

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

May 27, 2003

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 Kight, Councilor Kyle and Councilor Daoust.

ABSENT: None

STAFF: Erik Kvarsten, City Administrator; Jim Galloway, Public Works Director; Rich Faith, Community Development Director; Kyra Williams, Finance Director; Marnie Allen, City Attorney; Sarah Greif, Office Support Specialist; Elizabeth McCallum, Senior Planner; and Clyde Keebaugh, Parks and Facilities Supervisor.

GUESTS: See Attached List.

Mayor Thalhofer asked are there any agenda updates?

Kvarsten replied there are no changes.

2. CONSENT AGENDA:

2.1 RESOLUTION: A Resolution approving a 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 Kight. Motion passed unanimously.

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

Robert Shields stated what I have to say is of vital importance to the prosperity and survival of this community. I am concerned because according the United States Congress our supplies of fossil fuels will be completely depleted by the year 2037. In addition we are inactively destroying the world through our wasteful policies, actions and choices. I took it upon myself to find solutions and what I could not find I had to create. I will create a goal to see through this. I will manifest the first step of this by creating a sustainable city here in

Troutdale. I need the assistance of the City Council, Chamber of Commerce and the people of this community to see it through. No one person can create a sustainable city and this will not be my goal alone. The first step of this journey is to set a goal and after reviewing the Comprehensive Land Use Plan I decided to rewrite Goal 13, which is the closest thing you have to a sustainable goal. I would like you to consider this document and place the item on the agenda for the next available City Council meeting. At that time I will assemble a group of people in various fields of sustainability and allow them to testify on the validity of this goal as recommended by the Citizens Advisory Committee (CAC). I firmly believe this is the first step to find a sustainable solution to create jobs, protecting the elderly, creating new industry, saving our schools and filling our stewardship roles on a daily basis. I have a personal request to make to the City, I'd like you to buy me a book called "Sustainable Cities: Concepts and Strategies for Eco-City Development", it's only \$20. Working together, we will make a difference.

Mayor Thalhoffer stated with the Council's approval I would like to refer this to the CAC for further study.

Shields stated the last time I spoke to the CAC they felt they were not knowledgeable in this area and wished to speak with the experts. After speaking with Erik, I felt it was more appropriate to have those experts come and speak to the Council directly rather than going to the CAC and then to the Planning Commission (PC) and then eventually ending up at City Council.

Mayor Thalhoffer stated we have a process that we follow. Has the CAC actually discussed this issue with you?

Shields replied Mr. Mayor, my reintroduction of Goal 13 is basically a restart of everything that I've been trying to do for the last 3 years with the Troutdale Sustainable Energy Project. It's gone before the City Council and the CAC many times. This is basically a clarification of what I'm doing. This has not been brought before the CAC. I brought it here tonight because they don't feel like they are qualified to talk about this issue.

Mayor Thalhoffer replied it should either go to the CAC or the PC. We have no objection to hearing this when it goes through the regular process that we have established. I suggest you talk to Mr. Faith and get it on the agenda for either the PC or the CAC.

Eulia Quan Mishima stated I'm a resident of Gresham and I am a member of the Oregon Public Power Coalition, which is the group that gathered signatures to get the PUD ballot measure approved. We understand that PGE has gone to most of the municipalities, if not all, within the six counties that they are gathering signatures and they have been encouraging municipalities to take a no position on this ballot measure. I was very surprised that Gresham, after several months of telling me that there is plenty of time to discuss this, all of a sudden it was put on their agenda after the original agenda went to the media and a lot of people didn't know about it. I am hoping that won't happen here. This came about because Portland is still considering purchasing PGE. Enron has done some very bad things for our community. There are criminal charges against many of the people that were involved in this.

I want to talk about what some of their paid people are telling municipalities and other people. They seem to be trying to promote a fear factor in municipalities that whatever happens with People's Utility District is just going to be an absolute mess, they won't be able to handle it, it'll be a "Swiss Cheese" type thing because there will be so many P.U.D.'s involved and so forth. However, they did not offer anything that was documentary to demonstrate what they were saying was true. The information that I sent you was provided by the attorney that advises the Oregon Public Power Coalition. It explains that the Oregon Revised Statutes have taken the steps that are necessary, so that any transition from the investor owned utility to a public utility can be done in steps. I have a rate sheet for over 25 utilities, 22 of those utilities are government and all of the rates that they have charged have been less. PGE has been highest and the increase in rates began right after Enron came. Enron PGE did not give much of the taxes that they collected from the ratepayers for several years to the Federal Government or the State. They are continuing to collect money from us as ratepayers at the amount of \$250,000 a day, which will be sent to Enron and Enron will not have to pay any of those taxes because they are in bankruptcy. I have a good number of people that would be very happy to come and address or help you with information and dialogue if you would choose to put this on a future agenda.

Mayor Thalhoffer stated I think that would be better for a Town Hall Meeting that can be organized somewhere, maybe in Troutdale or Gresham.

Mishima asked will all East County participate?

Mayor Thalhoffer replied yes.

Mishima replied I think that would be better.

Mayor Thalhoffer stated maybe we can help get a Town Hall Meeting setup so that you can take those issues before a large group here in East Multnomah County and let all the players make presentations.

Mishima replied that would be wonderful. Is there a contact person that I might be in touch with?

Mayor Thalhoffer replied you may contact me here at City Hall if you'd like and I will try to get other Mayor's and the Chamber involved.

Mishima replied thank you very much.

4. MOTION: A Motion approving the Mt. Hood Cable Regulatory Commission's Fiscal Year 2003-04 Proposed Budget.

Norm Thomas stated I represent the City on the Mt. Hood Regulatory Commission. Tonight we are here to present our Fiscal Year Budget for next year. Some of the highlights of the past year are that we accomplished the AT&T Broadband transfer to Comcast Corporation, which happened on May 20th. We also provided consumer protection and complaint

resolution. Last year we provided jurisdictions with \$250,000 in additional revenue as a result of fines against AT&T for a lack in customer service. We conducted a review of the cable company franchise fees and were able to pickup another \$85,000. We also have guided development of the Community Institutional Network or the I-Net. We're funding projects to advance education community based technology. We've had a fourth successful year of grants with 23 currently funded projects and granted over \$300,000 for five new projects. We're responsible for developing an annual budget, which requires each and every council's approval. In the financial summary, the proposed budget is actually down .8% from the current fiscal year. The operating budget is the portion of the Mt. Hood Cable Regulatory Commission's overall budget funded by franchise fees. Cable franchise fees are projected to increase about 1.5% of the current years forecast. The estimated cable franchise fees to Troutdale would be \$26,335. The contribution from the City of Troutdale to pay for the proposed budget would be \$13,865. Other commission resources are a dedicated access grant program and revenues to the Cable Company, beginning fund balance, fund interest and miscellaneous revenues. The Commissions expenditures include distribution of franchise fees and compliance revenues to the jurisdictions, distribution of franchise fees and dedicated revenues to the community access provider, and community access capital grant of \$750,000 last year.

Councilor Gorsek stated on page 12 of the operating budget, it says fiscal year 2002-03 revised, it has repair and maintenance at \$2,000 and nothing in 03-04? Is that a true figure?

Julie Omelchuck replied I believe that if the Commission runs across repair or maintenance of any of our equipment that they take it out of the contingency so the revised budget for 02-03 includes some contingency allocations.

Councilor Gorsek stated that the only other question I have is in terms of the location, will you continue to be at Mt. Hood?

Councilor Thomas replied are you referring to MCTV?

Councilor Gorsek replied yes.

Councilor Thomas replied actually they are looking at building a new facility I believe on 8th Street in downtown Gresham, it used to be the old Furniture Factory or Fixture Factory. They will be moving from the College when that happens, I think their target is in the next couple of years.

Mayor Thalhoffer stated I just have one question about the I-Net. I've been reading in the Oregonian, I think it is, about the I-Net and suggesting that the State should use the I-Net and the Speaker of the House saying it's not a good idea. How does it save money for the schools and would the same principal apply to the State?

Councilor Thomas replied first of all the answer to your question how does it save money for the schools. They're able to buy services, for example telephone services at a substantially reduced rate from what they're paying through US West. Another advantage is that it's a

fixed cost so they can budget their cost for 2 or 3 years down the road. The institution is connected between all government agencies. For example Troutdale City Hall can use it, Gresham is using it, it's connected to all public schools and libraries. It's owned by the government, essentially we own it.

Mayor Thalhoffer stated why won't it work for the state as well as it did for schools?

Omelchuck replied I'm not sure what article you are referring to but the Community Institutional Network is only built throughout Multnomah County. So depending on what the State's interest would be or their network need would be the I-Net might not provide connectivity for them as far as where they would like to go. There are other networks that someone may have been referring to that are a more statewide type of network. But the I-Net that we refer to in our budget, and the Mt. Hood Cable Regulatory Commission has overseen development on, is really a network that connects Multnomah County institutions. As Councilor Thomas referred to, there are some connections now that get the I-Net to the Internet world so that people using the I-Net can access the Internet. If the State agencies in Salem need a network connectivity they would somehow need to connect to a network in Salem that would get them to Portland and then if they had a need to connect to the schools or something like that they could.

Mayor Thalhoffer stated maybe I didn't ask the right question, in any event it doesn't appear like it would work for the State at this time, am I correct?

Omelchuck replied I think mostly because it's a countywide infrastructure as opposed to a statewide infrastructure. To follow-up on Councilor Thomas' answer on cost and why it's a lower cost for the schools, one of the aspects for communication costs to the East County Schools is that every time they go through their connection through a different provider there is an interconnect fee. So say the schools out in Corbett were paying a substantially higher fee for their connectivity than a school like Reynolds or somebody that is closer in. East County School Districts are the schools that really have seen a drop in connectivity fees. Portland Public Schools are also on the I-Net and their fees are similar but they have more bandwidth so they have greater capabilities for the same cost and as Councilor Thomas said it's more of a set cost, it's not going to go up exponentially like they have been. But for the East County Schools they have actually seen a pretty big reduction in their fees because of that.

Councilor Kight stated on page 19 of your budget it looks like Troutdale starts out at \$100,500 for the franchise fee and there are payments to MCTV and etc. then the other side says \$26,335 then you drop down to the next box and there is a \$14,346 credit, is that a carry over from the following year?

Councilor Thomas replied the carry over is left over from last year, they just carried it over to the next year's budget.

