the difference is?

Ganer replied one of the biggest things is there has been a significant change in the costs. The data that was used in identifying the cost per acre of land and the cost per acre of development were much different. The costs have gone up significantly. I don't believe that even at the time your current methodology was done that the costs were really reflective of the actual costs. That is probably the most significant change.

Councilor Ripma asked did you update our old methodology or did you start out fresh?

Garner replied I started fresh.

Councilor Ripma stated for the projected population you have it at 21,400 in 2015, which you received from Metro? That isn't what I have heard our build-out population would be. Where did you get that number?

Garner replied I received that number from a report that I reviewed in developing information; it may not be the most current number. If the number, as far as the build-out population, is actually lower it would reduce the number of facilities that are needed and the total cost, but the cost per unit would remain the same since this is based on levels of service standards it wouldn't have any impacts on the rates.

Councilor Thomas stated my concern is in regards to the amount of available land when you extract out what is for parks. With the land that is left, is there enough to do this?

Faith replied yes. I did some research into that and we looked at our inventory of parcels in the city and within our urban planning area, and we separated out the total amount of property within the urban planning area that is designated as Title 3 land. That means that under Metro Title 3 these are properties that have severe constraints for development because they are either in the flood plain, have steep slopes or riparian corridor areas. These properties either cannot be developed or can only be developed to a limited extent. What we found was that within our urban planning area we have approximately 500 acres of Title 3 lands that are potential candidates for acquisition for parks and greenspaces. If you



compare that to the actual number that has been identified in the methodology in Table 3.8 we have a need for approximately 250 acres of land to meet our level of service for existing and future population. Effectively it says we have about double that potentially in land that we do not even count towards our buildable land supply that could potentially meet this need.

Councilor Kight stated you mentioned some Title 3 property within the urban planning area but it is not necessarily a given that that property will be incorporated within the city. Have you inventoried property that is currently available within our city limits?

Faith replied the 95 Parks Plan identified general areas in the city where it would be desirable to have a park.

Councilor Kight stated we have a history in the city when developers develop a large parcel of property they have a set aside for parks, does that act as a credit for the developer towards parks SDC's?

Faith replied most of those larger developments that did dedicate property occurred before 1992 when we implemented the parks SDC's. Since that time I am not aware of any development where we have provided a credit against park SDC's.

Councilor Kight asked if the developer did have a set-aside for parks, would they get a credit?

Ganer replied yes. There is a state statute that says if the city is requiring a developer to set-aside land for parks as a condition of the development approval, then you have to provide them a credit against their parks SDC.

Councilor Kight stated in your presentation you indicated that West Linn is at the top as far as the parks SDC fee, to your knowledge has that impacted their growth as far as stopping home construction?

Ganer replied not to my knowledge.

Councilor Kight stated in Exhibit "C", which is a letter from the Home Builders Association, paragraph 2 reads, "In other words, it's OK to ask new development to pay for additional infrastructure capacity to serve the direct needs created by a growing population. However, the charges can't be used to (a) backfill needs and deficiencies that already existed before growth occurs, or (b) to fund a higher level of service than exists prior to growth." Could you address this statement they made?

Ganer replied this statement doesn't necessarily reflect what the requirement of the statute is as far as the law. I don't believe that the statute requires that you cannot fund a higher level of service than exists prior to growth. You are required, if you do that, to identify how you plan to repair the deficiency. In other words the city couldn't say that we are going to charge new development this fee for a higher level of service and yes we have a deficiency but we are not going to worry about that and we are not going to identify any plan for how we are going to fund it and we are not going to provide any credit for how future development may be forced to have to assist in paying that. Because of the fact that we have identified a plan for how that would be addressed and we have identified a credit, we have essentially acted

as if the city already is achieving that level of service and has a plan to achieve that level of service. In that case it would comply with the requirements of the statute I believe.

Councilor Kight stated on page two of their letter it reads, "Since open space does not require any construction of capital improvements it should not qualify for SDC charges." Could you respond to that?

Ganer replied open space is considered to be park and recreation facilities in all standards that I am aware of.

Councilor Kight asked in other words there doesn't have to be a building?

Ganer replied no, there is no requirement for that. This is something that is a controversial issue. I don't know that it has ever been challenged legally that open space is not a park and recreation facility.

Councilor Daoust stated this deficiency repair is a bit puzzling to me. Is this telling me that any money we spend to bring us up to current needs cannot be paid for by SDC's?

Ganer replied that is correct.

Councilor Daoust asked wouldn't it be a valid argument that we are in the state that we are because we haven't updated our SDC's in the past?

Ganer replied potentially you could make that argument but all we can charge SDC's for is for future growth and we can't charge future growth for anything that hasn't been done in the past. As an example, if the city decides not to fund 100% of the growth needs, lets say you decide to fund 50%, then potentially as development occurs you are digging a bigger hole because there is a deficiency that is growing larger because it is unfunded. You can't require future development to pay for fixing that hole.

Councilor Daoust stated so the less we bite off now, that will increase our deficiency repair amount or the credit that we have to apply in the future.

Ganer stated there are only certain facilities that you have deficiencies. On page 10, Table 3.9 shows those facilities along with the dollar amount. You currently don't have deficiencies in your mini-parks, neighborhood or community parks, which are the big-ticket items. When you look at the alternative options that I provided to your earlier, if you were going to only fund the facilities that you meet the standard for, your rate would be \$4,700, Option "C", which would be the funding needed to maintain the levels of service that you currently provide for mini-parks, neighborhood parks and community parks.

Councilor Daoust asked would that assume that we would have to give developers a credit?

Ganer replied no. If you did not charge an SDC for those facilities you wouldn't provide credit because you wouldn't be requiring them to pay for it.

