

CITY OF TROUTDALE

AGENDA
CITY COUNCIL MEETING - COUNCIL CHAMBERS
TROUTDALE CITY HALL
104 SE KIBLING AVENUE
TROUTDALE, OR 97060

7:00 P.M. -- MAY 9, 1989

- (A) 1. PLEDGE OF ALLEGIANCE, ROLL CALL, AGENDA UPDATE
- (A) 2. CONSENT AGENDA:
 - 2.1 Accept: Minutes of 4/25/89 - Regular Mtg.
 - 2.2 Accept: Business License Report - APRIL
 - 2.3 Accept: Bills for month of APRIL, 1989
- (A) 3. PUBLIC COMMENT:
Please restrict comments to non-agenda items at this time.
- (A) 4. PUBLIC HEARING: North Graham Road Water, Sewer and Road Extension Project - LID
 - Public Hearing Opened
 - Declarations or Challenges
 - Summation by Staff
 - Public Testimony: Proponents, Opponents
 - Recommendation by Staff
 - Council Questions or Comments
 - Public Hearing Closed
- (A) 5. ORDINANCE: An Ordinance Adding a New Section to the Troutdale Municipal Code (Ch. 9.04) Disorderly Conduct
First Reading
- (A) 6. ORDINANCE: An Ordinance Adding a New Section to the Troutdale Municipal Code (Ch. 9.04) Disturbing the Peace
First Reading
- (A) 7. RESOLUTION: Accepting Community Services Director Report -- Troutdale Grade School Access LID and Setting a Hearing Date
- (A) 8. RESOLUTION: Providing for Budget Transfers, and Making Appropriation Changes for FY 88-89
- (A) 9. MOTION: Authorizing Community Services Director to Prepare Report on Downtown Enhancement LID
- (A) 10. MOTION: Authorizing the Mayor to Enter into a Lease Agreement -- Wastewater Management
- (A) 11. APPEAL: Assessment - West Columbia Sanitary Sewer LID - Cerruti

(A) 12. DEPARTMENT REPORTS:
Public Safety
Finance
Community Services
City Attorney
Executive

(A) 13. COUNCIL CONCERNS AND INITIATIVES

(A) 14. ADJOURNMENT.



Sam K. Cox, Mayor
Dated: April 3, 1989

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MINUTES
TROUTDALE CITY COUNCIL MEETING
COUNCIL CHAMBERS
TROUTDALE CITY HALL
104 SE KIBLING AVENUE
TROUTDALE, OR 97060

7:00 P.M. -- MAY 9, 1989

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

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

Councilor Thalhofer led the Pledge of Allegiance.

City Administrator, Pam Christian, called the roll.

PRESENT: Burgin, Cox, Fowler, Schmunk, Thalhofer

ABSENT: Bui, Jacobs (Excused)

STAFF: Christian, Collier, Gazewood, Raglione, Wilder
City Attorney, Jim Jennings

PRESS: Webb Reubal, Oregonian

GUESTS: Bob Schmidt, WW Mgmt., Fritz Van Gent

ITEM 2. CONSENT AGENDA:

MOTION: Councilor Burgin moved to accept the Consent Agenda [2.1
Minutes of 4/25/89 - Regular Mtg; 2.2 Business License
Report - APRIL; 2.3 Bills for month of APRIL, 1989].
Councilor Thalhofer seconded the motion.

YEAS: 4

NAYS: 0

ABSTAINED: 0

Burgin - Yea; Fowler - Yea; Schmunk - Yea; Thalhofer - Yea

ITEM 3. PUBLIC COMMENT:

Mayor Cox called for comments to non-agenda items. There were none.

ITEM 4. PUBLIC HEARING: North Graham Road Water, Sewer and Road
Extension Project - LID

Public Hearing Opened - Mayor Cox opened the public hearing.

Declarations or Challenges

Summation by Staff - Wilder reviewed the LID. He stated that the project included the extension of water and sewer services up Graham road to service a piece of property and included the construction of approximately 350' of road into the property to make it more

developable for the owner.

He stated that the requester (Mr. Kenneth Fletcher); and another involved party were present (L.G. MacElroy-Reynolds Metals Co.). He stated that Reynolds Metals Company did have controlling interest in the LID with greater than 67%, if this were to be formed by Council initiative.

Public Testimony:

Proponents - Mac MacElroy, Plant Engineer, Reynolds Aluminum Troutdale Plant spoke. Mr. MacElroy read a letter to Council that Mr. Fletcher and Mr. MacElroy had signed prior to the meeting. The letter requested a 60 day waiting period to allow the two parties to continue discussions concerning the area affected by the project. An agreement might be reached during that time and it may be that the need for the project, as it is current constituted may be obviated.

Neither party waived any rights to support or remonstrate on the question of whether or not the City should undertake the proposed project, as it exists today or as it may later be redefined by the City of Troutdale.

Opponents: There were none.

Recommendation by Staff: Staff had no problems since this was a request by a property owner.