Council Kight stated so we actually have \$26,335 not \$100,500?

Councilor Thomas replied that would be correct. But you have to remember it's a 60/40 split in that 60% automatically goes to MCTV and the other 40% goes to the City with a portion of that supporting Mt. Hood Cable Regulatory Commission.

Councilor Kight stated now drop to the box at the bottom and it show's Troutdale, 03-04 as \$26,335 and the City has an increase of \$510 and then you drop down to Fairview and they have an increase of \$1,166.

Councilor Thomas replied what you probably have to do is tie that back to the subscriberships because it's based on a certain number of subscriptions. Fairview may have jumped on the subscriberships a bit.

MOTION: Councilor Daoust moved to approve the Mt. Hood Cable Regulatory Commission's Fiscal Year 2003 – 04 Proposed Budget. Co-seconded by Councilor Kight and Councilor Kyle.

Councilor Daoust stated I reviewed their budget, it's very well documented. I could pick up any detail that I wanted to look into as to what it would cost and it was very thorough.

Councilor Kight stated I would have to reiterate Councilor Daoust's comments. In fact there is a line in here for T-Shirts sales, TV Guide and advertising 20th Anniversary so they have everything extremely detailed almost down to the pencils and pens that they buy for the office. They've done a very good job and extremely detailed, in fact I've never seen one this detailed before.

Councilor Kyle stated the only thing I can add is I got a kick out of reading it.

Councilor Ripma stated he would like to commend Councilor Thomas for all of his years of work on this Commission, you've done a great job.

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

Motion passed 7-0.

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

Rich Faith, Community Development Director stated as you recall this item was brought before you two weeks ago at the May 13th meeting. At that time the City's Consultant Don Gainer gave an explanation for the methodology that he used to come up with the proposed rate for Parks and Recreation System Development Charges. Based on the methodology

that was outlined in his report the City could charge a maximum of \$5,117 per new residential dwelling and a rate of \$198 per employee for a new non-residential development. The consultant provided several options for the council to look at in reducing that number. The Council took testimony on the proposed methodology and capital improvement plan which is part of the methodology report and by majority vote, Council directed staff and the consultant to come back with a revised methodology. The things that the Council asked to be revised in the methodology were the following: that the rate be set at \$4,858 based on the consultants Option "B" that we remove the \$198 per employee SDC fee on non-residential development from the methodology, that we include an appendix that would list all of the City's parks and open space within the report, and that we factor in the current balance in the parks SDC fund into the methodology. The consultant did modify the methodology based upon the direction that he was given and the new methodology report that is attached to my staff report as Exhibit "A" incorporates those changes. The inventory that was asked for is actually being embodied into the report itself as opposed to an appendix and that is found on page 7 as table 3.4. We determined that the current fund balance in the park SDC fund is \$157,200 so that was factored into the methodology and shows up on page 10 as table 4.1. All of the narrative in the tables that pertain to applying the SDC fee to non-residential development have been eliminated from the report. That results in a reduction in the total demand based on projected growth because employees are no longer built into the growth need. Finally, based on the changes in the methodology requested by the Council it produces a new maximum SDC rate of \$4,608, which is contained on page 12 of the report in table 4.6. That figure is less than the \$4,858 that was part of the Option "B" presented to you last time. The reason that it is lower is because by removing the non-residential component from the methodology it reduces the overall demand for growth need and also reduces the efficiency of repairing and consequently the overall amount necessary to meet our needs is reduced. Ultimately \$4,608 is the maximum SDC that can be applied to a new residential development. Starting from that number I asked our consultant if he could prepare a revised set of options similar to what he did last time, should the council wish to consider something less than the maximum. What you will see here is that he's using as a starting point \$4,608 per dwelling unit and showing various options of eliminating certain categories of park types in the methodology and then he provides you with the net result of a rate per residential dwelling which ranges from \$4,608 down to a rate of \$1,675 per residential dwelling. The matter before you is to adopt a resolution, which includes the attached methodology report and the capital improvement plan.

Councilor Daoust stated Mr. Mayor before we get into a discussion and public testimony I'd like to make a statement. I have decided to declare an actual conflict of interest and abstain from participating in the discussion and decision regarding the system development charge for parks. I was not aware that I might have a conflict of interest until after the first hearing. The parks SDC's will be imposed on all new development in the City and will be used to pay for a portion of the cost to acquire and develop parks throughout the City. I truly viewed the discussion and decision regarding parks SDC's as a broad legislative matter that was entirely separate from any decision the City might make regarding property that is adjacent to the property I own. I did not view the parks SDC decision as creating any unique benefit for me because the decision regarding the parks SDC's will have the same effect on me as it will have on anyone who lives near the 100 acres of parks that the City needs to acquire and

develop. Since the first hearing I have given additional thought to this and even though the decision regarding the parks SDC's applies citywide, since I live next to property that the City is interested in acquiring for a park, I have decided it would be best to abstain from the decision regarding the parks SDC.

Mayor Thalhofer replied you may be excused.

Councilor Ripma asked is this a conflict?

Marnie Allen, City Attorney, replied I believe there is a strong likelihood that Councilor Daoust is a member of a class and as a result of being a member of a class, there would not be a conflict of interest. Having said that the only entity in the State of Oregon that can determine whether or not someone is a member of a class is the Oregon Government Standards and Practices Commission and we don't have a written advisory opinion from them stating that he's a member of a class. If he's not a member of a class, if they were to find differently than the conclusion that I've drawn, I believe he could have a potential conflict of interest, although I don't believe that there is any evidence to show with any degree of certainty that he would in fact benefit by the parks SDC decision. No decision has been made yet regarding the acquisition of property that is adjacent to Councilor Daoust. Having said that certainly these are individual decisions that involve more than just legal analysis so Councilor Daoust just decided it would be in his best interest to declare an actual conflict and not participate.

Councilor Ripma replied any of us could be next to property that could be acquired as a park. Does that mean that the rest of us are unethical moneygrubbers if we don't declare a conflict too? Because otherwise I'm across the street from land that we're going to annex into our green spaces. Jim lives right next to our biggest park. Can we refer this to the Oregon Government Standards and Practices Commission for a ruling whether he or the rest of us represent members of a class or if we have a conflict of interest or not?

Allen replied yes, you could set this over and we could request an advisory opinion from the Oregon Government Standards and Practices Commission.

Councilor Kight replied as Councilor Ripma pointed out, I live adjacent and next door to a major park here in Troutdale and it has been earmarked for improvements with the SDC funds. So based on the criteria that Councilor Daoust has incorporated in his thought process and decision, I would also have a conflict of interest.

Allen asked are you declaring a conflict of interest?

Councilor Kight replied no I am not. It's just kind of a question/statement and I guess I'm going to echo what Councilor Ripma said and we need to have some kind of ruling from the Government Standard and Practices Commission about this.

Allen replied there is a process and we can make a request from them and we can get an advisory opinion from them if that's your desire.

Mayor Thalhofer asked how long would that take?

Allen replied I don't know for certain, I'd have to call and find out.

Mayor Thalhofer asked how many people are here to speak to this issue? Apparently we have two people who would be very inconvenienced if we held it over but since there are only two, it's not like it's a whole room that would have to come back.

Councilor Ripma stated if I may suggest that we ask the City Attorney to initiate the process of getting a ruling from the State Government Standards and Practices Commission and report on what she finds out next week and in the mean time, put this matter over.

Mayor Thalhofer stated we can table this matter.

Councilor Thomas stated I have a question Mr. Mayor. I think for me the real difference that we are talking about is how we all potentially have a conflict of interest. To me the difference is what is an active negotiation versus what's not. As Councilor Ripma stated the property is possible but there is not active negotiations.

MOTION: Councilor Ripma moved to table this agenda item until a written ruling is received from the Oregon Government Standards and Practices Commission as to whether or not Councilor Daoust would have an actual conflict of interest. Seconded by Councilor Kight.

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

Councilor Daoust stated I don't know whether I can vote or not.

Allen stated so if Councilor Daoust is abstaining because he's declared an actual conflict then the motion would fail.

Councilor Ripma stated Doug you don't have a conflict on the vote to table this item.

Councilor Gorsek stated can I just point out that we didn't get to discuss but my good friend here is discussing.

Mayor Thalhofer asked, City Attorney, could you give us advise on this issue as far as Councilor Daoust?

Allen replied I don't believe that Councilor Daoust has an actual conflict of interest that would prevent him from voting. It is an individual decision that has to be made because of the way the process is set up. So, you'll have to defer to him on what he wants to do.

Councilor Daoust stated I did decide to declare a conflict without a total base of knowledge to do that. I would like to have that total base of knowledge before we proceed. I was prepared to declare a conflict tonight and fully go with that but if the council wants to table it until later, I'll vote yes.

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

Motion to table passed 4-3 (Gorsek, Thomas, Kyle)

6. REPORT: A report and recommendation concerning a Troutdale Skate Park Facility.

Rich Faith, Community Development Director, stated the Parks Advisory Committee (PAC) has been attempting for some time to locate a Skate Park in Troutdale for the benefit of our skaters, skateboarders, in-line skaters and others. The effort to do so gained it's biggest momentum around 1997 - 1998 when a group of advocates for a skate park emerged and volunteered to take this on. Some people began to solicit donations of money as well as labor and materials in order to construct the facility. The only thing that they were seeking was for the City to provide a location to construct this skate park facility. The City was unsuccessful in finding a suitable location and consequently the effort dwindled over time. However, the PAC has continued it's determination to try and accommodate the needs of our young people by finding a location for a skate park facility. On March 18th the PAC held a community meeting in order to gather public opinion about a proposal to convert the tennis court, which is now used as a basketball court, at Kiku Park into a skate park facility. We did extensive notification of that meeting both in articles in The Troutdale Champion and in other media as well as notification sent out to households. Well over 100 people attended the public meeting on March 18th and approximately 30 of them testified on the proposal to turn the basketball court into a skate park facility. There was a mixed opinion both for and against and both sides had some fairly good arguments. However, at the conclusion of the public testimony, the PAC discussed this matter and reached some conclusions, which are in my staff report. The first conclusion that the PAC reached was that it seemed to be a unanimous consent among the citizens of Troutdale that we need a skate park. So it's not really an issue of we should have one, it's more of a question of where can we put one. The second conclusion that they drew from the testimony is that Kiku Park is perhaps not the best location. It's really not a suitable location for that facility. The third conclusion that they drew is that we need to have something and perhaps we're not in a position to have a "Cadillac" version of a skate park facility but something is better than nothing and even if we can only do it on a temporary basis, we should do so. Then they came to the conclusion that the vacant area to the west of our City Conference Building located on 2nd and Buxton is perhaps the best location they could come up with at this time to construct a temporary skate park facility. Realizing that property was acquired by the City and earmarked for a future City Hall, if we do go there it would be on the condition that it can be relocated to a permanent site elsewhere when the time comes to build a City Hall. I think the final conclusion that they

drew based on the testimony they received at the March 18th public meeting was that if the City can provide the location they are convinced that the supporters of the skate park would be able to make it happen, they would be able to solicit the funds or come up with donations of labor or whatever it would take. We did however look at costs associated with building a facility of this nature and I've included that as an attachment to my staff report. This would be a flat surface asphalt and then various modules would be assembled to make a beginner or intermediate level skate park facility. Based on the size of the area there, which is approximately 8,400 square feet, it would appear that if we were to purchase modules for that size of a location it would likely run about \$50,000 - \$60,000. The PAC is recommending that by motion the City Council approve and authorize the construction of a temporary skate park at the City site just to the west of the City Conference Building for a temporary skate park using portable modules to be relocated in the future when the site is actually built for the future City Hall.