Kelly Ross, representative of the Home Builders Association of Metropolitan Portland stated our organization was one of the key players in legislation fourteen years ago that specifically authorizes SDC's to be charged. It was for the very simple reason that you need infrastructure, whether its roads, water, sewer, storm water or parks to serve new development that was going to happen. If you don't have a stable funding method to do that the only other alternative is to have moratoriums on building until you do come up with the money. We have a love/hate relationship with SDC's. We helped to get them passed but we review them very carefully when they are proposed, especially parks SDC's.

Mr. Ross provided the Council with a letter (copy is included in the packet).

Ross stated my comments are divided into two sections, one that has nine points specifically addressing methodology issues and why we believe that there are a number of factors that should have been considered in establishing the proposal and some deficiencies in the proposal. The second section deals with general policy issues that go beyond Oregon law and SDC's and parks and talks about the impacts of this scale of a fee on current residents, housing in general, local economy and other things. Concerning the methodology, Mr. Ganer is correct that Table 3.8 on page 9 is the foundation for the methodology. It talks about the level of service out there. The problem we had when we started to review the methodology is that there was no supporting information, no inventory information to tell us what park facilities were included or were not included in those numbers, so it was impossible to verify them. We took a look at the 1995 Master Plan, that methodology is the basis for the proposal before you and that listed quite a different figure for total park acreage. I am assuming that is because additional parklands have been bought or acquired since 1995, but how much or what those lands are, it is impossible to tell from the methodology before you today. That is important because in the review process. If this methodology is challenged in the court, one of the primary guidelines for a judge in reviewing it is whether you made a finding or order that was supported by substantial evidence in the record. If it is impossible for an outside independent organization like ours to verify those amounts, I don't think there is substantial evidence in the whole record to support it. Second, questions have been raised already about the funding mechanism that has to be in place or proposed to correct existing park deficiencies. Its not good enough just to charge SDC's when you have existing deficiencies, there has to be some accompanying measure to correct those deficiencies or you end up with a situation where you are taking service to a higher level, which is not authorized by the SDC law. Since there isn't a funding measure on the table right now to talk about, it is pretty much just a blue-sky idea that there is going to be a bond measure approved by voters sometime in the future to support this. It is not a good sign that the voters defeated one just last year. One of the big things for us is the idea of open space. A question was raised about whether open space is even allowed by statute. Mr. Ganer is correct that at this point it is a matter of a difference of opinion; it has not been ruled on by a judge, though it is one of the issues we have raised in our challenge in the West Linn case. It concerns us that in the calculations of open space that only city owned open space is considered a valid open space. We had Metro produce a map for us of all of the park and greenspace areas in and around Troutdale (copy of the map was submitted and is included in the packet). There is a lot of additional park and open space beyond just what the city owns and we are wondering whether or not that was considered in the factors for this methodology and if not, why not. We believe that you actually have a surplus of open space accessible or viewable by residents in the Troutdale area and there should not be a reason to tax current or future

residents to buy additional open space. The methodology does not consider any other methods of park acquisition. I suspect that the City of Troutdale is very similar to other communities with your current park inventory being acquired through a variety of means. In many communities the top way that they get parkland is through donations. This methodology looks towards the future and assumes that 100% of all new park, greenspace or openspace areas are going to be acquired through SDC's or a bond measure. We don't think that is realistic. There should be a consideration of the fact that people are likely to give you parks through their wills or outright donations. We looked at the previously adopted Troutdale Parks, Recreation and Greenways Plan to judge consistency in the methodology. There really doesn't seem to be a connection. The Plan that was adopted in 1995 was specifically designated as being a part of the city's comprehensive plan and conforming with all the goals and guidelines with the statewide planning laws. It presents very specific capital improvements and park areas that should be acquired by the city to have a consistent and well thought out plan. That specific list in your comprehensive plan is nowhere to be found in your capital improvement plan. I think that is a disconnect between the methodology in front of you. The final three points concerning methodology have to do with technical accounting methods. The methodology proposed is a flat 5% administrative charge on top of the collections for parks and recreation. State law says that you can charge and recoup administrative costs, but it has to be direct costs. We believe that arguments against using a very general flat percentage amount raises a question of when you increase your SDC by over 500% are your administrative costs also going to jump by 500%. The current administrative charge will add \$336 to the cost of every new home and over the lifetime of this methodology it will raise almost \$1 million dollars. We wonder if that is really reasonable. There is no consideration in the methodology of what your current balance is in your parks SDC fund. My final point is there was no consideration of any previously granted credits against the park SDC's, it that doesn't sound like that is applicable here because you haven't extended any credits. Moving on to the general policy issues and the impacts that a fee this high will likely have. First of all there is what we believe to be a mistake in assumption, that is that SDC's are only paid by newcomers to the community, that all new homes are bought by people who are going to live here that don't live here now. We can assure you that is inaccurate. We have done surveys of new subdivisions and find that new homebuyers more likely than not are already residents of the community. The park methodology increased the city park acreage by 143%. One of the things that hasn't been discussed yet tonight is how you will pay for the maintenance of that parkland. SDC's cannot be used for maintenance or operations. It will definitely have an impact on housing. The question was raised about the impacts of West Linn's SDC. We have checked the data from the construction monitor publication and in the period since West Linn adopted their \$8,200 SDC last May, there number of residential building permits have dropped 68% from what it was the previous twelve months. We believe the main reason for that is the additional cost that is being imposed upfront. Finally I want to talk about the impact on buildable land supply. This is a big concern of ours as buildable land becomes more constrained and the supply is limited. I talked with Dennis, the Chief Economist at Metro today and asked how much buildable land they show for the City of Troutdale, he tells me that the current supply of gross vacant residentially zoned land for Troutdale is only 57 acres. This proposal anticipates buying 256 acres of parkland and that is definitely going to compete, probably subtract from the buildable land supply. Mr. Ganer's methodology uses a household size figure of I believe 2.86 persons per household. In Metro's most recent extensive analysis of our regional area, the average household size for the next twenty years is projected to be closer to between 2.5 and 2.6.