Council Questions or Comments: Thalsofer stated that unless there were other comments by staff, he supported the 60 day wait.

Public Hearing Closed: Mayor Cox closed the public hearing.

MOTION: Councilor Burgin moved to table consideration of this item for sixty (60) days. Councilor Thalsofer seconded the motion.

YEAS: 4

NAYS: 0

ABSTAINED: 0

Burgin - Yea; Fowler - Yea; Schmunk - Yea; Thalsofer - Yea

ITEM 5. ORDINANCE: An Ordinance Adding a New Section to the Troutdale Municipal Code (Ch. 9.04) Disorderly Conduct (523-0)

Mayor Cox read the Ordinance by title. He stated that this was the first reading.

Chief Collier responded to this item. He stated that the ordinance was identical to the State Statutes ORS 166.025. It essentially allows the City officers to handle public inconvenience, annoyance types of crimes within Troutdale's Municipal Court system.

Mayor Cox called for council comments.

Burgin asked under section A - "a person engages in fighting"...when

is it assault? Chief Collier stated if it is mutual combat - they are both fighting you then have disorderly conduct. If someone beats you up, then that is considered an assault. Jennings stated that if there is injury, you always have assault. You can have disorderly conduct no matter how serious. For instance, you can assault someone, injure them and also have committed a crime of disorderly conduct.

There were no further comments.

MOTION: Councilor Thalsofer moved to pass the ordinance, as written. Councilor Burgin seconded the motion. YEAS: 4
NAYS: 0
ABSTAINED: 0

Burgin - Yea; Fowler - Yea; Schmunk - Yea; Thalsofer - Yea

ITEM 6. ORDINANCE: An Ordinance Adding a New Section to the Troutdale Municipal Code (Ch. 9.04) Disturbing the Peace

Christian stated that this item would not be heard. It was currently being challenged in court. She asked Chief Collier to respond.

Chief Collier stated that the ordinance was being challenged in Clackamas County at this time. Staff felt it would be more prudent to wait to see the outcome of the challenge prior to enacting an ordinance.

Thalsofer asked Circuit or District Court? He stated if it was being properly challenged it could be a long time before it was finally decided to go through the Supreme Court.

Chief Collier stated that there was no similar statute in the State Statute so it was felt that it would be more prudent to wait for the outcome.

ITEM 7. RESOLUTION: Accepting Community Services Director Report -- Troutdale Grade School Access LID and Setting a Hearing Date (745-R)

Mayor Cox read the title of the resolution.

Wilder stated that the Council had made the request at the last meeting that the Community Services Department prepare the LID report before Council. This would be to reconstruct portions of Harlow Street, 5th and a small piece of Kibling; as well as construct sidewalks and provide proper pedestrian vehicular circulation for the school. Wilder stated that this project would be funded, in part, by the CBDG program. The funding level is \$76,900.

Wilder stated that this LID could be configured in an extremely complex fashion or simplified -- as shown. The reason it could be complicated is that the Grant itself restricts us from impacting any property owned by low to mod income people or that the rent would be affected by changes in that property by the property owner. Due to that possibility -- and could be discriminating neighbor against

neighbor in the formation of this district. To solve this issue, the position that Staff has taken is to assume the role that the low to mod income people would have to pay, as well as the few homes that don't fall under that blanket.

Wilder stated that City involvement would be 34.1% of the total project with the School District's involvement at 65.9%. The City portion would be paid under the Bancroft sale yearly, or quarterly. However it is chosen through the life of the Bond. The impact on the road improvement fund wouldn't be the full amount the first year. It would be protracted over the period of that Bond redemption. The total project is expected to total \$208,000. \$86,000 would be paid by the School District; \$44,000 by the City; \$76,900 by the CDBG program. (Described in Exhibit "B-2" in the Report. B-1 is the budget for the project.)

Wilder stated that he hoped at least the sidewalk portion of the project could be constructed this season. The School District has been approached regarding the costs to them.

Burgin inquired as to the logic of splitting the CDBG. Wilder stated that the Grant itself restricts affecting low to mod income people. The restriction includes impacts and rental units. If someone falls under that umbrella - they can't be assessed at all. That means that portion of the assessment has to be spread to the remaining that might not be in the low to mod income category. If the City wasn't involved in the project - 80% of it would be spread to 20% of the remaining property owners...that doesn't seem fair.

Burgin asked if the money from the block grant didn't belong to the City to be applied, as to what I understand, with the City's portion? Wilder stated that it does belong to the project. Wilder had interpreted it as a project expense. City submits a total budget, several ways to finance the project had been discussed which included an LID as well as the City payment of the total amount of the balance to successfully construct the project. Whether you would take the full \$76,900 and deduct it from the City share; or take it proportionately into the School District and into the City and deduct it is your choice. Wilder felt it belonged as a project credit rather than individual.