Councilor Daoust stated would we be able to get this asphalt cover smooth enough for skateboarders? Maybe some of the skateboarders could answer that.

Faith replied they might know better than I we certainly looked at the more economical way to go on this, being asphalt. I've not done any skateboarding myself so I don't know how much of a difference there is between concrete and asphalt. We are simply showing a very low cost means to do this and if that's unsuitable then we could look at concrete. I think it was all from the standpoint of the removal.

Councilor Ripma asked where would we move it after we start to build the City Hall?

Faith replied the PAC hasn't gotten that far.

Councilor Ripma stated weren't they asked?

Faith replied they have explored a number of options and for various reasons those options have fizzled out. At this time they really don't have a specific site in mind for a long-term permanent skate park facility. I think their only concern right now is getting something put up as soon as possible.

Councilor Ripma asked when the time comes to move it, won't we be faced with the same exact problem?

Faith replied the understanding that they have right now is that the future City Hall is probably at least 5 years out, so the search does not end with this decision. You have, in their minds, 5 years to continue to search and find a permanent location.

Councilor Ripma stated of the \$50,000 - \$60,000 range to build this, how much of the investment would be moveable, useable at a new location?

Faith replied the \$50,000 - \$60,000 is strictly talking about the moveable/portable modules.

Councilor Ripma asked if the council agrees to this then that will open up that piece of land for the groups to start working on building it?

Faith replied the way I'd interpret that is that the PAC and City Staff would then start the ball rolling in terms of opening up the communication with the advocates and supporters of the skate park and probably work together to see how we can make this thing a reality. Certainly our intent would be to put most of the burden on their shoulders to build it but there likely would be some investment of city resources.

Councilor Ripma asked were the residences nearby notified of the action tonight?

Faith replied yes.

Councilor Thomas asked is there enough room in the budget to handle the maintenance issue? Other than that I concur with Councilor Daoust on the issue of concrete versus asphalt.

Faith stated I'll ask our Parks Supervisor to speak to that. I'm sure that we aren't going to be able to add more money into our budget, it's more of a question of how we arrange our current resources to cover this.

Clyde Keebaugh, Parks and Facilities Supervisor, stated it would just be reallocation of hours and labor spent. Since the City Conference Building is a city building, we do have charge of all maintenance on that site. We mow it on a regular basis and we service the Conference Building, landscape as well as the facilities itself. City staff is there quite often so they wouldn't be going out of their way to service this site. It would be more of a site inspection to make sure there is no vandalism and to inspect the components to make sure they are still safe and usable and empty the trash. We will have to reallocate some hours, yes, but it won't be a real stretch to service that site because it is already at a site that we visit on a regular basis.

Mayor Thalhofer asked what are the chances of having a demonstration project that we talked about several months ago for the skateboarders to come and try the different products out before we get married to any particular type of structure whether it be asphalt, concrete, rails, ramps and so on?

Keebaugh replied it can happen. The sales reps have all been very willing to bring their product out for viewing, if it's possible to offload some of it and set it up in a parking lot somewhere, we would be more than happy to do that. If it looks like this is going to go forward I can contact these folks and see what their time schedule is.

Mayor Thalhofer asked could the CCB parking lot be used?

Keebaugh replied I would imagine that we could use the cul-de-sac, the parking lot itself would not be suitable.

Faith asked are you saying that if the decision is made here to authorize use of that site, before we proceed to do any type of preparation or construction, that we should have a demonstration project and look at the different kinds of components and ask kids to help design this?

Mayor Thalhoffer stated yes that's exactly what I'm saying.

Faith replied I think that would be entirely appropriate.

Keebaugh replied the intent has always been to involve the skateboard community from the very beginning and yes we would want to have them look at the components and determine which ones are better.

Mayor Thalhoffer asked you anticipate that there will be people in the community that will be willing to contribute?

Keebaugh replied yes.

Councilor Kight stated as the Mayor indicated some of the people are willing to donate either money or provide labor. Is there a guaranteed threshold of donations on the part of the folks that will be using the park that will help trigger putting the park together or is that going to be a condition? Are we going to go ahead and develop the park and hope the funds come in from the private side?

Faith replied I think our intent would be the former of those two things. Before we proceed, we have to receive a commitment of some type from the skate community here in the City and that would be a commitment either in securing funding or perhaps sponsorship as another idea that we have talked about. The components could be purchased based upon sponsorship. If a business here in Troutdale is willing to provide the money, they might get their name on the side of that component. That would give recognition to their contribution. All of those things would have to be ironed out. We're not here tonight to say if you authorize this location, that city staff is going to commit funds that the City doesn't have to build this thing. Our intent would be to begin the dialogue and the coordination with the supporters of this to get their commitment to help in making this thing happen.

Councilor Kight asked did anybody ever look at the property immediately to the west of the ball fields at Columbia Park? I'd like to see more of a permanent home.

Faith replied it was given brief consideration. The major drawback, in the minds of the PAC is that we had looked at that several years ago for potential football and baseball fields, and the PAC held several meetings and invited the surrounding property owners to voice their opinion and it was overwhelmingly shot down by the neighbors. Any type of active recreational ball fields or active recreational facilities on that location would be totally unacceptable to them. So the PAC has backed off of the area entirely.

Councilor Kight stated people bought homes next to a park and they don't want anything to be put there as far as a ball field where people are involved in some kind of athletic activity?

Faith replied correct.

Councilor Kight stated I'd like to ask our City Attorney, what is the liability issue should someone get injured on this particular property if it were developed as a skateboard park?

Marnie Allen replied there's really no way for me to give you a definitive answer on what the liability would be. It would depend on several factors including the nature of the accident or injury that happened, the City's roll, if any in that injury. There are other cities in the State of Oregon that have skate parks and I'm sure we could talk with the City's insurance carrier about risk management and things the City can do to minimize and manage the risk of liability.

Councilor Kight asked what kind of security would we provide on the site or for the people that are using the park so the wrong element doesn't take it over?

Keebaugh replied we are proposing that the area would be fenced.

Councilor Kight asked what about lights?

Keebaugh replied no. It is a fairly open area, there's not a lot of cover. This park, as with all city parks, would close at dark. The police department would need to drive by and see if there is anybody out there. There would be some lighting from the street lights but we would not want to light it because it would draw people to use it after dark.

Councilor Kyle stated I would hope that we could find something permanent. We have needed this for a long time. I know that the merchants would love to see the kids have a regular place to skateboard. I'm also concerned about the liability. My other concern was the expense with the City's tight budget, I would hope that there would be enough money upfront to do this right and not do it piece by piece. I know that there is going to be a lot of community support for this. I don't want to put a burden on the City's budget.

Councilor Gorsek stated what about the possibility of some of the property over on the other side of Frontage Road, where the airport is, there are vacant signs all over the place. Is there any possibility that we could purchase a piece of that ground or rent it?

Faith replied well there's a couple things there. One, location is probably not ideal. We are trying to put this in a convenient place for kids. This is going to be more for the beginner and intermediate levels and ideally it should be closer to our residential area as opposed to putting it on the other side of the freeway where they may have a little more trouble getting to it. The second is even if the property is available, it's going cost us. In 1997 – 98 the one or two individuals that were really active behind this searched the City to try and find a benevolent property owner that would donate land for a skate park and they came up unsuccessful. I don't think anybody is going to give us that land. We would have to buy it.

Councilor Ripma asked where is the nearest public skate park to Troutdale?

Faith replied Gresham has one but from what I understand it is not highly regarded by skaters because it's unchallenging for most skaters. So it's not considered to be one that local kids would like to visit.

Councilor Ripma asked Gresham only has one?

Faith replied Gresham has one, yes.

Councilor Ripma asked so if ours is well designed it would be really attractive?

Faith replied it is not going to be on the scale of some of the better parks in the region. Again, it's going to be more for the beginner and intermediate, it's not going to be a challenge to the older kids and those that have been skating a long time. They are going to be looking for the in ground concrete bowls and things of that nature.

Councilor Gorsek stated so it's not comparable to the City of Portland's under the Burnside Bridge?

Faith replied no.

Councilor Ripma asked the City Attorney, are we shielded from liability or in any way have less concern if it's designed and built by volunteers in cooperation with City staff, does that make any difference at all?

Allen replied well it depends, if the volunteers are agents of the City then that liability may flow back to the City. But certainly we could look at trying to structure the work that's done on the design so that if there is a defective design, that liability doesn't flow to the City.

Councilor Ripma asked use at your own risk or something?

Allen replied yes. Depending on how that's set up, I don't know how feasible it would be to get users of the park to sign a release of liability or those kinds of things. Those are risk management tools the City's used before for other city facilities.

Councilor Ripma stated if I'm understanding your answer, if we support this idea in concept, we will then have supported doing a test skateboard park on the cul-de-sac? Is that the intention of what you answered to the Mayor? What worries me is that the City is not the only property owner on that cul-de-sac. It is a street, while it does look ideal as a place to test things, it would close the street and might raise other issues.