Councilor Daoust asked is it fair to say that your main concern is adding \$4,000 to the cost of a home in Troutdale?

Ross replied I think that is it.

Councilor Daoust stated I monitor realtor reports on the prices of homes in Portland compared to Troutdale. The conclusion that I draw is the houses in Troutdale are quite a bit less expensive. I am curious as to why the level of concern for a price of a home in Troutdale raising \$4,000 would concern you when we are one of the lower markets in the Metro area?

Ross replied the fee that is being proposed is a bigger hit for the lower products. I think it is great that the City of Troutdale is providing that kind of product; there is a huge demand for this product. Raising the price by that amount will eliminate some buyers from the market.

Councilor Gorsek stated you mentioned that West Linn's SDC was imposed last May and housing permits dropped 68%. Are there any other factors that might have contributed to that besides the SDC fee?

Ross replied I am sure there is.

Councilor Ripma asked are you saying that we have to identify each park and how big it is? That is what I was hearing you say.

Ross replied what I was referring to was Table 3.7 on page 9 that sets out the current level of service. That lists the various acreage amounts for each type of park. It is impossible to know how you got to those totals without an inventory showing what adds up to that amount.

Councilor Ripma stated Table 3.8 shows the inventory of each of the categories.

Ross replied within those categories what is included and what is not included.

Councilor Ripma stated what I understood you to say is we have to have a funding mechanism in place and if we don't identify how we are going to make up all of the deficiencies we can't go forward with an increase. Is that what you meant?

Ross replied with an increase of this magnitude and based on this type of a goal achieving new levels of service. The worse case scenario is that you proceed and there is no bond measure approved by voters, during this fifteen-year period you only receive SDC funds and you are purchasing property and developing new parks, you are elevating the level of service only from new development and that is not authorized by the statute.

Councilor Ripma asked are you saying we have to have a plan for making up all previous deficiencies before we can increase our fee?

Ross replied not necessarily. I think as Mr. Ganer noted you do have several categories in the park plan where you don't have deficiencies. It is perfectly proper to proceed with a capital improvement plan dealing with those.

Councilor Daoust stated we do have six assumptions built into this on page 13 for the deficiencies, so there is a plan.

Ross replied it is an expectation that the residents will vote to tax themselves almost \$6 million dollars. If that doesn't occur you are going to have 100% of your parks fund for new improvements through SDC revenue.

Councilor Ripma stated you mentioned no other methods of park acquisitions. I would assume that you would at least be supportive of planning that we purchase the property, sure gifts do come. I am not sure what your point was. Do we have to assume a certain amount of land will be given to us as gifts?

Ross replied actually I am. I am suggesting that it would be unreasonable to assume that there wouldn't be any gifts in the future and there should be some consideration of that.

Councilor Kight asked if we were able to answer all of the areas that you have made comments about to your satisfaction, would you still support having a lower SDC fee?

Ross replied it is hard to imagine that you would address all of the areas that I have raised without certain discounts and credits against the data that is before you tonight.

Councilor Kight asked would we be closer to working towards a number that we can compromise on?

Ross replied we would be willing to work with you and your staff.

Mayor Thalhofer asked do you think it would be fair to ask the City of Troutdale to rely on the parks facilities of other cities to service our population?

Ross replied not 100%. I think it is the responsibility of the city council to find ways to provide parks and recreation. If you look at the numbers it is obvious that Troutdale is now charging the least and is far below the regional average, which is about \$1,700 and it is probably warranted to have some increase.

Mayor Thalhofer called for a 10-minute break at 9:05pm and reconvened the meeting at 9:20pm.

Andrew Jordan, Attorney representing the homebuilders D.R. Horton, I am also counsel for the homebuilders in the West Linn Case. I have been asked tonight to appear on behalf of D.R. Horton; the reason being is that D.R. Horton owns approximately 250 lots to be platted in Troutdale, which with the proposed Parks SDC would amount to around \$1.3 million dollars he will be asked to pay. I do not intend to reiterate what Kelly Ross has already told you this evening, but I want to make it clear that I have analyzed his letter and I concur with each of the points that he raised. Many of those issues are included in the West Linn case. I want to point out a few issues that I think are of major significance. It is necessary when you do what you are doing to make an effort to determine what the law requires and allows. The way you do that is by interpreting the law and you interpret the law by determining what the intent of