Burgin stated that if philosophically the purpose of the Block Grant was to aide the low to moderate income areas, then relieving the School District of its burden across the board with that money doesn't seem to be the right approach. The School District as a whole does not compose a low to moderate income.

Wilder stated that this is where Council purview prevails. He had approached it strictly on the project being the benefiting party rather than the School District being the benefiting party. The objective is to get the school children off the streets and onto the sidewalk; improve the street so there isn't the potential for accidents. Wilder stated however Council directed him to divide it, it could very quickly make the needed changes.

Councilor Burgin stated he wanted to consider the alternatives. He wasn't sure which way would be best.

Councilor Fowler asked where the City's share would come from? Wilder stated it would come from the road improvement fund and would be paid out of that fund at the same schedule of payments as the School District's.

Councilor Fowler, SDC's charges? Wilder stated that SDC charges pay part of it, transfer monies from the State gas tax pays part..whatever is transferred into the road improvement fund but, SDC charges do participate, yes.

Councilor Thalsofer asked the City Attorney which way to credit CDBG -- if there is any legal affect one way or the other?

Counselor Jennings stated that it would be mandated by the terms of the Block Grant. He stated that he hadn't reviewed it but didn't believe that it would tell us that we must be spread it to (i.e. the School District); or that we must take it all ourselves. He felt that it was worth reviewing prior to a final decision by Council. He stated that Wilder was much more familiar with the language.

Councilor Thalsofer then asked Wilder what the language stated? Wilder stated that it strictly applies as a total credit to the value of the grant and does not suggest how you apportion that money. Traditionally, projects are credited (208,000 project/76,000 grant subtract it off the 208,000 and spread the balance). That is basically what has been done here.

Councilor Fowler asked about the SDC charges originally were charged for development of arterial streets, etc. they were charged to developers to build new streets, homes, etc. Where do we justify pulling it from that type of fund into helping the block grant in an established portion of the City?

Wilder stated that any improvement to the road system or renewal and replacement project has applicable interest in SDC's. You pay an SDC not just to construct new facilities but to also renew and replace old facilities. There are old facilities in town and it is not discriminated as to -- the City doesn't have any arterial roads of its own so they are traditionally used on local neighborhood collectors, neighborhood streets, wherever the City has a grant project. Downtown, 3rd Street, 4th Street - wherever there is a renewal and replacement is where we would use the monies - it is a traditional and accepted use of the monies.

Councilor Burgin stated that he asked the question because he wanted to hear the answer. He knew that historically that is the way the block grant monies had been spread is to take it off the top.

Christian stated that the school district had been contacted. If Council accepted the report, the school district would be formally

notified.

Councilor Burgin had no problem with it. He stated that if there was one street in town that people would benefit from, that would be it.

Mayor Cox stated that the parking on the street while letting the children out had certainly been a problem of safety. Schmunk stated that sidewalks would be a definite needed improvement.

MOTION: Councilor Schmunk moved to adopt the resolution, as written. Councilor Thalsofer seconded the motion. YEAS: 4
NAYS: 0
ABSTAINED: 0

Burgin - Yea; Fowler - Yea; Schmunk - Yea; Thalsofer - Yea

ITEM 8. RESOLUTION: Providing for Budget Transfers, and Making Appropriation Changes for FY 88-89 (746-R)

Gazewood stated that this resolution provides for certain appropriation transfers for FY 1988-89. Section 1 sets forth the use of contingency appropriations in the Water and Sewer funds for allocation to required uses whereby the major categories of expense (Materials & Services, Debt Service, Capital Outlay, and Contingency) need additional appropriation. Section 2 provides for budget transfers between major categories of expense in the Water Improvement Fund (Capital Outlay and Debt Service) to adjust appropriation requirements.

Mayor Cox called for comment from Council. None was given.

Mayor Cox read the resolution by title.

MOTION: Councilor Thalsofer moved to adopt the resolution as written. Councilor Burgin seconded the motion. YEAS: 4
NAYS: 0
ABSTAINED: 0

Burgin - Yea; Fowler - Yea; Schmunk - Yea; Thalsofer - Yea

ITEM 9. MOTION: Authorizing Community Services Director to Prepare Report on Downtown Enhancement LID

Wilder reviewed this item. The City received a request from Columbia Crossing Development, Inc. requesting the formation of a local improvement district along Columbia Scenic Highway between 257th Avenue and the Troutdale Police Station to accomplish the following goals:

1. The desire to underground utilities
2. To use the same light poles and light fixtures in the street as Columbia Crossing will have on their property
3. Construct sidewalks to proper standards

4. Finish the road to acceptable standards

Councilor Thalhofer asked Mr. Van Gent why Columbia Crossing needed to use light poles/fixtures different than the existing lighting fixtures already in place throughout the city?

Mr. Van Gent stated that Columbia Crossing has chosen light fixtures that would be about \$700.00 each less expensive than the existing ones. He stated that as the light poles/fixtures are the same as the ones used in downtown Portland, they should be up to code. The light fixtures are local (a Portland company) the flavor is similar to what is in the concept plan.