Faith replied, the PAC was interested in using the cul-de-sac as a place to showcase these modules if all the right steps were to take place and also recognize that because it is a city street, the Council would likely have to give their approval to closing it off. Before all of that

was determined we would also want to confer with the other property owner that does have use of that street. It isn't an absolute given that we would do that, it is a desire to use that but again it's contingent on the Council authorizing it's use and other property owners might be affected also.

Councilor Ripma asked how long would that demonstration last?

Keebaugh replied I would imagine that it wouldn't last very long. I can't answer for the representatives on how long they want to leave their product out there. They may only be willing to put it out there for a day and set it up for use. I couldn't foresee that it would be lengthy.

Councilor Ripma asked did the PAC consider this site as a permanent site for the skate park?

Faith replied I don't recall that was ever in their minds. From the beginning as they were looking at that site it was always their understanding that it was earmarked for the future City Hall and that if it is to be used for a skate park it would have to be temporary.

Councilor Ripma asked was there anything in their discussion that this wasn't a suitable site for a permanent skate park, it just wasn't discussed either way?

Faith replied I don't recall that was part of the discussion that this might be the best location for a permanent skate park, they were always thinking in terms of a temporary facility at that location.

Councilor Thomas stated as I look at this budget that you put together, the only real cost that we're going to incur is about \$14,000. Which means the other \$50,000 - \$60,000 is actually just assets that we've bought, so the real loss here is about \$14,000?

Keebaugh replied correct.

Faith stated I don't even know if that's a given that the City would be loosing that, these are our estimated costs for certain site preparations and amenities that would need to go with it. Again as we enter into these discussions with the advocates of the skate park what they may be able to come up with as far as funds to purchase the materials or get donations, these are all possibilities. I don't think there is anything here that says we the City are obligated to spend any money for the facility.

Mayor Thalhoffer asked isn't it true that in your discussions with other jurisdictions throughout the state, that skateboarders tend to take care of their own problems when it comes to liability?

Keebaugh replied generally the liability issues have been posting notices "use at your own risk", and if you are maintaining your sites then you're reducing possible liabilities there.

Mayor Thalhoffer called for a 10-minute break at 8:45pm.

Mayor Thalhoffer reconvened the meeting at 8:56pm.

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

Cindy Thomas stated I have a website that's all about Oregon skateboard parks. I've been to every skate park in Oregon except for five. I'm confused about what is trying to be decided tonight, are you still just trying to decide on a location and all this talk about ramps and companies, is that still premature because we're trying to find a location?

Mayor Thalhoffer replied I think we've found a temporary location.

Thomas asked so tonight are you going to vote on accepting that site, is that what's happening?

Mayor Thalhoffer replied that is very likely what will happen.

Thomas stated I really think a permanent site will be far better for several reasons. Not necessarily the money but when we get a skate park people will get used to it being there and it will become part of the scenery. Then in five years you will have to relocate it and start all over again with "this not in my backyard" stuff. It is really hard to find a place because a lot of people don't want a skate park close to them, they're really noisy. But at the same time it's really important not to have a spot that's really isolated. In St. John's, they built their skate park and they have nothing but problems because it's so isolated its constantly attracting vandalism. I really think you should think more seriously about making this a permanent location.

Dane Thomas stated I've been skating for 13 years so I feel I know a lot about skateboarding and skateboard parks. The asphalt idea is a really bad idea because when your skating and your going along pretty fast and you fall on the asphalt you'll tear yourself open. But when you hit cement you'll get basically the equivalent of a rug burn, but we call it a cement burn. As far as the liabilities, most of the skate parks in Oregon have a "skate at your own risk" sign posted at the entrance of the skate park and I've never seen any law suites filed against these parks. One more thing I'd like to address is the fence idea. I think it's a very bad idea because it's an obstacle that gets in the way and the boards will fly into it and they'll look bad. We are very self-policing so really there are no problems. There is some vandalism but that only comes at night and that's mainly not from skateboarders. We really want this park here, and I think the skaters in Troutdale really need a place to go.

Robert Shields stated I'm speaking as the Executive Director of the People's Alliance for Local Systems. From my understanding the issue at hand tonight is to decide whether or not to use the CCB Building area as a temporary site for a skate park. My recommendation is that you do not go with that. I would like us to focus the energy, resources on a permanent location. I have done some independent research and have spoken to a property owner regarding the land down behind the Chevron Station on Frontage Road and they want around \$9.00 an acre. What I'm proposing is that we use that location as a permanent skate park

and a community center. A place where we could have basketball courts and maybe even some other community services that are needed in this area. There is no money available to put up a skate park, however, if you tie the word Community Development into a skate park and provide a valuable service to the community, there are tons of grants. There are opportunities to fund it from the private sector as well as from State and Federal grants. The maintenance of such a facility would be tied into membership fees or in some other ways would be self-promoting and self-sustaining. The reason I'm promoting this is because it's part of developing a sustainable city. It's part of bringing communities together and I would like to see that we spend more of our precious time in these avenues rather than temporary solutions. I'm willing to work with the Park and Recreation Committee as well as the advocates for building a skate park. I just don't think it's in the best interest of the City or the citizens to pursue building a temporary skate park at the Conference Building at this time.

Loel Laughlin stated I live on 4th and Buxton and as far as notice, this is the first notice I've heard of the skate park and I live in the area. I'm concerned about the noise and security. I know we have trouble with people speeding down Buxton already.

Frank Windust stated I own the property across the street from this site you are talking about and I have had no notification and I think if you check, you'll find that nobody was notified. That property was zoned central business district for business and city hall's and things like that. It wasn't designed for parks. I think that's a terrible thing to put at that location. It would be detrimental to my property, which will probably be built into condos because there is no good access to the site for commercial. I don't think that people living in condos there care to have all that noise. I think it's a terrible idea, I think you should find another permanent site somewhere.

Doug Walls stated I am a taxpayer here and I own a couple of houses, I'm a landlord here in Troutdale and Gresham. I think the skate parks a great idea. I have two kids myself. The fence part is a bad idea because it gives them something to vandalize. I think you'd have plenty of volunteers because I believe Imagination Station was built with a lot of volunteers.

Ron Spence stated I just moved here to Troutdale and I support Robert's idea about the community center because it's a really good idea and have all of the skaters help build it. The temporary idea is a bad idea because the skaters will get used to it being there and then when it's gone we'll have nothing to do so then we'll have to go street skating and that's bad and it tears up all of the architecture here.

Chris Olsen stated I support the skate park because I'm from Portland and I'm here a lot. I come all the way here and there is nowhere to skate so we have to go all the way back over to my house to try and do something. I think it would be a good idea to come here to skate.

Councilor Kight asked Mr. Faith, Mr. Windust brought up an interesting question about this site being zoned central business district, could that type of an application be applicable to that area or would that be a violation?

Faith replied a skate park could fall into the category of parks, playground, and recreation in a catchall category, I think that's the closest one it would come to. Those are permitted by conditional use in every zone in the city.

Councilor Daoust stated we have heard at least one person say that asphalt is not good. It seems like we picked asphalt because of the cost.

Councilor Gorsek asked Mr. Faith, in terms of the two different speakers that said they hadn't received notification. Do you have any idea about that?

Faith replied I was thinking about what may have happened and there may have been a glitch. I know that we notified those folks that attended the March 18th meeting and we specifically sent around a sign-up sheet and told them if you want to be notified of any future meetings or hearings that will be held on this topic, please fill in your name and address and we will notify you. I know that was communicated to my department secretary in advance of this meeting and thinking back I'm wondering if we did overlook the surrounding property owners. I know that we did send out mail about notices, it may have only been to those that attended that meeting in front of the PAC. I'll have to check tomorrow to see if that is the case, right now I suspect it may have been a glitch.

Councilor Ripma asked was the meeting on the 18th specifically about this site?

Faith replied no the meeting on the 18th was about Kiku Park.

Councilor Ripma asked isn't it true that these meetings that we have held over the years, there is a proposed site and we notify the surrounding neighbors and they come to the meeting.

Faith replied one thing that I think we've established here is that if we go forward with this then it will necessitate a conditional use application because we are going to be establishing a park facility on this property which is only allowed by conditional use. So we will be into a land use application process which goes to the Planning Commission and then we have to give notice to all property owners within 250 feet. So there would have to be another step in this process before we could actually construct anything there.

Councilor Ripma asked we will have started down the road in a way that makes it more likely to occur if we were to endorse this proposal, isn't that right? The others never went to a conditional use, they didn't even get that far?

Faith replied no. Frankly at one point the PAC, you have to realize their experience and frustration after this many years. Every option that they have looked at has sort of washed out on them. They were actually toying with the idea of not conducting any more meetings or exploring any more sites without specific direction from this Council in terms of which sites you feel are suitable candidates. But they decided to pose the question, here's a site that we think is suitable and we just want to put it in front of you as a recommendation and get a decision from you.

Councilor Ripma asked doesn't it seem to you that the way we're doing this without notifying the neighborhood and having the usual process and having us just pick a site doesn't allow the neighbors an opportunity to counter at an early stage?

Faith replied because of the possible oversight of not notifying property owners, which I will have to verify, they do not have the benefit of weighing in at this level. If you do give a green light to go forward with this when we have a formal application to establish a park on the site they would be notified.

Councilor Ripma asked Mr. Laughlin lives at 4th and Buxton, is he within 250 feet or would he even receive a notice?

Faith stated the rule of thumb is you take the exterior boundaries of the site, even if you are only talking about a site on a small corner, you have to take the entire exterior boundaries and then 250 feet from that. If this property extends up to 4th as I think it does, then we would measure 250 feet from that southern boundary and it would likely include this gentleman's property. We can always go beyond that if that's your wish, 250 is the minimum we could extend it further than that if you'd like.

Mayor Thalhoffer asked do you think that we could have another one of these meetings when people are properly noticed? It's an oversight I think but non-the-less, notice is one of the most fundamental rights that we all have in this country, these people who are within 250 feet need to be notified. Adjoining property owner Mr. Windust should have been notified of this too, I think.

Faith stated I'm not going to concede that we failed, I'm saying I need to check tomorrow. I know it was our intent to send out notice and I'm trying to grasp whether these gentlemen did not get the notice. Perhaps it was the wrong address, I don't know or it could in fact be that they completely forgot to send it to the surrounding property owners, which was our intent. It could have very easily been a communication failure between me and the department secretary. I will have to verify that tomorrow.