the law was. You go back to the legislative history, the history of why the bill was adopted in 1989. I did that this afternoon. The first issue I looked at was whether or not you can include open space in a parks and recreation SDC. When you asked Mr. Ganer his authority for including open space in the SDC's, he told you that there are national standards that would include open space. I don't know what those national standards are, nor have they been included in the record in this case to justify that position. When and if that issue goes to a court, the question would not be what the national standards are; the question is going to be what was the legislature's intent. I can tell you what the legislature intended having gone through the legislative history. For example, BJ Smith was the representative of the League of Oregon Cities in 1989 when that bill was considered. In the testimony BJ Smith said that SDC's are for capital development and she emphasized that SDC's for parks are based upon the need for improvements in infrastructure. She went on to say that you cannot use SDC's for libraries or schools. That raises the question of what is the difference between a library, school or open space, which is not expressly included in the statute. Jim Irvine of the Home Builders Association testified that the statute ensures that SDC's will be put into infrastructure and capital improvements for park development. That is what the SDC was adopted for. A representative for the City of Portland in those hearings testified that the SDC for parks was to finance capital improvements. A representative of the Home Builders Association testified that parks SDC's is money used for capital improvements. This directs you towards wondering what a capital improvement is. A capital improvement is defined in the SDC statute as facilities or assets used for parks and recreation. Nothing in the statute and nothing that I found in the legislative history of that statute states or even implies in any way that open space was intended to be included in the statute for the collection and expenditure of park SDC. The emphasis is on facilities and building. Of course you have to buy property in order to build something on it, but the emphasis is on facilities and there is no mention of open space at all. In the question of open space I looked at the LCDC Goals to see if those helped me in determining whether or not open space ought to be included in parks and recreation SDC's. What you find are two goals, one is Goal 5, which has to do with natural resource areas and Goal 8, which has to do with recreation. Goal 5 protects open space. There are twelve resources in Goal 5 that are to be protected as open spaces. None of those twelve things are parks. All of the things that are protected under Goal 5 are natural resources and none of them are parks. Goal 8 is to provide recreation facilities. Again the emphasis in the Statewide Goals is on facilities, not open spaces. I then went to LCDC's rules, OAR 660.023-0220, which defines open space for purposes of the LCDC's Goals. Open space includes parks, forests, wildlife preserves, nature reservations, sanctuaries, and public and private golf courses. That is what an open space is. Open space includes parks. Under that definition could you use SDC's to buy a forest? Could you use parks SDC's to buy a nature preserve? I don't think so. You can use SDC's to buy parks. If you can't use SDC's to buy a forest then the only conclusion from that is SDC's are not there to provide open space, they are there to provide parks. The conclusion I think is simply that parks are open spaces, but open spaces are not necessarily parks. One other issue is the question of whether or not your SDC activities must comply with your comprehensive plan. In the legislative history there is a statement that the CIP, upon which you base your SDC's must implement the comprehensive plan. Your Goal 5 speaks of a wide range of open spaces, several of which I am quite sure are not parks. Your Goal 5 says that you conserve open space by limited development. Parks have to do with promoting development. Parks are development. That creates a wide distinction between parks and open space. If you go to Goal 8 in your plan, it encourages the use of joint facilities of other agencies. In your

methodology you have essentially excluded the parks and open space of other agencies where your own plan says you need to encourage the use of those facilities. Secondly, your plan says that your park plan inventories parkland and recreation but not open space. It says that open spaces will be used to conserve ecological systems, drainageways, and areas of special natural features. The conclusion has to be that an open space under your own plan is an environmental issue, not a park and recreation issue. I think you need to look at not only the legislative history but also your own plan on the question of whether you can include open space in your parks SDC. I think you have to conclude, based on all of the law that I have found, that you can't.

Councilor Daoust asked you have no objection to linear parks, special use areas, landscape areas and pathways and trails being part of our calculation for SDC's?

Jordan replied I have not looked at the definition of any of those. If they are open spaces, which I assume special use areas perhaps are, I would have an objection. If linear park can be included in the definition of park, that is to say something that is improved, a facility that is constructed on land for recreation purposes.

Councilor Daoust stated maybe it is just the terminology that we use. In Troutdale, did you realize that a lot of our natural areas are immediately adjacent to the parks and they are classified as natural areas because they may go down into a canyon so they are less developable?

Jordan replied no I didn't know that. The question that raises is whether you can spend SDC money on that portion of the property, which is not a park but is nothing more than an environmental reservation.

Councilor Daoust asked would it make a difference to your argument if you knew that our natural areas have trails and bridges included?

Jordan replied perhaps, assuming that some of those natural areas have such facilities, that may be an argument for including them as a park. What I am telling you is I don't think that analysis has been made. I couldn't make it from the methodology that I read through.

Councilor Gorsek stated open space would be things like the Beaver Creek Canyon, which has been set-aside as a riparian zone. Would any sort of improvement that we were to do in that open space, in any way change, its definition?

Jordan replied I don't know, perhaps. What I said is that SDC money is to be spent on facilities and developing parks.

Councilor Gorsek asked so what you are saying is you can't just buy a forest and let it sit there?

Jordan replied I don't think so.

Councilor Ripma stated you have repeated several times, quoting the legislature, that SDC's must be spent on capital improvements. In our report where we have a description of the



authority to levy this SDC it reads, "Improvement fee SDC's may be charged for new capital improvements that will increase capacity".

Jordan stated I understand and agree that parks can include land. I don't dispute that. What I am saying is it has to include land upon which you are going to build a park.

Councilor Ripma asked so there is nothing wrong with the way this set out here? Capital improvement that will increase capacity is what the SDC must be used for?

Jordan replied I have no problem with that.

Councilor Thomas asked can you use the SDC's to purchase property on which to build a park?

Jordan replied yes.

Don Ganer stated I would like to address Mr. Jordan's issue regarding open space. This is the first time that I have really heard that argument. Your Parks and Recreation Master Plan, as most other parks and recreation plans, include a number of different categories of park and recreation facilities. Among those facilities are natural areas and open spaces, they are considered to be a type of park and recreation facility. I believe they qualify as park and recreation facilities. Land is considered to be a capital facility. Improvements on the land are not a requirement for something to be a capital facility. At least I haven't seen or heard anything and until there is a judicial decision otherwise I would count that open space is a park and recreation facility and you do have the authority to charge SDC's for that if you so choose. As far as the issues that Mr. Ross raised, regarding the park acreage amounts, we did not include an appendix listing each park and recreation facility. We did include in the report a summary of the current numbers of the facilities that the city has. Those numbers were verified with city staff. We could add an appendix that lists all of those facilities. The next issue he raised was dealing with the proposal to correct the existing park deficiencies. I believe we did address that. If we had identified in the report that there were deficiencies and just said there are deficiencies but we are still going to go ahead and charge this SDC and we are not going to address these deficiencies, that would be not addressing the deficiencies. We included in the capital improvement plan specific projects to address the deficiencies. We also included a proposed funding mechanism and we considered the impacts of the proposed funding mechanism on the payment of property taxes and made sure we were not charging twice for the facilities. So I believe we did address the issue and we did include a mechanism. There is no requirement at this time to have in place a mechanism to correct deficiencies at the time we adopt an SDC. At some point in the future if it is a prerequisite, where there is a court case that finds that it should be a prerequisite, then that is something that has to be decided in the future. As far as the cases that I am familiar with and the statute as it exists now, I believe that you can charge an SDC based on a higher level of service so long as you do address how you plan to improve the level of service that you currently provide to the rest of the community. The facilities that are considered in here are based on the 1995 Master Plan and the standards that are in the master plan are for city facilities, they are not for state or county facilities or other types of facilities that are owned by other jurisdictions. We based the methodology on the standards that are included in your adopted plan for city facilities. The issue as far as other jurisdictions and other facilities that may be