Councilor Thalhofer asked for staff comment, if any. Wilder stated that, as Councilor Thalhofer stated earlier, there is a Downtown Concept Plan and the only comments presented were in that light. There is a Plan with a standard which has been adopted. If there is another standard out there, does it make any difference?

Mayor Cox stated that he had seen pictures drawn and they are very similar.

Councilor Schmunk stated that in the overall downtown plan and throughout all of the meetings -- she envisioned it being uniform throughout the downtown area and something that would require the ability to re-order from a constant supply. She didn't feel that it was something for blanket approval, whether inexpensive or not. As development of the downtown area occurs, the ability to maintain the same equipment would be necessitated. She also was concerned about small areas for park bench type structures. She thought that would also have to be included for a uniform standard to be set, as well as several other things to be considered. For downtown to look as envisioned, it would have to be standardized.

Schmunk felt that the statement to use the same lights and fixtures as Columbia Crossing would have on their property -- that is a really broad statement. She felt that there was a lot of work done to go along with this request. Just improvement of the street isn't the question...its the whole downtown being talked about. It won't be an inexpensive project and that needs to be considered.

Councilor Burgin asked about the owner initiated LID? Wilder(51% of affected property owners to form the district); by Council initiative, the district can be formed regardless of whether there is one requesting property owner, none, or all. In either case, it still takes 2/3rds to stop the process. One doesn't require anybody to start it and the other requires 51%. It takes 67% to kill it in either case. There is also more latitude in how to stop the project with a Council initiated LID.

Councilor Burgin asked if under a Council initiated LID is there more latitude in the design of the project? Wilder stated that he didn't know if there was any difference.

Christian stated that design of the project isn't addressed in the statutes. It is usually done for improvements and you have to reach agreement on the improvements -- not only on the Council but for the persons that could remonstrate against the project. Obviously there is a balancing act between what Council wants and what the property owners want.

Councilor Thalsofer stated that he was in favor of Council initiated because he felt it was the only way it could get done. However, he had a problem with #2 (street light poles and light fixtures). It needed discussion and agreement.

Mayor Cox stated that it would be an on-going project that would be looked at all the time.

Christian stated that this was just calling for the report at this time. The scope and cost of the project, as well as the design parameters could be looked at and agreed upon. If Council initiates the project, you have the prerogative of making those changes and, according to those changes, you are also risking the property owner remonstrating. There would be another opportunity to look at the project, on paper, to make those comparisons.

Councilor Fowler stated that he saw several things go into the design -- the light poles is something that could be detailed out, if not satisfactory with basically the people originally presenting there is possibly a problem there. But there are some changes from what would be normal -- Columbia Crossing wants to go to a 10' sidewalk instead of 8'; original street was 60', it is now going to 68' and our two will make 70'. So there is a broader street than what was originally planned. These things are just to get the project going and moving and maybe get in on this bonding...Bancroft Bonds. This is a preliminary approval of what Greg has just said. Columbia Crossing has 40% or 45% and add the City's property to it you have a majority of the property owners...if the City was a private owner by initiating through the Council then Bennett has basic control of yes or no.

Wilder stated that it does not. If the LID is formed by Council initiative, Mr. Bennett does not have 67% to stop the process.

Councilor Fowler stated that then the City has taken the burden on their shoulders. It has been initiated by a majority property owner. Wilder stated that a letter was supplied which suggests content of the LID and suggested that Council initiate it. If the Council chooses to initiate it, they in fact control the outcome of this LID. Not Mr. Bennett or anyone else. No one let has 67% by themselves, to stop the project, once the Council initiates it. In combination they do but by oneself no.

Councilor Fowler stated that Columbia Crossing and several other? Wilder stated, could stop the project, yes or could delay it for six months -- as long as 67% total.

Wilder stated that the issues of additional sidewalk widths and street widths we have no privy to that...there is no design for that. There is a Downtown Concept Plan that this would be based on unless directed otherwise. Wilder stated that it is important to remember that this is a physical implementation of that Downtown Concept Plan. All the plans, concept plans, etcetera...you have been through that but, this is the physical implementation of that. He stated that he couldn't stress the caution that is required to make certain that this comes out the way Council wants it to be.

Mayor Cox called for further comments. There were none.

MOTION: Councilor Burgin moved to authorize the Community Services Director to prepare a report on the Downtown Enhancement LID. Councilor Schmunk seconded the motion. YEAS: 4
NAYS: 0
ABSTAINED: 0

Burgin - Yea; Fowler - Yea; Schmunk - Yea; Thalsofer - Yea

ITEM 10. MOTION: Authorizing the Mayor to Enter into a Lease Agreement -- Wastewater Management

Wilder stated that he had previously spoken with Bill Saylor. Mr. Saylor wasn't in attendance. Wilder stated that he and Mr. Saylor had a discussion approximately 2-3 weeks ago over some of the content. Counselor Jennings had reviewed and prepared the lease in accordance with discussions which took between Councilors and Mr. Saylor with one exception which needs to be red-lined and changed.