Mayor Thalhoffer stated apparently some people didn't get a notice who should have got notice. Mr. Windust should have and Mr. Laughlin probably should have. Would you have any problem with that?

Faith replied yes but it's your decision.

Councilor Thomas asked Mr. Mayor could I make a motion to table this until the next Council Meeting?

Mayor Thalhoffer replied if your idea is to move to table it so that we can get notice out it might take longer than the next meeting.

Council Thomas stated well then the next available meeting.

Mayor Thalhoffer asked Ms. Allen would you give us some guidance on this issue?

Allen replied sure, since this really is only on the agenda as a report and not a formal public hearing or on the agenda as a formal motion, it would be appropriate to give staff some direction and ask them to bring it back after they've given the notice and then put it back on the agenda as a report. I wouldn't recommend the motion to table because that procedure doesn't fit with the nature of the item before you.

Mayor Thalhoffer asked what kind of a motion would be appropriate then?

Allen replied direct staff to provide notice to property owners within whatever radius it is that the Council wants staff to notify and to bring back this report on an agenda after that notice has been sent.

MOTION: Councilor Thomas moved to put this off until all people have been notified and set a date that's appropriate for a future council meeting. Seconded by Councilor Gorsek.

Councilor Thomas stated I think in light of the notification issue I'm not ready to go forward tonight although I think it's a very important issue. I think that the proper notification is the right of the people.

Councilor Gorsek stated we do want a skateboard park and I don't want the people here to think that we don't but at the same time, as much as we want to honor that right for a place for kids to go and be off the streets and be safe and have a good time, we also have that honor of the procedural rights of people that own property around here. I know it's kind of frustrating but we really do want to do this and this is the best way to come about so that its fair to everybody.

Councilor Daoust stated I guess I'm willing to put a vote on the motion. I do have some thoughts that since the PAC has turned this over to the Council as far as locations go and we've heard quite a few people say that a temporary park isn't the best. The Council should take the bull by the horns and instead of paying \$14,000 to prepare a site for temporary use, we should hire a consultant to look for the best locations in the City. I'm willing to vote to put it off but I guess I would add that I don't think we're going to come to the conclusion that we all feel comfortable with just putting this one particular site off. You know I'm well aware of how much volunteers can do because my wife and I organized the entire process for Imagination Station and had that built by volunteers. So I know the power of volunteers but that will come later after the City Council does our thing and selects the site. In order for us to pave the way for volunteers to do their thing, we need to do a good job of finding the right permanent site.

Councilor Ripma stated I really thought maybe we found a good site here simply because I was hearing very little negative reaction. Even tonight people were negative

about it being temporary but here was a site that looked like it would work. I've come to learn that maybe at least a couple of people didn't hear about this who are neighbors that didn't find out until last minute and came. Obviously I'm like the rest of us concerned had the neighborhood been notified there might well have been a lot more. That has been the pattern up until now. We'll have to see once the notice goes out. So I'm disappointed because I thought we had a site but if it was done by not notifying people, we just can't do it that way. I will say I think we need to consider this as a permanent site, not a temporary site. The reason is the experience I've heard from over the years from other cities when a heavily used sports facility is located temporarily somewhere, whoa to you who tries to move it. The room fills with all the parents and all the kids and we try to move it and unless you have a spot, which is exactly the problem we're having with this skate park, everybody wants it but we can't find a spot, we'll be faced with a problem of not being able to close it without a human cry and have no other place to move it. So I just say if I was going to support this site I would support this on the basis that we are seriously considering this a permanent site. Even though it's styled temporary it's like the kind of things Congress has been doing lately on our taxes, it's temporary alright. But we should be thinking, I think as a Council, in terms of it being permanent. I don't think it's a bad permanent site and that way we could invest in a top quality facility. But that's only if it passes through the normal process of hearing from the neighbors. On the point of hiring a consultant to go around and do what the PAC has been doing for years, lots of sites are feasible but it always runs into the problem of holding the hearings and having all the neighbors coming out. Kiku Park looked great until we heard from the neighbors. Spending money to have a consultant do it, I think it's really repeating what the PAC has already done. I'm going to support the motion.

Mayor Thalhoffer stated I'm going to support the motion as well. I do not favor hiring a consultant to find a site. The PAC and others have looked at, in, around and behind every nook and cranny in this City and tried to find a site for a permanent skateboard park and so far they have not found one. Hopefully at some point we'll be able to acquire more parkland. We have an SDC matter coming up at some point in the future where we may be asking for more SDC's and we may be able to find some land that may lend itself better to a skateboard park than anything we've got right now, who knows. I'm in favor of this motion, we've got to give these people notice though.

Faith replied Mr. Mayor, what if that notice has been given. Again, I'm not ready to concede. I know the conversation took place with my secretary, I know we discussed where to draw the boundary. I just cannot guarantee that there wasn't a glitch somewhere. Perhaps these are the only two gentlemen. There's any number of reasons why they may not have received the notice.

Mayor Thalhoffer replied I think that we should re-notice people because two people who should have received notice, didn't apparently. Therefore, if we re-notice we can be sure that everyone who should receive notice does. Mr. Windust would have been an automatic person to give notice to and he didn't get notice. Don't concede if you don't want to, that's ok, but I think we have to re-notice people and move on.

Councilor Kight stated I'm going to support the motion. I think we need to notify the neighbors. I'm sure Frank Windust would of showed up if he'd been notified but he is here in lieu of the fact that he wasn't notified. Having said that I think we need a reality check, I think Doug's idea or something similar to that is a good idea. I think we are going to get the same reaction we got from the people up at Kiku Park. Two things bother me about this site, Mr. Windust indicated that he's going to develop and he's going to have his ten houses right there and they are going to be complaining about the skate park. Second it's not going to be permanent, that bothers me because as Councilor Ripma points out, an established park there, trying to move it is going to be next to impossible. So I'd like to have a more permanent location, I don't like the idea of temporary. I think part of the problem is we've identified property that the City has owned already, maybe we need to look at other vacant property that the City doesn't own.

Councilor Kyle stated I'll support the motion.

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

Motion passed 7-0.

Councilor Thomas asked Mr. Mayor is it possible to try and set a date now?

Councilor Kight left the meeting.

Mayor Thalhofer asked would either the City Administrator or the City Attorney respond to the request for a date please.

Erik Kvarsten, City Administrator, replied the next available council meeting would be June 24th. On June 10th there would likely not be time to give notice. The next available council meeting after that is July 22nd, if you want to choose one of those at this time.

Mayor Thalhofer asked June 24th would be possible then?

Allen replied yes, it sounds like we can get the notice out by then.

Mayor Thalhofer stated this gives staff direction to bring this back to us on the June 24th Agenda.

7. PUBLIC HEARING / ORDINANCE (Introduction and Adoption): An Ordinance approving the Beaver Creek Corridor Annexation and concurrent plan map and zoning district map amendments (File No. 03-019).

Marnie Allen, City Attorney, stated under the Troutdale Charter the procedure for adopting Ordinances is called out. That procedure generally requires introduction of the ordinance at one meeting and an adoption at a second hearing. But the Charter does indicate that the Council can adopt an ordinance at the same meeting that it's introduced as long as you include in the ordinance that your adopting an explanation of why you are adopting it at one meeting and as long as all Council members present vote in favor of adopting the ordinance. We've included the findings so that if all Councilors that are present support this ordinance, it could be adopted at one meeting tonight.

Councilor Gorsek stated since this is Mt. Hood Community College property and I work for Mt. Hood Community College, I just want to make sure there is no conflict of interest for me.

Allen replied it's my understanding that you will not either benefit financially or have any financial gain. The decisions regarding this property won't have any economic impact. In light of that, you would not have a potential or actual conflict.

Beth McCallum, Senior Planner, stated before you is a request for annexation of certain properties to the City of Troutdale that have recently been de-annexed from the City of Gresham. The properties are owned by Mt. Hood Community College. Metro and the property owner, Mt. Hood Community College, have entered into a Memorandum of Understanding with the Cities of Troutdale and Gresham regarding this annexation. That Memorandum of Understanding is part of the Exhibits that were provided from Metro to the City with their Land Use application. The Planning Commission met on April 16, 2003 and forwarded to the City Council the recommendation for approval of the requested annexation and the current comprehensive Land Use Plan Map and Zoning District Map amendments to apply to open space plan designation and open space zoning district on the properties. A detailed analysis of the criteria is in your packet.

Beth showed a PowerPoint Presentation. The properties are located south of Stark Street and west of Troutdale Road and east of the college campus. The properties include Beaver Creek, the canyon of Beaver Creek and a portion of Burlingame Creek. The area's that are shaded-in in blue are three tax lots that are also owned by Mt. Hood Community College, those parcels are zoned industrial park. Metro has a program to purchase Green Spaces with Bond issues and the area outlined in yellow on this picture is the entire area that Metro is going to purchase from Mt. Hood Community College consisting of 62 acres, 48 of which are the portion being annexed to the City. The dashed red line is the current City boundary. The new City boundary will follow the yellow boarder to the west. There are two annexation criteria's to consider. The proposal conforms to the Comprehensive Land Use Plan or substantial changes and conditions have occurred which render the Comprehensive Land Use Plan inapplicable to the annexation. While the first part of that criteria is true that is the findings of the Planning Commission for you that it does conform to applicable rules and policies of the Comprehensive Land Use Plan. The second criteria is inclusion of the territory within the City would be consistent with the purpose served by the City and that also is the finding of the Planning Commission before you. Consideration of the City's annexation criteria are met and Exhibit C of your staff report are the findings from the Planning Commission. In addition to the City's annexation criteria, this particular proposal must also