available they may add to the level of service but they are not city facilities. As far as other methods of park acquisition, there may be and we certainly hope that there will be some grants, donations or other methods, particularly to reduce the deficiency that the city currently has. If there are donations made by developers and they pay the SDC fee then they will get a credit against the SDC fee. It used to be common practice for developers to donate land for park and recreation facilities and many cities use that as the primary or only method of acquisition of land. Since land has become so expensive, expecting that to happen is a very risky proposition. We believe that this methodology is consistent with the Troutdale Parks, Recreation and Greenways Plan. Regarding the flat administrative charge; the requirement of the statute is that you cannot spend SDC money on things unless they are a direct cost of the administration. There is not a requirement in the statute that you use a specific methodology to determine what those costs are or how much you should collect to pay for those costs. We could certainly use a different method than percentages. However, I believe that the percentage method would qualify as far as a reasonable connection if it were challenged. There are other methods that we could use. No consideration of the current balance of the parks SDC fund; we did consider that there isn't a balance in the fund.

Councilor Daoust asked you stated that the 5% administrative charge is defensible, what did you base it on?

Ganer replied many cities in this area charge an administrative fee based on the percentage between 2% and 10% of the fee. Based on the expected cost of administering, collecting the fee and accounting for the fee. We used 5% because it is the most common number that is used in the area.

Councilor Gorsek asked Rich, I thought we still had some money in the Parks SDC fund?

Rich Faith replied that is my understanding as well. I believe we have around \$155,000.

Councilor Gorsek asked Marnie Allen, the interpretation that was given to us in terms of the ability to use SDC's for open space, could you respond to that?

Marnie Allen, City Attorney replied I agree with what Mr. Ganer has told you tonight. I believe that there is an argument that can be made that parks SDC's can be used to buy open space or just land that is not improved. I base that on a reading of the language in the SDC Statute that says it can be used for capital improvements, which is defined as facilities or assets that are used for park or recreation; land arguably is an asset. I also base that on the definition of capital improvements in the statutes regarding bonds that are issued to make capital improvements. In the statute, ORS 321.140 provides definitions including a definition for capital improvement, which is defined as meaning land, structures, facilities and then machinery, equipment or furnishings with a useful life of longer than one year. That also indicates that land can be a capital improvement. I believe that an argument can be made to defend the use of parks SDC's for just the acquisition open space or land.

Councilor Ripma asked does the existence of a current balance in the Parks SDC fund make any difference?

Ganer replied it would make a small difference in the dollar amount of the rate.

Councilor Thomas asked about the figure that Mr. Ross used of 57 acres of buildable land available. Isn't there more land than that available?

Faith replied our inventory of buildable lands is definitely more than 57 acres of residentially zoned property. I am not sure where Metro came up with that number. The number that I have with me tonight is the gross vacant land within the city and our urban planning area, which is 370 acres. I am not sure what portion of that is a buildable land; I can guarantee it is more than 57 acres.

Councilor Kyle asked Marnie Allen, are you comfortable with everything else in this report? I just want to make sure we are meeting the letter of the law.

Marnie Allen replied yes, I am comfortable with the methodology in the report. I would like to see us include an appendix that identifies the parks that make up the inventory and the definition of the types of parks.

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

Ron Woodin stated I have lived or worked in Troutdale for over 35 years. I am on the Chamber of Commerce Board. In all of the years that I have lived here I have found the parks systems to be very adequate. With the estimated population in the year 2015 to be over 21,000 I can see adding 90 acres of parks for the same level of service for a total of 269 acres, not necessarily the projected 435. We need to keep in mind that if we were to add 256 acres, there would be a maintenance cost, which would be an added cost to residents and a large loss of income to the city because the land would not be developed. At this time Troutdale does not charge SDC's to businesses. There are only seven or eight cities that do and one is Wilsonville. It was used as one of the tools to slow growth. If we were to start we would be one of only cities in East Multnomah County making our buildings and land less competitive for future businesses and growth. Typically the business community doesn't use the parks and if they were to hold a function at a park they would be charged a rental fee. As we all know, East Multnomah County is not in the best of economic times. Troutdale residents need and deserve good paying jobs without having to drive to Portland or Beaverton. We need businesses to come in and fill the sites, like the old Reynolds Aluminum site, to boost our economy. I have been talking with quite a few people and found that they think we have great parks and mainly use Glenn Otto and Columbia Park. We may be better off charging a user fee on these two parks, like Blue Lake Park. One other convenience is that we have three large parks on our city limits that we could possibly count as part of our parks inventory; Lewis and Clark, Dabney and Sandy River Delta, which add over 1,500 acres. Our Parks Advisory Committee is a group of hard working volunteers who commit a lot of time and energy to the community. They have set very high standards and are working very hard to achieve them. I would like to thank them for doing an outstanding job as well as our City Council.