Wilder stated that he had spoken extensively with DEQ twice during the week. DEQ has reiterated comments to the WWTP staff that we can, in fact, by our own City lease or requirements have the requirement in the lease for the operator in charge to be certified. The statement that it is not allowed by the State is absolutely erroneous. The state will, in fact, allow it.

As suggested, the language that we have included on Page 6, Section 19, second paragraph to be changed, as per DEQ's suggestion to read: "Environmental Quality Level I Certification [OR LEVEL OF CLASSIFICATION OF THEIR SYSTEM WHICHEVER IS GREATER]. According to DEQ they will be classifying a system soon and it may, in fact be classified at a higher level thereby requiring a Level II certification (as we would have to meet ourselves or any other public owned facility).

Wilder stated that was the only change not reviewed by Mr. Saylor. His other concern was the installation of metering and filtrate pump and control equipment. This language was contained in the original lease. Staff nor Council members on the review committee just didn't feel that needed to be changed. Those two comments were the only comments Mr. Saylor shared with Wilder.

Mr. Bob Schmidt, Wastewater Management owner spoke to Council. Mr.

Schmidt stated that Mr. Saylor had called early in the evening from Canada. He stated he wasn't aware of the meeting this evening. Milton Foss wasn't aware of the meeting. Mr. Schmidt heard through the grapevine that there was a meeting, he picked up a memorandum from Wilder earlier in the day when he heard this was on the agenda tonight.

Schmidt didn't feel that this could be the final draft. As well as the cost to the City, the cost has heavy on our part. We had attorneys, we came up to a meeting with City, engineering, lab parts. It has costs \$64,000 to try to get ahead of the game and try to work with the City. Schmidt referred to page 5, Section 17 of the lease, he didn't have Exhibits B or C. Schmidt stated that he couldn't approve the lease since he didn't have those exhibits and hadn't seen them.

Wilder stated that Exhibits B and C were both contained in the original lease executed by Albert M. Mauck and subsequently accepted as part of that property transfer of ownership. It was the original map dealing with site and design review issues. They were still under discussion and appeal through the Planning Commission and planning process and have not been attached. They were initialed and agreed to in the original lease. There were no changes made nor was the staff authorized to make changes since they were affected by the Planning Commission and subsequently approved by the Council.

Schmidt stated page 6, Section 19 has become quite an issue due to the certification of an operator. If he failed the test -- he couldn't run his own business. Schmidt stated that they weren't a Sewage Treatment Plant, they treated sludge. Inventors: William B. Saylor, Milton Foss and Robert Schmidt of Fairview. We invented the process and have gone ahead from the Purifax system. There are patents on the system now. We can't turn around and take a City test or an Oregon test for a waste treatment plant. We are the only ones in the whole world doing this and yet, if we fail, we lose our whole company and invested dollars. Wilder stated that we all qualify. First of all, it requires a high school diploma - Mr. Schmidt stated he didn't have one. He wouldn't be able to take the test. Mr. Schmidt felt there was definitely something wrong. Mr. Sorensen is certified, does that mean that he could go to WW Mgmt and run the equipment? Mr. Schmidt stated he was sure he couldn't.

Mr. Schmidt stated a letter was written after the last meeting. October 11, 1983, the lagoons that we were going to treat. He felt that there was a communication problem. The lagoons could be eliminated. The revenue from the lagoons and treating them was what was going to be used to complete the plant. Nothing was followed through. Mr. Schmidt stated that he was informed by Mr. Saylor that when this was pointed out, they were told that this was not a contract. He stated that there wouldn't have been an SBA loan without it.

Mr. Schmidt didn't feel that the lease should be dropped yet. They didn't want to negotiate forever. He would like the matter continued

until Mr. Saylor returned.

Counselor Jennings stated that the lease began in September, 1988. It would be retroactive in its application. Counselor Jennings was present at the negotiations, with Mr. Saylor several months ago. The position of staff is that the lease as presently written is presented to Council for approval or no approval. Mr. Saylor can either sign it or not. The Council can waive or not waive any of the terms, as they wish.

Councilor Thalhofer stated that if Mr. Schmidt is claiming that Mr. Saylor and Mr. Foss didn't have notice of the meeting for some reason... he felt that they should be given time to attend a meeting and present their case if that is what they desire. It may not make any difference to Council decision, but he did feel that they should have an opportunity to state their case. Since there is no emergency, he wished to delay a decision until Mr. Saylor could attend.

Councilor Fowler stated that the certification question from DEQ's standpoint was also something he would like to have clarified. Wilder stated that the question was posed to DEQ and their concern was not the type of facility it may be but, that the City can impose superior rights on a lease or by local ordinance as City wishes. Secondly, their concern is not that the process may be different but that ultimate environmental issue of application of sludge, filtrates, compost, anything that might get into the public system or be applied to properties. The test includes portions of questions that have nothing to do with the City plant either - DEQ's concern is that of ultimate objective of environmental awareness and that does matter.