be in compliance with Metro Codes. Urban services are presently available to serve the effective territory including any extra territorial extensions to the proposed boundary changes consistent with Troutdale's Comprehensive Land Use Plan, Public Facility Funds, Regional Framework Plan, Regional Urban Growth Goals and Objectives, Urban Planning Agreements and similar agreements of the effected entity of all necessary parties. The proposed boundary change will have no effect on the legal boundaries of Multnomah County, the Mid County Street Lighting District, Tri-Met or Metro and affirmative findings have been made for all those criteria and that analysis is what we give on page 9 of the Planning Commission staff report. So the proposed annexation is consistent with Metro's Code and the City of Troutdale criteria. Along with that is the requested plan map amendment to open space and flood map amendment criteria. An open space plan map designation complies with applicable Statewide planning goals and the open space plan map designation is consistent with the applicable goals and policies of the Comprehensive Land Use Plan. Again, the Planning Commission found that these criteria are met by the open space plan map designation. Zoning District Map changes also have separate criteria, they are very similar but they are considered separately in the findings provided by the Planning Commission. The proposed open space zone is appropriate for the Comprehensive Land Use Plan designation on the property and is consistent with the description and policies for the applicable Comprehensive Land Use Plan land use classification. The proposed Land Use Plan is open space only implementing zone is open space zoning. Second criteria for zoning district map is the uses permitting the proposed open space zone can be accommodated on the proposed site without exceeding it's physical capacity. Some of the applicable uses are parks or playgrounds, picnic grounds, wildlife and nature preserves, nature trails and/or bikeways, minor utility facilities and similar uses to those listed. The intent with the Memorandum of Understanding is that this property is to be used as open space/green space. There is an expectation that there will be some improvements made, this is not the scope of the hearing before you this evening, though the opportunity is there. The third criteria, adequate public facilities, services and transportation networks are in place or planned to be provided concurrently with the development of the property. Again this proposal does not have a plan for improvements on the land at this time but all those facilities are easily extended to the property at the time and for the level of use that will be proposed at that time. Fourth, zoning district map criteria, the amendment will not interfere with the livability, development or value of other land in the vicinity of the site of site-specific proposals when weighed against the public interest in granting the proposed amendment. The Planning Commission found that the open space zoning district will not effect the livability or use of adjacent land. The adjacent lands are the Mt. Hood Community College Campus and the undeveloped Mt. Hood Community College Industrially zoned properties, those are the closest properties to this site. The Fifth and last criteria, the open space zoning district will not be detrimental to the general interest of the community and that was found in the affirmative by the Planning Commission. Conclusion of the Planning Commission is that the proposed open space zoning district meets the criteria for a zoning district map amendment and the Planning Commission has recommended to Council the approval of the annexation of the effected properties shown in green on this map, and the application of the open space plan map designation and open space zoning district designation to the subject properties.

Mayor Thalhofer opened the public hearing at 9:56 pm.

Joel Morton, Metro, stated thank you to the people that work at the City of Troutdale, Mt. Hood Community College, City of Gresham, all of whom have a unique partnership that got us here today to make this a reality and making this green space a great public asset to the City of Troutdale. There are some more of you that deserve appreciation some here in the audience, Tom Wallis from Mt. Hood Community College, I just want to say thank you. Second, what a great place to have for a backyard.

Glenn White stated I think if the City does take on this property that maybe we could look within this 48 acres for a site for the skateboard park, parks would be allowed.

Mayor Thalsofer closed the public hearing at 10:00 pm.

MOTION: Councilor Thomas moved to adopt the Ordinance approving the Beaver Creek Corridor Annexation and concurrent plan map and zoning district map amendments (File No. 03-019). Seconded by Councilor Gorsek.

Councilor Thomas stated this is going to be an added asset to the City.

Councilor Gorsek stated working at Mt. Hood Community College I take a lot of my students down into that area and it is a wonderful place, I'm sure that there are many people here who deserve thanks for this plan, it's a wonderful addition to us.

Councilor Daoust stated we have a beautiful natural area here. We're at the end of a long road. I know that this has been worked on for quite a while. There was a lot of work in agreement with all the partners involved and all of the landowners and Metro. I'm thankful that we're able to do such a positive thing.

Councilor Ripma stated I have walked all through that area, it's part of the magnificent natural feature that is Beaver Creek and it runs through Troutdale. That particular stretch is so untouched, it's really a wild and gorgeous spot. It's too bad that Councilor Kight isn't here because it took him council meeting after council meeting at Gresham to get their consent, which is absolutely necessary and wasn't easy. He was one of the people who thought of this a long time ago.

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

Motion passed 6 – 0

8. PUBLIC HEARING / ORDINANCE (Introduction): An Ordinance modifying the procedures for utility billing and termination of water service and amending Title 12 of the Troutdale Municipal Code.

Jim Galloway, Public Works Director, stated the proposed Ordinance makes several changes to portions of Title 12 in the Public Works section of the Municipal Code. Several of the

chapters in that title of the code gives the Public Works Director responsibility for most aspects, but the billing and collecting of the utility bills is the responsibility of the Finance Director. We are trying to accomplish a couple of things, one is improvements to the billing process, the second has to do with the filing of liens and the third has to do with some changes on the termination of water service. If I could ask you to turn to page 2 of Exhibit A, midway through the page is the definition of multi-family. This is a house keeping issue, we've proposed changing the definition of multi-family from 5 to 3 dwelling units and that's just to keep this portion of the code consistent with the SDC Resolutions. On page 4 of the same Exhibit at the end of section 12.01.70 you'll notice a line through the terms approval for street cut, that references a particular document that is no longer valid and we no longer have a document by that name. It's been incorporated into the Public Works permit. The last item to mention is Exhibit B, which is a copy of Chapter 12.03. On page 3, we've proposed making changes to subparagraphs 2 and 3. Previous language indicated that water termination could occur for a number of reasons and those particular paragraphs talk about an approved backflow device and it cites an Oregon Administrative Rule. There are also several requirements within the Plumbing Code and we want to make sure that there was not any misunderstanding to what was required to comply, whether the requirement was established by the OAR or by the Plumbing Code, so we changed the language to insert the Oregon Specialty Plumbing Code. And lastly, in Exhibit 4 on page 3 you will notice a number of changes to paragraph 12.06.060. We changed the language on billing and collections to make it consistent with the other chapters. The chapter on stormwater was written some time after we did the chapters on water, sewer and some different language was used. These changes are simply to be consistent with the other chapters.

Kyra Williams, Finance Director, stated over the past several years we have used every available collection method at our disposal. Mostly we have relied on the Oregon Statute that says if we give a certain amount of notice to a landlord that there is a delinquent utility bill, we will hold them responsible if we do not receive payment from the tenant. Over the entire time period that we've used this statute and more recently, it has been opposed by owners of the property or managers of the property. So in order to eliminate the possibility of having tenants with utility bills we decided the best route was to hold the owner as the account holder and hold them entirely responsible for the utility bill. In doing some research we did discover that we are not the only city in this circumstance and one particular city did report that within a years time they've decreased their losses from renter move out by about 78%. We would just like to have any additional assistance in collections that we can possibly get because what we are doing isn't working.

Councilor Ripma asked in the city with 78% reduction in delinquencies or lack of collections, did they have an Ordinance like this?

Williams replied yes.

Councilor Ripma asked what city was it?

Williams replied Falls City.

Councilor Ripma asked is the bill going to go to the landlord?

Williams replied yes, that is our intent.

Councilor Ripma stated tenants won't pay water bills instead the landlords would have to collect it?

Williams replied at this point we don't have an objection to the tenant paying the bill but we want the owner to be on the bill and to receive the bill and always know what the status of the bill is. The other cities that have done this said they don't care who pays them, they just want the owner of the property to be responsible for the bill and to be the receiver of the bill.

Councilor Ripma asked there are other cities?

Williams replied yes.

Councilor Ripma stated in the Portland area?

Williams replied I don't think there are any in the Portland area. Most of the cities in the Portland area are using the same policies that we are using right now, which is to bill the tenant or the landlord, whoever they choose to receive the bill, and using the statute to provide the proper amount of notice and then holding the owner responsible for any unpaid bills. But it's just not working for us anymore.

Councilor Ripma stated because we aren't able to collect from the owner?

Williams replied correct.

Councilor Ripma asked is it because the tenant is the account holder?

Williams replied the tenant is the account holder and we do provide notice of all delinquent accounts to the owners. We have had owners in the past and most recently one specific owner or property manager that says they don't believe in the validity of that statute and they plan to take the statute to the State Legislature and oppose it and have it changed.

Councilor Ripma asked but that isn't happening?

Williams replied it hasn't happened yet, no. But if we continue to have owners and property managers that don't believe in the statute and simply aren't going to pay because they don't believe in that statute then eventually there just comes a point where you have to give up and that means we write it off and that means all the people in the City of Troutdale end up paying for the people that won't pay. That's the way it is, we are a non-profit utility, we are not PGE, we are not Northwest Natural Gas, we operate on a non-profit basis.

Councilor Ripma asked does that give us less rights to go after delinquent accounts.

Williams replied yes, for instance PGE has a wide service area so if someone leaves Troutdale and has an unpaid electric bill then they move to Salem, when they get to Salem they have to sign up for PGE service and we don't have that ability. We are Troutdale and we only have control over Troutdale.

Mayor Thalhoffer asked don't we have the ability to lien the property if the property owner doesn't pay?

Williams replied yes we do, however some property owners don't view that as a problem. They don't ever intend to sell their property and so they don't care if there is a lien on their property. We've run into every obstacle there is.

Mayor Thalhoffer stated foreclose the lien on the house?

Williams replied on a \$9.00 utility bill, do we really want to foreclose?

Mayor Thalhoffer asked can you get attorney's fees and court costs or not?

Williams replied I don't know that.

Marnie Allen, City Attorney, replied I don't believe the City can recover the attorney's fees on a foreclosure proceeding.

Councilor Kyle asked how much does this cost the City on average a year?

Williams replied I don't have those numbers because we don't write off that account on a regular basis.

Councilor Daoust asked so under this proposal the property owner of a 200-unit apartment complex would receive 200 bills, could you just clarify that?

Galloway replied in most cases apartment complexes have a master meter or a few master meters so that it would not be generally speaking a meter and therefore a bill for each individual tenant. There are one or two situations where the setup was different, a couple of decades ago when those places were filled with individual meters for each particular unit. The largest one I can think of has 50 – 60 some meters, in that particular case, yes they would receive the 50 – 60 billings. But that's generally not the percentage of the apartment complexes.

Councilor Daoust stated along with the tenants receiving the same bill.

Galloway replied under the proposed Ordinance, if I understand correctly, there would not be a bill to the tenant. It would be billed to the owner only.

Mayor Thalhoffer opened the public hearing at 10:20pm.

Bob Spikes stated I'm not sure who's brainchild this one is but I have single-family residences, 10 units, that are all metered separately. We're not going to have any savings if I'm paying the water bill. Everybody is going to be inviting their neighbors over to wash cars, they're going to be taking long showers. We're supposed to be conserving energy, conserving our water. Basically we're responsible for the people's water anyway, if they move out and haven't paid their bill I just take it out of the deposits and see to it that it's paid. The young lady here can't tell you how much money they are losing. I'm a private business man and I'd like to have somebody collect my bills for me, that's what the City's asking. I think we need to rethink this one.