Tom Skaar, Pacific Western Homes stated while I have not built in Troutdale recently, I have done a lot of building and development in East Multnomah County. In my involvement in Gresham I have watched what has happened with their parks and recreation as a member of their Budget Finance Committee and I also served on their Planning Commission prior to

that. They used bond money in the early 1990's to acquire a substantial portion of open space. At that time they also had a bond measure on the ballot for maintenance of their existing facilities which failed. To the best of my knowledge every bond measure that they have put on the ballot since that time have each failed. The citizens voted for the open space but would not vote to improve their existing parks or pay to improve the additional open space that they had acquired. I understand that the citizens of Troutdale recently voted to decline to have their taxes increased to improve their parks. It has been mentioned by several of you tonight that you are fearful of digging a bigger hole. I would submit to you that by increasing your parks inventory by some 400 acres, you perhaps would be avoiding digging a hole in terms of acquiring additional park land, but believe me you are digging a huge hole in terms of how you ultimately go about providing for the improvement and maintenance of these 400 acres particularly if you can not get your voters to approve bond measures or tax measure increases to do so. The money simply won't be there from any other revenue source. A lot of cities are finding that they are having to close facilities or let them become degraded. I would encourage you to consider this before you set off upon a path of trying to acquire another 400 acres. I think you need to touch on the issues of what the citizens of Troutdale can afford and are willing to spend on parks. Also consider that Troutdale is rather uniquely positioned among cities of its size in terms of having at its immediate disposal hundreds of acres of open space and existing developed parks. Your own staff has testified that they think there is around 300 acres of developable land in Troutdale. That translates to an average density of five units per acre, which is perhaps on the high side of how that land might be developed. Assuming that average, that translates to 1,500 homes or about 4,500 people, which added to your existing population gets close to the 19,000 buildout population. That will raise, at full buildout based on the \$5,000 SDC, about \$7.5 million dollars. That is far short of what your Parks Master Plan and your SDC methodology is based upon. I would like to encourage you to consider something less, hopefully far less. Certainly an increase is warranted and justified. Hopefully you won't find that it is warranted to increase it some 500% and go from being the lowest to the second highest.

Richard Allen stated I recently moved here and on my shopping list was the school district, home value and a park nearby. I am torn between my love for parks and friends that are unemployed currently and businesses that are having trouble. This is not an easy issue and I hope you take your time in considering it.

Roman York stated I would like to go back to reality here. We have heard from the city. We have heard from a hired consultant. I am wondering how much money has been spent on a consultant who swayed council to pass this unjust increase on parks. How many of these people live here. Once again you have outsiders telling us what to do, what is good for us and how much we should pay for it. Frankly, we have beautiful parks and we have wonderful parks surrounding us. Some of those parks charge user fees. When I use those parks I am happy to buy an annual pass or pay the fee. I believe it is time to stop gauging individual property owners and start distributing the cost for use of the park to the user. I am a property owner and I feel that hand reaching into my pocket. I have three lots on which I could build. Under this proposal it is outrageous. I built my home twelve years ago and the cost was around \$2,700. Today to build the same home you are looking at \$15,000 now and then add to that an additional \$5,000 or \$6,000 and you are looking \$21,000 just for permits. You are degrading the quality of a home that you can build. You are denying people who are potential buyers, you are excluding them from this market and you are discouraging building.

I have plenty of experience in building and this type of insanity drives builders away and drives business out of town. It is also unfair from another point of view. If I build a home and I sale my home to my neighbor who rents the house next to me than I am not moving in from the outside yet I am going to pay this outrageous fee. I have paid plenty to this city to receive very few services but have received a lot of grief. Why do we need someone from the outside to tell us what to do with our parks? We have to spend money on consultants to do so when we have financial troubles. Our budget looks like Agatha Christies mystery book where money is transferred from account to account with no explanatory notes showing what is happening to the money. We had a huge overrun on the sewage treatment plan without any explanations for it. We go on and on. Gentleman, we are in a recession. People are losing homes due to foreclosures. This is not the way to attract business and new building to town. I don't know any jurisdiction in this country that taxes itself and businesses into prosperity. There is a reasonable increase in fees; this has no other word for it other than legalized arson. This discriminates against individual properties. Its uneven paying for services for the enjoyment of the properties that we have for common use. I also would like to point out that for this hearing there was a small article published in the Troutdale Champion. The agenda that we received has no attachment explaining the consultants report. During the public hearing we were given one sheet defining the various costs. This is an incomplete set of information for every citizen and property owner in Troutdale to come and examine what is before you. You have that information and few select people have it, but the rest of us do not. Technically this invalidates this public hearing. You spend a lot of time listening to outsiders and consultants that were paid with our tax money to take more tax money out of our pockets.

Jay Ellis stated I am currently approved to do a small subdivision in Troutdale. I don't see the justification for an increase of this size. I don't oppose a moderate increase. I think it is a duty to the community to provide affordable housing. I think this eliminates a large segment of our population from obtaining affordable housing.

Mayor Thalhoffer closed the public hearing at 10:19pm.

Mayor Thalhoffer asked would the Council like to set this over or address this tonight?

Councilor Kyle stated I couldn't support the resolution as it is written. I wouldn't want to assess an SDC towards any business that might be looking to bring jobs into our area because they are needed. I agree that we might need an adjustment in our SDC fee but I can't support this amount.

Councilor Daoust stated I would be willing to propose a motion tonight to consider some minor adjustments to the proposed resolution. I tend to favor the whole package. I do not favor charging the \$198 per employee, so I would take that out and just add an appendix listing the parks and recalculate the SDC using the balance in the fund.

Councilor Gorsek stated I think most everyone in this room would understand that we all wish we could do the optimum for parks and all services. The problem of course is the economy. I would also oppose the fee for the businesses. I think that is has a damaging impact on the economy. I also could not support the SDC fee as high as it is.