Councilor Fowler asked if there was a letter from DEQ? Wilder stated that there was a letter from DEQ that hadn't been received in time for the meeting but he did speak with Wilder at length...he will have it available at the next meeting.

Councilor Fowler felt that the decision should be tabled until receipt of the letter from DEQ.

Christian stated that, as a point of information, the last meeting in June is on an Election Day (June 27, 1989) and there won't be a second Council meeting in June.

MOTION: Councilor Fowler moved to postpone the decision on the lease agreement until the DEQ letter can be reviewed -- May 23, 1989. Councilor Thalhofer seconded the motion.

Councilor Burgin stated that as a point of clarification he would vote to postpone the decision but there was need to remember that Council wasn't considering an appeal for any quasi-judicial procedure. Council was one half of a contractor and the contract needed to be looked at as a contractor point of view and represent the citizens of Troutdale and look at the terms of the lease in that light. The other party to the contract would have to evaluate it

in the terms of their best interests. If the motion was to postpone it for further information to evaluate the lease in the best interests of the citizens of Troutdale, fine.

Christian asked if the intent was to negotiate at the next meeting the terms of the contract? Did any other information need to be gathered and available? The maps can be in the packet again plus DEQ information. Or, was Council expecting staff to be prepared with all the past information to negotiate the lease at the meeting?

Councilor Fowler stated that WW Management should have a copy of DEQ writings, as soon as available. They can evaluate the DEQ materials and challenge, if necessary and work it out prior to the next meeting.

Councilor Schmunk stated that the materials were in the packet, there had been Council members appointed to talk with WW Mgmts. attorney, as well as the City Attorney. She was under the impression that an amicable agreement had been reached on the lease. She was surprised that after all of the previous postponements, and the meetings, that it was still in the air.

Mayor Cox asked Wilder if it wasn't his understanding that Mr. Saylor approved of the lease as presented?

Wilder stated that this was the one issue that Mr. Saylor did not agree to. There were many issues that had been adjusted on the City's portion to accommodate Mr. Saylor's wish -- an extended amount of lease time, additional renewal periods, change of use authorization...a number of things he did discuss with the Council committee and they did approve. This one particular issue, he was not in agreement with the Council committee or the staff position regarding the certification issue. Wilder stated again that DEQ was not mandating them to be certified but, DEQ is stating that the City can mandate that certification. Mr. Saylor indicated before that DEQ would not allow the certification period. That is not the case. Council can require that certification, if they wish.

Councilor Fowler asked if that doesn't put the Council in a position of making a judgment. If DEQ says they don't mandate it, but City Council does? Even if we don't know what we are talking about?

Wilder stated that the City operators were mandated to be certified 5 years before the State required certification. Wilder stated that was a philosophical issue that Council would need to decide.

Councilor Fowler stated that the Council would be forcing something on someone that is something beyond what the law requires.

Counselor Jennings stated that the two Council appointed members to review the lease didn't feel that this was an unreasonable requirement.

Councilor Thalsofer stated that he was on the committee. He didn't and still doesn't feel that it is an unreasonable requirement. However, he was concerned about the prior notice of the meeting tonight and that there was a final decision to make. He didn't feel it was unreasonable to wait until the next meeting when Mr. Saylor, Mr. Foss, and the DEQ letter could all be available.

Councilor Schmunk reminded Council that the City Attorney would be out of town.

Councilor Fowler asked if thirty days postponement would be better to give them the opportunity to challenge DEQ?

Councilor Burgin stated that Council wasn't making a law that people running a private facility would have to be certified. We are saying that to operate under a lease on this property, we want those conditions to exist...in our best interests and the best interest of the citizens of Troutdale. That is different than passing a law. Secondly, by approving the lease, or agreeing to discuss this section of the lease, we are just presenting the lease for approval. That could be done tonight. We are agreeing to a lease and the other side can agree or not agree. Burgin stated that thirdly he didn't need a letter from DEQ to find out whether or not the Director of Community Services was telling the truth about what they said. It is a matter of the staff's professional opinion that it is a necessary level of qualification. If we don't think so, then it is our prerogative to strike that from the lease.

Councilor Fowler stated that he would withdraw his motion if Council wanted to vote on the lease striking that paragraph out.

Councilor Burgin stated that he was more likely to leave that paragraph in. He would like to see something done on it at this meeting. If the other parties wanted to sign it or not, that would be their choice.

Christian stated in order for the attorney to be present, the motion would have to be amended to postpone the decision until the June 13th meeting.

MOTION: Councilor Fowler moved to amend the motion to postpone the lease agreement to June 13th. Councilor Thalsofer seconded the motion.