Doug Walls stated I'm a landlord in Troutdale and Gresham and I have a list of reasons why this shouldn't go through. I agree with the water conservation. I used to be a tenant at one time and I really didn't take into consideration the water my landlord was paying for. The second reason is the bill should go into the tenants name, period, because they are the ones that use the water. Gresham does not use this proposed system. I had two tenants that didn't pay their water bill, when I went to refinance I had to pay off a lien. I think it's a bad idea. You could also possibly take the landlords to small claims court because this is under a couple hundred-dollars usually.

Jerry Park stated I'm a landlord and all of my homes are single-family residences in Troutdale, Gresham, Wood Village and Portland. This is kind of an unprecedented change. Gresham, Wood Village, Rockwood Water District and the City of Portland, nobody has anything like this. I think here we're looking at basically a deep pocket theory. There is probably some landlord out there who didn't pay a lien, I've always paid them. If there wasn't any security left when the tenant vacated I paid them out of my pocket, I think that's probably 99% of the landlords, I don't know who she's referring to. In the idea of giving the tenant the right to not be billed on something I think it encourages them to water lawns a lot more than they would if they got the bill directly. If we re-bill them, I pay the bill and then I have to forward a bill to them to get reimbursed. I do that on some of my oil houses so that they don't run the furnace out of oil, that is a real hassle for a landlord. You take somebody who has 12 houses, he gets 12 water and sewer bills, he pays them and he forwards 12 bills to his tenants and tries to collect. You are really magnifying the work of these landlords out here and we are struggling in a down economy for rental property right now and this is really pouring salt in the wound. You're not the only ones trying to do things like this, the garbage companies also would like to make single family residence landlords responsible for garbage bills so that they can be assured that they're going to get their garbage paid. Another problem you run into with this type of an issue is the utility company will not speak to the tenant. We get into these situations where the garbage was missed or maybe the meter was misread and they say we aren't going to talk to you because you're just a tenant and it's in the name of the landlord and you have to have your landlord call us. I got involved in a law suite in the city of Wood Village just 2 months ago because they had temporarily imposed a requirement where the garbage had to go under the name of the landlord, like you are proposing here on water and sewer. They withdrew that Ordinance one month later. They opened a real can of worms when they did that. The issue I had with my tenant was that she wasn't particularly diligent, I don't think, but she decided that I owed her for the two years of

garbage bills that she'd been paying up to that point. She said you don't have the right to do this because of this Ordinance. There's a lot of things that can enter into this.

Mike Henniger stated I may be the property manager that has been referred to because I did tell somebody in the water bureau that I thought the Ordinance the City was currently using was a bad Ordinance and I would try to overturn it. I see that as simply civic activity. We all have a right I think to go to the legislature and try to get an Ordinance that's favorable to a business position without retribution and I take the testimony tonight was that this Ordinance proposal was in fact restitution. I also think it falls into the trap of unintended consequences. I called the Cities of Beaverton, Tigard, Portland and Gresham. Contrary to the Finance Director's testimony, none of those jurisdictions are using the current process used by Troutdale, none of them lien the landlord. None of them use the section of the ORS that Troutdale uses that claims if you notify the landlord that his tenant is delinquent on your bill he's responsible for it. I invite you to call those 4 cities and ask them if they use your system. I'd like to be specific as to why I object to it. I know of no other situation where a person can enter into a commercial contract, if you will, an agreement with a party that can both require a deposit and can terminate service for non-payment where they can simply unilaterally by sending you a letter 30 days in advance make it your bill. How many of you would like to pay a bill under those circumstances. Just be told with 30-days notice that somebody has run up a bill and your going to be responsible because a State Law says you can be. There is a reason why Portland, Beaverton, Gresham and Tigard don't use this. The reason is it's been very unpopular with owners because they get better results by simply holding the debtor responsible. They shut the water off if it's not paid and they find that when they shut the water off, people pay their bills. If they shut the water off and they still don't pay, they lien the tenant but they do not lien the landlord. I asked for the staff report and was amazed that there was no information as to how much money we are talking about, how much is Troutdale loosing to deadbeat tenants. They don't know either apparently. How much money is this going to save, I don't know. I don't have the authority or the power to lien anything. I don't have the power or authority to shut off water. Quite to the contrary, the tenant law requires me to provide water to each and every tenant or I'm in a serious violation of a landlord / tenant law. I am prohibited from using collection methods that are available to Troutdale that Troutdale says are unproductive. If they have powers that are unproductive that I don't even have, how in the world do you expect me to collect the water bill. That's really what you're asking me to do, you want me to collect your water bill and that's my whole objection to this process. Let me point out a few other technical problems. First of all, many of the people that live in the properties that I manager are on leases. Many of those leases have the tenant responsible for the water bill, particularly at Columbia Crest where 56 original townhouses, are now rendered as apartments so there are separate meters at each apartment. Everybody at Columbia Crest that's on the lease says the tenants responsible. So my question is legally what does this Ordinance do to those agreements? I don't think you have the power to change a landlord/tenant agreement. I think there are a lot of issues, unintended consequence type issues, with this. It's an over simplified solution to a non-problem that is essentially retribution for comments that I made to a staff member of the City of Troutdale.

John Casey stated I'm a real estate broker for Portland Homes. We primarily do property management of single family houses and we manage about 300 units. I'm opposed to this proposal for various reasons that have been mentioned that I concur with. I'd like to give some insight as far as what we typically do when there is a tenant turnover or when a tenant moves out. Immediately upon the tenant moving out, the utility companies are contacted to find out what the balance is on their accounts so we can deduct that from the security deposit and pay any outstanding balances. It is probably less than 7% of the tenants that their security deposits are used in full to cover any damages or utility bills that are outstanding. I would probably say that's in the same area where they are trying to absolutely cut their losses that they are having. Some of the other consequences that occur when the owners responsible for water are when there is a water leak, even a flapper in the toilet. I'm referring to a four-plex in the City of Portland that twice now has had a water bill for \$350, the normal charge is \$75 and we find out it's a flapper in the toilet. Then we're fighting with the City to try and reduce that bill, it's quite challenging. I guess I'm also here to state we operate with 28 other water districts in the area and none of them require the tenant be billed for the water service and I think it's a bad idea.

David Klopp stated I'm a landlord and the question I have for you folks is since we're in the age of modern technology, I find it hard to believe that there's not something we can do to someone's credit report to adversely affect their chance of getting better credit. I don't see why the property owner has to pay these water bills.

Norman Larson stated I'm a rental owner here in Troutdale. I'd just like to say that one of the things I do is at the conclusion of the lease I call the City and ask them if they're current on their water bill, the City lets me know. I think we can probably work together on this in other manners than just automatically turn around and say this is going to be it, the owner's responsible. I'm really concerned about the water conservation issue that was talked about earlier. You're used to paying an electric bill and you conserve your electricity, you're used to paying the water bill and you conserve it. We can't turn off water. My recourse is to file suit against the tenant. You can turn off the water; you have something that we don't have available. I think this whole idea is a very bad idea at the present time. Sometimes the simplest way to solve something isn't the best way and maybe we need to think about this a little bit more before we do anything.

Mayor Thalhoffer closed the Public Hearing at 10:39 pm.

Councilor Ripma stated I would like staff to explain why we're going this way and why we think it's better than what other cities are doing.

Councilor Gorsek stated it would be really helpful if we could have some numbers to work with.

Mayor Thalhoffer asked can we find out what the opportunities are for using small claims court?

9. RESOLUTION: A Resolution revising the sanitary sewer utility fee, adjusting the average flow rate for an equivalent residential unit and rescinding Resolution No. 1325.

Jim Galloway, Public Works Director, stated the purpose of the Resolution before you is to make an adjustment to the monthly sanitary sewer utility fee and also to adjust the flow rate for ERU. The current rate that we charge for sanitary sewer use is \$24.75 per month for equivalent residential unit. There have been no adjustments since July 1999, however, we have had a number of new costs and increases and recurring cost which I've highlighted a few of those in the staff report to include the refurbishment of a pump station at West Columbia for about \$175,000, annual increases in our utility bills in the neighborhood of \$90,000, the implementation of the 5% franchise fee which cost the sewer fund in the neighborhood of \$85,000 to \$90,000 a year and of course general inflationary increases from 1999 – 2002 which approximate 9%. To help off set those costs we're recommending an increase of \$.75 per equivalent residential unit which would change the rate from \$24.75 to \$25.50 an increase of approximately 3%. Knowing that often times you like to compare our rates to others, in Exhibit A we provided a list of our proposed rate compared to a number of others in the area and it shows that our proposed rate I think would be in the midst of the 10 cities identified. We also took a look at the flow rate for the equivalent residential unit and determined that the previous rate that we had of 270 gallons a day was quite high. The data that we collected currently shows that the rate should be about 180 gallons per day. We've identified some reasons why the changes have occurred over the past decade or so since we last took a look at it. We recommend the change from 270 to 180 gallons per day. That doesn't effect the billing the residential customer would get and it won't effect the billing that any current commercial or industrial customer would get. It could effect the future industrial and commercial customer in that if we don't have any other good data which to base a billing for we will then take water consumption as an indicator of what their sewage usage is probably going to be. That would be the only time this would come into effect.

MOTION: Councilor Gorsek moved to adopt the Resolution as put forward by Mr. Galloway. Seconded by Councilor Ripma.

Councilor Gorsek stated this makes good sense to do this and it looks like it's well thought out.