Councilor Ripma stated I also oppose imposing an SDC on employees, it seems like a bad idea. The methodology that was used I understand and agree with but this is just not a good idea for Troutdale. We need to encourage businesses to come here. Its not that they don't use the parks and it isn't justified but I oppose it just on principle. I think it would harm our competitiveness in attracting industry. I would prefer to act on this tonight. I think the PAC aimed high. I think I would go with Option "B" on the list. I think we need a large increase in the SDC's because it is the future of our city. I think that these are needed. We are going to have more people and we need more improvements to our parks and this is a way to pay for it.

Councilor Thomas stated I would definitely scratch the business SDC. Anything we can do to encourage businesses would be more to my liking. I would be more in favor of Option "E". What I don't want to see us do is to put an undue burden on the finance amount that the homeowner is going to be paying over the next 15 to 30 years. I would like us to look at other options to fund the parks system to bring them up to the standards that we would like to see.

Mayor Thalhoffer stated I also do not favor the non-residential SDC fee. Troutdale historically has been very careful to have a good parks system and it shows. For a community our size we probably have one of the better systems. However, that didn't happen by accident. That happened by people before us who made sure that we had adequate parkland and improved that land. Some in the community would like to build on the vacant land we have but there are others in the community that would like to see as much of that land as possible purchased and used as parkland or open space. When that land is gone it is gone and when there is no elbow room in the city people will wonder what the city council did recently about obtaining more parkland for the citizens. We are going to have to say we just didn't get it done. Previous councils have taken care of the park situation in Troutdale. I think as we go along it is important that we make sure that we have a solid parks system like we have today. If we don't take steps to keep it that way it will soon slide back. I would like to see the council take a look at what kind of a figure that the majority of us can live with and still have it high enough where we don't create more deficiencies. I think this city needs to rely on its own parks system and facilities for our citizens. Remember this isn't a general tax on the population; this is a fee that is paid for by new development.

Councilor Kight stated I don't support putting an SDC fee on businesses. Chances are it wouldn't have a major impact but it sends the wrong message and makes us noncompetitive to our surrounding cities. One of the reasons we have SDC's is to provide additional infrastructure without taxing the people that are currently here. One of the attractions to Troutdale is the fact that so much of the area is either wooded areas or fields with berries. Some of you that have been around Troutdale have watched those berry fields disappear and be replaced with homes. The parks and open spaces are what attract people to Troutdale. Our charge is to look to the future. What is our city going to look like if everything is built right out to the edge? I am not comfortable with the \$5,117. I would be more comfortable with the \$4,858, Option "B".

Councilor Ripma asked if we went with Option "B" would we be able to act tonight? Attachment "A" to the Resolution doesn't come to the conclusion as outlined in Option "B".

Marnie Allen stated my recommendation would be that you direct staff to bring back a resolution with the Attachment "A" updated to reflect the fee amount that you decide on. That resolution could be placed on the consent agenda. You would not need to open it up for a full public hearing. One other thought is there were legal argument raised about whether or not open space, natural space and unimproved land is eligible for parks SDC's. You don't have an option that just shows removing that type of improvement and what the fee would be without that. That may produce a fee that is somewhere between Option "A" and Option "B". If you are going to decide to reduce the fee and pull something out my recommendation would be to take out that type of improvement that is most subject to legal challenges. Even though we can defend those challenges we could eliminate those issues.

**MOTION:** Councilor Ripma moved to adopt the resolution with the SDC per dwelling unit to be set at \$4,858; elimination of the business SDC for parks and directing staff to report back with the proportionate adjustments in Exhibit "A". Seconded by Councilor Kight.

Mayor Thalsofer asked were we also going to direct staff to come back with an appendix listing the parks.

**AMENDMENT TO THE MOTION:** Councilor Ripma moved to amend the motion to include an appendix listing the parks and the reflection of the current balance in the Parks SDC Fund. Seconded by Councilor Kight.

Marnie Allen stated I would recommend that staff prepare a resolution that incorporates everything that you have just stated and bring that back for adoption.

**WITHDRAWAL OF MOTION:** Councilor Ripma withdrew both of his motions.

**MOTION:** Councilor Ripma moved to direct staff to come back with an amended resolution, making changes to Attachment "A" of the resolution, changing the parks system development charge per dwelling unit to \$4,858, removing the business system development charge of \$198 per employee, adding an appendix that lists all of the parks, and include the current balance in the Parks SDC fund. Seconded by Councilor Kight.

Councilor Ripma stated this is an attempt at a compromise. I am troubled that the full number was a bit too high partly because of the failure to include the current balance of the parks SDC fund. I think we need to aim for a substantial increase in the parks SDC fee and I think the need is justified. Future generations will thank us.

Councilor Kyle stated I am in favor of everything except for the amount of the fee. \$5,117 and \$4,858 there is only \$259 difference. I could support funding 50% and leaving the rest up to the taxpayers to decide whether they want more.

Councilor Daoust stated I support the motion. Where I was headed if we were going to decrease the amount was to take it all out of natural areas and open space rather than have staff adjust every level of service.

Councilor Ripma stated I didn't want to take out the open space because I think it is justified and I think that is what we are acquiring for the future.

Councilor Daoust stated some councilors are concerned about the effect on homebuyers. I can't help but think that it will be minimal, especially when the alternative is to pay more elsewhere. Most people that I talk to look at the school district, livability and parks when they look at buying a home, in addition to the price range they are willing to live within. I think this \$4,000 increase is within the price range that most people are comfortable living within. I do like the idea that if a developer donates parks they can get an SDC credit.