YEAS: 2

NAYS: 2

MAYOR VOTE TO BREAK TIE: YEA: 3

Burgin - Nay; Fowler - Yea; Schmunk - Nay; Thalsofer - Yea
Mayor Cox - Yea

ITEM 11. APPEAL: Assessment - West Columbia Sanitary Sewer LID - Cerruti

Christian stated that the final action on this item was 1979. Christian, Jennings, Wilder had researched the materials from the records. Mr. Cerruti had objected to the project which began in 1978 and completed in 1979.

Richard and Rose Cerruti were in attendance. Richard Cerruti, 30510 NE Marshon Road, Troutdale, spoke to the issue. He stated that his father, now deceased, had remonstrated against the project. He did, in fact, own over 66% of the property. Mr. Cerruti had objected, by letter June 12. The issue was tabled June 10th, when he was in attendance. In August it was tabled again. On September 11th, it was passed while Mr. Cerruti was out of town. The project cost was high and could have gone another route. It was done to make service available to one property owner. It was a costly project to the Cerruti property. The original assessment, \$14,000 to the Cerruti property. In fact, the calculations figured now total \$6,834. A legal opinion was enclosed in packet materials.

Richard Cerruti stated that he wasn't used to talking to a group like this. Christian stated that she and Wilder could fill in the blanks for him.

Christian stated that the minutes reflect that Mr. Cerruti felt like he had gotten stuck with the LID and was told that there was nothing he could do about it. He was also told that he could defer that with no interest. They passed an Ordinance allowing that. Except that, under State statute, it was not a valid amendment. That is what Mr. Cerruti was operating under when he asked for the deferral.

Christian stated that staff supported Richard Cerruti's position. This was really improperly assessed and Mrs. Cerruti should bear the \$6,834 that would legitimately go to serve their property. Staff was asking Council to authorize staff to draw up that agreement for Council approval at the next meeting. This would also require an ordinance to repeal the previous one for the record as well as the auditors.

Christian stated that the auditors hadn't picked it up because in 1978-79, while the Council recognized the deferral - there was a note on the assessment books - it was filed in a different place than the rest of the assessments. Therefore, the City didn't even begin billing until we came across that particular assessment book, which was not part of the original book.

Christian stated that the project was paid for when it was done. It was not Bancrofted. There are no debts on the project. There are no bonds being financed. The City paid for the project.

Councilor Burgin asked what the accounting would be for this transaction?

Gazewood stated that the particular fund in question is the Special Assessment Fund which is separate from the Bond Improvement Fund which is the Debt Service Fund for bancrofting bonds. There is no impact from that standpoint. From an accounting transaction, should there be an ordinance to reduce the assessment, that is exactly what would happen. The assessment receivable would be reduced on the record to the re-established level. The only issue would then be the interest. The interest receivable is also booked so there would be an adjustment made there also.

Councilor Burgin asked what the other side of the transaction would be?

Gazewood stated that it is a deferred revenue liability (assessment) and is a receivable. It is booking a debit on the asset side and a credit on the liability side. It is a deferred revenue. When the reversal is made, the liability would come as a reduction in that respect through the debit and visa versa on the other side.

Christian stated it had taken quite a few discussions and is fairly involved. The record was fairly clear that both the Council and Cerruti's intent was that it be deferred, with no interest, for ten years. The unfortunate part is that there is no signed agreement(s) between either party. Christian suggested that, since the entire issue was a big mistake, the ten years be recognized but the assessment be at the level suggested (\$6,834) and the interest begin to accrue at 8% (at that period) to begin on September 1, should Mrs. Cerruti choose not to pay off the assessment at this time. This would re-establish the level of assessment, recognize the deferral which was intended, then begin charging/collecting that interest September, 1989.

Councilor Burgin asked if there were other surprises in the books? Christian stated that no, most of the, frankly shady deals, have been corrected. This was one that required Council action. Negotiations can't be done without the Ordinance and agreement.

Councilor Burgin expressed his appreciation to Gazewood of the entire process in clearing up the assessments.

MOTION: Councilor Thalsofer moved to authorize staff and City Attorney to prepare an Ordinance reassessing the LID as to the Cerruti property. Councilor Burgin seconded the motion.

YEAS: 4
NAYS: 0
ABSTAINED: 0

Burgin - Yea; Fowler - Yea; Schmunk - Yea; Thalsofer - Yea

ITEM 12. RESOLUTION: Approving Intergovernmental Agreement
w/Multnomah County - Bicycle Path (747-R)

Wilder reviewed the materials. The road improvement fund now requires that we expend either over a planned project or annually a percentage

of gas tax revenue (1%) for bicycle trails and hiking paths.

Multnomah County is in the process of doing work on Troutdale Road. The City has approached them with a plan which includes bicycles routes to effectively take the City's \$7,000 and put some of their money to it and add bicycle lanes from Stark Street to Cherry Park on Troutdale Road.

Wilder stated that the resolution would allow us to participate with Multnomah County on this project. Staff supports this and recommends approval of the resolution.

Councilor Schmunk stated that the shoulder along Troutdale Road is very narrow, lots of children use that route from the subdivisions north of Stark Street. She stated that since mandated from the State to use the money - it was an excellent place to use it.