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

Motion Passed 6 - 0

10. PUBLIC HEARING / ORDINANCE (Introduced 5/13/03): 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.)

Rich Faith, Community Development Director, stated this was introduced at the last council meeting and at that time I did explain that this is principally a housekeeping Ordinance. Most

of these are the result of amendments that were made last year when we adopted the multi-family design standards. As part of that we changed some of the terminology and some of the definitions in the code and at that time we did amend those zoning districts that allowed for multi-family type housing. However, because of the change in terminology and definitions, it's necessary now that we go back in and amend some of the other zoning districts so that they are consistent with the terms and definitions that we have now adopted in the code. As we were looking at that there were other related type amendments that we felt would be appropriate to address. Some of these deal with the congregate housing overlay district, accessory structures, home occupations, stormwater management and off-street parking. I'll focus quickly on the off-street parking because that's the one that received the most attention as this went through the Citizens Advisory Committee (CAC) and then on to the Planning Commission (PC). The principal reason behind these changes are to allow greater flexibility with new construction in terms of the type of surfacing that is constructed for the parking areas. Our current standard is only allowing for impervious surfacing such as concrete and asphalt. However, because of sensitivities to stormwater runoff and trying to reduce that, we are making an allowance for some types of pervious material such as porous concrete, grass and other things that allow for some percolation of water. These would be evaluated on a case-by-case basis to determine that it's not a threat to our groundwater supply and so forth. We are very clear however that gravel and similar types of erodeable surfaces continue to be unacceptable for these parking areas. The other aspect of the parking amendments is to recognize situations that we have where it's necessary to allow for some temporary parking on bare grass or bare soil. Usually that's in conjunction with special events, community events or sporting events. For example at Columbia Park we have little league games and at Glenn Otto Park when we have some of our large community events going on there, it becomes necessary to allow for the overflow parking. We recognize that and are trying to allow for temporary use for these areas of grass and unpaved surfaces. The provision however, has been modified as it's gone through the CAC review and the PC review. In order to try and pinpoint instances where this would be allowed, it has been allowed to state that this temporary overflow parking would only be allowed upon a parcel that is at least ½ acre in size so that we do not see this occur in our primary residential areas. It would be appropriate in conjunction with some of these outlined events. That is the major points of these amendments. This is the second reading of the Ordinance and is being presented to the Council with the recommendation for adoption by the Planning Commission.

Councilor Thomas stated in regards to page 26, 5.010 accessory structures. Essentially you changed it from 120 square feet to 200 square feet. That's a fairly big building. 10 x 20 is a garage, essentially.

Rich Faith stated I have no control over that, this is a change that has been made to the building code and has already taken affect on April 1st.

Mayor Thalhoffer opened the public hearing at 10:55 pm.

Glenn White stated I support the way this is written. Primarily talking about the off-street parking because it's something that does occur on my property, which is north of Glenn Otto Park. I think it's important to realize that every community has this similar situation. A fair

comes in or the Air Show or what have you, the only place to park in most cases is the farmer's field. I just hope that this can go through unchanged so that we can continue that type of parking that occurs at my property.

Mayor Thalhofer closed the public hearing at 10:56 pm.

MOTION: Councilor Kyle moved to accept the Ordinance amending Chapters 3, 4, 5 and 9 of the Troutdale Development Code, Text amendment No. 33. Seconded by Councilor Thomas.

Councilor Kyle stated I just remember going through this last time and it cleaned up a lot of variables and just makes sense.

Councilor Daoust stated I support the idea that the CAC and the PC has also gone through this.

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

Motion Passed 6 - 0

11. PUBLIC HEARING / ORDINANCE (Introduction): An Ordinance amending Chapter 3.08 of the Troutdale Municipal Code regarding Transient Lodging Taxes.

Councilor Thomas stated I was looking around at what we call Transient Taxes and realized that there are several people within Troutdale that we provide services we don't really collect any taxes from. I consider this a fairness issue as far as collection of fees for public safety, fire, and services provided to these people. Last year it was roughly \$240,000 that we were able to collect on as far as fees, of which about \$30,000 went to the City. While working with staff we discovered several things that need to be cleaned up in the Ordinance so we went ahead and provided those changes.

Councilor Daoust asked how much income are we missing?

Councilor Thomas replied it's roughly \$30,000 a year.

Councilor Daoust stated that is shown on your worksheet?

Councilor Thomas replied the worksheet is actually a listing I got from Kyra in regards to what was collected over the last two years.

Councilor Gorsek asked this isn't in any way changing anything related to the Troutdale Chamber of Commerce? This money like all other lodging taxes, a portion goes to the Chamber of Commerce?

Councilor Thomas replied correct, in fact it would still be 6.95%.

Councilor Ripma asked how about apartment buildings, do you have an explanation as to how this doesn't cover apartments?

Councilor Thomas replied in working with the City Attorney, we were able to exclude the apartments.

Councilor Ripma stated it mentions executive apartment.

Marnie Allen replied basically what we did was amend the definition of hotel to try and clarify that it means a structure that is intended or designed for temporary use. We added executive to apartment. Certainly in talking with staff our understanding or intent with that was that an executive apartment is an apartment that is bought by a corporation or business for a temporary time period for executives that come into town. Those are the type of apartment units that would be subject to the transient lodging tax under this definition.

Councilor Ripma asked how about manufactured home parks?

Allen replied if it's a manufactured home park that's intended or designed for permanent use, it's not covered by this Ordinance. We did strike out mobile home and trailer parks and added recreational vehicle parks.

Councilor Ripma asked how about the park off of Historic Columbia River Highway?

Allen replied if that's intended for temporary use. The distinction that we're drawing is that recreation vehicle parks are designed and intended for temporary use. If someone moves in and adjusts their space to make it permanent, in this definition, we've drawn a distinction between recreational vehicle parks and mobile home or manufactured home parks with the latter being designed and intended to be permanent.

Councilor Ripma stated the fact that people are living there for years means they pay a transient lodging tax all the time?

Allen replied right, my intent was that the purpose and the goal of making this change was to capture unpaid transient lodging taxes from people who are primarily in a recreational RV park who are not paying transient lodging taxes now.

Councilor Ripma stated a company could rent an apartment in an established apartment building and have executives cycling in and out. How are we going to make that distinction?

Allen replied there will be some enforcement struggles in deciding when something is designed and intended to be used temporarily versus permanently. If the Council desires, we can try and define executive apartment so that's clear in the Ordinance.

Councilor Kyle stated I know that in a lot of cases of relocation you have executive suites. Do you know if we have any of those in Troutdale? I know we do closer towards Portland.

Kyra Williams, Finance Director, replied one of the apartment complexes in Troutdale contacted me probably 3 years ago and stated that their intent was to set a couple apartments aside and use them for executive suite type rentals. They do submit a tax certification to us on a quarterly basis, they've only paid us once but they do certify that they have had no rentals of less than 30 days. We do know that they are active and they are seeking to do it, it just isn't something that they are doing frequently.

Allen stated the other option would be to strike executive apartment and not try to collect from apartments all together if that was the desire of the Council. We can try and define it or take it out completely.

Mayor Thalhofer opened the public hearing at 11:06 pm.

Jatin Patel stated we operate 3 hotels out here in the Gresham and Troutdale area. One question that I might have is of that \$30,000 lost, what percent of that goes to hotels when people are staying monthly? The other part I want to talk about is that we are way too close and it's way too competitive for that person, if they have to pay transient lodging tax in Troutdale, they'll just go a few miles down the street to Wood Village or Gresham and stay there. Overall as business owners, we'll lose income and that \$30,000 wouldn't be there anyway. Also from what I heard from the City Attorney it seems like there's a target for an RV park and I'm not in that industry but I can kind of see how we're all being lumped together. We have quite a few construction workers that will not stay with us, they can go to any of the 12 to 15 hotels in Gresham. I talked also to the management of the Phoenix Inn and also Motel 6. We don't have that many people that qualify for this and we don't try to promote it either. The more taxes we can collect for the City the more it helps the City out but there are those people that travel like this on temporary projects and use us as an alternative to renting an apartment.

Councilor Daoust asked for people that stay in hotels, you pay this tax for the first 30 days?

Patel replied correct, they only qualify if they pay for the whole month in advance like they would in an apartment. I don't have any figures but my recollection is we might have 5 of these guests a year at our property. From all 200 rooms that we have in this marketplace, I can't see more than 15 to 18 rooms a year within 3 hotels where a person would qualify for this because we're built more for daily stays. There are those few times where there are people from out of town that decide to stay for a month and then also legally that person is no longer a transient, we fall under the tenant/landlord issue. So that person is treated more as a tenant and the service level is a little different also.

Councilor Gorsek asked even though it's not a large amount of your business, what you are arguing is that people probably, in your estimation, will go somewhere else?

Patel replied absolutely.

Councilor Thomas stated I'd like to give the numbers you asked for. This fiscal year is roughly \$14,000; last year was about \$20,000; and the year before was about \$6,000.

Mayor Thalhofler asked if someone stays at one of your properties for more than 30 days you don't collect the tax or do you collect it and give it back to them?

Patel replied after 30 days we do not collect the tax and what happens is they are a tenant versus a transient customer and that's the reason they are exempt from that tax. What we require at our property is that they have to pay for that month in advance. If they do stay, then a check is issued to that person so proof is in the file so when we submit our quarterly lodging tax, that information is on the report. The sheet shows how much your revenue was, how much lodging tax you're paying and the end deductions for those customers that are exempt from that lodging tax.

Mayor Thalhofler stated so if we did that then you'd have to pay the City for the additional time after 30 days and the people knowing that up front would just go to Gresham virtually?

Patel replied correct because we as operators don't pay that, it's the people staying in the room. If we were a city that didn't have other cities near us then it'd be a little different but it's way too easy to go one more exit to Wood Village and stay there.

Councilor Kyle asked is this a hotel policy or is it a policy set up by the County?

Patel replied the County.

Deborah Martin stated I'm the general manager of Motel 6. I've been there now almost 2 years. I have one tenant that is tax exempt because he established prior to my existence. That is all that I've had in the 2 years I've been there. I agree with Mr. Patel, if we started charging the few that do come in for extended stays, for example the Highway Department last year stayed with me an extended amount of time because the workers were out on the highway. If we were charging them, if they were going tax exempt, they would just go to the next exit because they would get a better deal there. I agree with Mr. Patel, business will go elsewhere.

Mayor Thalhofler closed the public hearing at 11:15 pm.

12. COUNCIL CONCERNS AND INITIATIVES

Councilor Thomas stated I'd like to congratulate the Troutdale Area Pastor's Association on their recent destruction of a dilapidated garage and the reconstruction of a metal shed in its place as a community service.

Mayor Thalhofler stated I'd like to congratulate Senior High School tennis player Kirchem who won the State Singles Championship for the State of Oregon.

13. ADJOURNMENT

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

Meeting was adjourned at 11:16 pm.

Paul Thalhofer, Mayor

Approved September 23, 2003

ATTEST:

Sarah Greif, Office Support Specialist