Councilor Gorsek stated I love the resolution, but like Councilor Kyle I have a problem with the amount. I think Councilor Daoust is right when you talk about \$4,000 or \$5,000, that frequently just kind of disappears into the cost of the house but that is for those of us that do have the money. We have heard tonight from people about affordability and housing prices already being too high. The other thing to remember is this is a study and it is one company's projections and it doesn't mean it is absolutely correct. The \$4,858 still puts us at the third highest rate. There was a statement made earlier about all of the fees that are being raised everywhere and people don't want to pass tax measures so the fees get raised. \$4,000 or \$5,000 doesn't sound like much in terms of the big picture but in terms of the percentage of the increase I think it says something really negative. I would favor Option "F".

Councilor Thomas stated I would prefer Option "E" that would be three times what we are currently charging. Going with the \$4,858 we are \$3,000 higher than other cities in our area. I understand the needs. I think parks are important and I agree that it is one of the things that people look for when they buy property. This increase of nearly six fold is just more than I can handle.

Mayor Thalsofer stated I support the resolution for all the reasons I stated earlier.

**VOTE: Councilor Kyle – No; Councilor Daoust – Yes; Councilor Gorsek – No; Councilor Ripma – Yes; Councilor Thomas – No; Mayor Thalsofer – Yes; Councilor Kight – Yes.**

**Motion passed 4-3**

**6. PUBLIC HEARING / ORDINANCE (Introduction):** An Ordinance amending Chapters 3, 4, 5 and 9 of the Troutdale Development Code (Text Amendment No. 33). Amendments pertain to the R-20, R-10, R-7, CBD and MO/H zoning districts; congregate housing overlay district; home occupations; accessory structures; stormwater management; and off-street parking standards.

Mayor Thalsofer read the ordinance title and opened the public hearing at 10:58pm.



Rich Faith, Community Development Director stated there are several amendments that affect a number of chapters. Most of these amendments are housekeeping in nature and are a result of the adoption of amendments last year that related to multi-family design standards. At that time we incorporated a number of terms and definitions in the code. In conjunction with those multi-family design standards we also brought forward amendments to most of our zoning districts that allowed for multi-family type dwellings as either permitted or conditional uses so we had to modify the list of uses and some of the terminology and provisions in those various districts to be consistent with new definitions and terms. This set of amendments is attempting to do the same thing for some of the other residential districts that we did not address at that time but for consistency sake we felt we needed to clean those up to be consistent throughout the ordinance. At the same time we discovered other provisions in the code where we felt it would be an appropriate time to make some revisions to address some problems areas that needed to be fixed. The most notable of these would be in the residential zones, R-20, R-10 and R-7. Last year the amendments that were adopted increased the number of design features that a single-family dwelling had to meet from 2 to 6. We are proposing the same changes for the single-family dwelling unit in the R-20, R-10 and R-7 zones. In the R-10 zone we are adding under the list of conditional uses congregate housing. This is being done because congregate housing is so similar to nursing homes, which is already listed as a conditional use. That is also being done in the R-7 zone. There are some changes being made in the Central Business District (CBD) and the Mixed Office/Housing District (MO/H). One change that I will bring to your attention in the MO/H district, on page 22, we are striking item 3.145 C-2. It was a requirement in this particular zoning district that parking areas shall not be located between building fronts and the public street. This was done in conjunction with standards for the Town Center. When the Town Center Overlay District was adopted in 1998 we tried to incorporate specific design standards that we felt would enhance the visual quality of the town center. One of those concepts was to not have parking between the structure and the street. However, what we have discovered over that last several years is that we had various residential developments come forward and say that it is not practical to apply that standard because in the town center, which comprises most of the older areas of the city, lots are very small and with the slope characteristics of the area it has not really been feasible to put the parking behind the structure. In most cases we have had to process variances from that standard so we felt it made sense to strike that standard. Under congregate housing we are eliminating the section that specifies which zones congregate housing is permitted simply because we have added it to the list. Rather than spell it out in this overlay district we would prefer to have each of the zoning districts speak for themselves whether or not congregate housing is permitted or not. Under accessory structures we are making a change here for consistency with the building code. Effective on April 1<sup>st</sup> of this year the threshold for requiring a building permit went up from 120 square feet to 200 square feet, therefore that necessitates a change in this provision of our code. We are also adding the requirement for obtaining a development permit for those structures that would be smaller than that. This is consistent with our current practice but we needed to add it to our code. There is one change in the home occupation chapter, which is eliminating a general provision pertaining to all home occupations. Currently the code says that a home occupation must be conducted primarily as a supplementary source of income and not as the principal source of income. That really has not been applied and in many cases home occupations are the principal source of income and we feel that should be taken out of the code to recognize the real life situation. Various

amendments to the stormwater management chapter are merely to improve and clarify some of the points that were already there. This simply is a better structure and organization for that chapter. Finally Chapter 9, which is the off-street parking and loading chapter. This actually proved to be the area of amendments that received the most discussion at the citizen advisory committee level and at the planning commission. Currently, parking areas and driveways must be paved with impervious surfacing such as concrete or asphalt. We are trying to allow greater flexibility so that in some instances a porous material, like porous concrete or grasscrete can be used in place of asphalt or concrete. This is a trend that is now occurring in recognition of reducing the amount of surface run-off. We also tried to acknowledge in our code circumstances where we do have parking that occurs on a temporary basis on grass or bare soil. Most of those instances have been for temporary overflow parking in conjunction with special or community events held in our parks. There is an exception that ties it to parcels that are at least one-half acre in size so that it will not be allowed within residential neighborhoods.

Council had no questions.

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 11:05pm and stated there will be a second public hearing on this issue on May 27<sup>th</sup>.

#### **7. COUNCIL CONCERNS AND INITIATIVES:**

Mayor Thalhofer stated due to the late hour we will dispense of council concerns and initiatives.

#### **8. ADJOURNMENT:**

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

Meeting adjourned at 11:06pm.

**Paul Thalhofer, Mayor**

**Approved June 10, 2003**

**ATTEST:**

**Debbie Stickney, City Recorder**