MOTION: Schmunk moved to adopt the resolution as written. Thalhofer seconded the motion.

YEAS: 4

NAYS: 0

ABSTAINED: 0

Burgin - Yea; Fowler - Yea; Schmunk - Yea; Thalhofer - Yea

ITEM 13. RESOLUTION: Declaring Certain Personal Property as Surplus and Authorizing Disposal (748-R)

Wilder stated that the list of available surplus property is attached as Exhibit A. The auction is tentatively scheduled for May 27, 1989 at the Community Park to begin at 11:00 with viewing of the items at 10:00 a.m.

Mayor Cox read the resolution by title.

MOTION: Councilor Fowler moved to adopt the resolution as written. Councilor Burgin seconded the motion.

YEAS: 4

NAYS: 0

ABSTAINED: 0

Burgin - Yea; Fowler - Yea; Schmunk - Yea; Thalhofer - Yea

ITEM #14: RESOLUTION: Declaring City of Troutdale Council Intent to Amend Chapter 10 of the Troutdale Development Code (freeway signs). (749-R)

Christian stated that after review, the City Attorney had suggested making an amendment to the Code.

Christian read the resolution in its entirety. Jennings stated that the 5th paragraph could be omitted.

Christian stated this was in response to a prior meeting after reviewing McDonald's appeal and Council had chosen to use this method to resolve the issue. Council didn't want to pass an ordinance since an ordinance would be passed to amend the entire Development Code. The Planning Commission had asked that the Burns Brother's sign be

brought into compliance since it was existing at the time the McDonald's appeal came to Council.

Councilor Fowler asked if the Burns Brothers sign was illegal? Christian as the Code stands. Now, is the 60' above the freeway? Christian stated that it would meet the exact height of the Burns Brothers sign now. Christian thought that this was the intent of the Council. The original ordinance stated 50' and they were given 60' above the freeway, this would bring it into compliance.

Mayor Cox called for questions. There were none.

MOTION: Councilor Fowler moved to adopt the resolution, omitting paragraph 5 in entirety. Councilor Burgin seconded the motion.

YEAS: 4

NAYS: 0

ABSTAINED: 0

Burgin - Yea; Fowler - Yea; Schmunk - Yea; Thalhofer - Yea

ITEM 15. DEPARTMENT REPORTS:

Public Safety: Councilor Burgin liked his reports, especially the amount of solved cases.

Finance: -0-

Community Services: Wilder pointed out the continuing growth.

City Attorney: -0-

Executive: Christian reminded Council of the DEQ hearing on the Tire Recycling Facility at the Community Park Building. May 18th was the public hearing on the Mt. Hood Parkway at Gordon Russell Middle School on Powell Valley Road/East of Kane at 7:30 P.M.

ITEM 16. COUNCIL CONCERNS AND INITIATIVES

Councilor Schmunk reported on the I 84-Hwy26 connection. She stated that the CAC didn't know about the meeting. There was one January 24 which was orientation. March 9 was a goal setting session. No maps were reviewed. A Chair and Vice Chair were elected. May 11 there was another meeting which to prepare for the May 18th meeting. There was no problem with the lack of input from the Troutdale CAC. Schmunk was curious as to what they would see on May 18th.

Councilor Burgin stated that the application for the Cable Regulatory Commission for the NCAC. He stated that the length and involvement of the application might cancel out people applying just by the nature of the form and process.

Mayor Cox commented on the Entrance Monument and the sign should be up by the end of the month. Christian stated that it is hoped a dedication can be done at the June 13th Council meeting.

He mentioned the Fly In on May 20th; 8:00 - 5:00 at the Troutdale Airport with a Pancake Breakfast.

Councilor Thalhofer asked that the minutes of the Planning Commission be included in the packet materials. Christian stated that once the minutes are transcribed they will be in the following packet.

He asked the Chief about a burglary occurring while the owners were in the home -- in Wood Village on Celestia, at what time? Chief Collier responded.

ITEM 16. ADJOURNMENT

MOTION: Councilor Burgin moved to. Councilor Schmunk seconded the motion.

YEAS: 4
NAYS: 0
ABSTAINED: 0

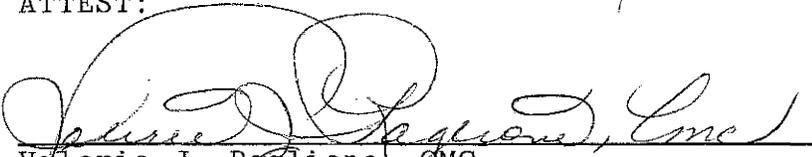
Burgin - Yea; Fowler - Yea; Schmunk - Yea; Thalhofer - Yea

The meeting was adjourned at 8:40 p.m.



Sam K. Cox, Mayor
Dated: 5/24/89

ATTEST:



Valerie J. Raglione, CMC
City Recorder
CC4[8]