



CITY OF TROUTDALE


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

7:00 P.M. -- JUNE 13, 1989

- (A) 1. PLEDGE OF ALLEGIANCE, ROLL CALL, AGENDA UPDATE
- (A) 2. CONSENT AGENDA:
 - 2.1 Accept: Minutes of 5/23/89 - Regular Mtg.
 - 2.2 Accept: Business License Report - May, 1989
 - 2.3 Accept: Bills for month of MAY, 1989
- (A) 3. PUBLIC COMMENT:
Please restrict comments to non-agenda items at this time.
- (A) 4. PUBLIC HEARING: FY 1988-89 Supplemental Budget
 - o Public Hearing Opened
 - o Declarations or Challenges
 - o Summation by Staff
 - o Public Testimony: Proponents, Opponents
 - o Recommendation by Staff
 - o Council Questions or Comments
 - o Public Hearing Closed
- (A) 5. RESOLUTION: Adopting FY 1988-89 Supplemental Budget and Making Appropriations
- (A) 6. RESOLUTION: Providing for Budget Authority for Local Improvement Districts and Making Appropriations for FY 1988-89
- (A) 7. RESOLUTION: Providing for Budget Transfers and Making Appropriations Changes for FY 1988-89
- (A) 8. PUBLIC HEARING: State Shared Revenues for FY 1989-90
 - o Public Hearing Opened
 - o Declarations or Challenges
 - o Summation by Staff
 - o Public Testimony: Proponents, Opponents
 - o Recommendation by Staff
 - o Council Questions or Comments
 - o Public Hearing Closed
- (A) 9. RESOLUTION: Declaring the City of Troutdale Election to Receive State Revenues
- (A) 10. RESOLUTION: Certifying City of Troutdale Eligibility to Receive State Shared Revenues

- (A) 11. PUBLIC HEARING: On FY 1989-90 Annual Budget
- o Public Hearing Opened
 - o Declarations or Challenges
 - o Summation by Staff
 - o Public Testimony: Proponents, Opponents
 - o Recommendation by Staff
 - o Council Questions or Comments
 - o Public Hearing Closed
- (A) 12. RESOLUTION: Adopting the City of Troutdale's FY 1989-90 Annual Budget, and Making Appropriations
- (A) 13. RESOLUTION: Levying Ad Valorem Taxes for FY 1989-90
- (A) 14. RESOLUTION: Authorization for Interfund Transfer from the General Fund to the Sewer Fund
- (A) 15. ORDINANCE: Request for Zone Change from R4/R5 to A2 (Tax Lot 89, Section 35, T1N, R3E, W.M.) Erick/Elsie Anderson, Leslie Howatt and Estel Owen First Reading
- (A) 16. RESOLUTION: Authorizing the Mayor to Enter Into Intergovernmental Agreement with the Bureau Of Emergency Communications
- (A) 17. RESOLUTION: Authorizing the Mayor to Enter Into Agreement with Multnomah County Juvenile Justice Division for Community Services Program
- (A) 18. MOTION: Authorizing the Mayor to Enter Into a Lease Agreement -- Wastewater Management
- (A) 19. ORDINANCE: Establishing and Imposing Wastewater availability charges, user fees and wastewater system development/improvement charges and repealing Ordinance #512-0. First Reading
- (A) 20. ORDINANCE: Establishing and Imposing Water availability charges, user fees, commodity charges, standpipe charges, improvement charges, and modifying Ordinance #279-0 and repealing Ordinance #511-0. First Reading
- (A) 21. RESOLUTION: Authorizing Mayor to Enter Into Contractual Services Agreement -- Insurance Agent of Record
- (A) 22. RESOLUTION: Requesting Action Dedicating Fuel and Highway Use Taxes from the Metropolitan Service District Garbage Transfer to the Impacted Portion of I-84
- (A) 23. BID AWARD: Marine Drive/Sundial Road L.I.D.
- (A) 24. RESOLUTION: Accepting Preliminary Assessment Role and Authorizing Community Services Director to Call for Bids for Construction of Grade School Access streets and sidewalks (89-003)

- (A) 25. RESOLUTION: Accepting North Harlow Waterline Extension Project
- (A) 26. DEPARTMENT REPORTS:
Public Safety
Finance
Community Services
City Attorney
Executive
- (A) 27. COUNCIL CONCERNS AND INITIATIVES
- (A) 28. ADJOURNMENT.


Sam K. Cox, Mayor

Dated: 6/14/89

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5/30/89 Tue 12:09:27

MINUTES
REGULAR CITY COUNCIL MEETING
TROUTDALE CITY HALL
COUNCIL CHAMBERS
104 SE KIBLING AVENUE
TROUTDALE, OR 97060-2099

7:00 P.M. -- JUNE 13, 1989

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

Mayor Cox called the June 13, 1989 Regular City Council meeting to order at 7:00 p.m. Mayor Cox called on Councilor Burgin to lead the pledge of allegiance.

Mayor Cox called on City Recorder, Valerie Raglione, to call the roll.

PRESENT: Bui, Burgin, Cox, Fowler, Jacobs, Schmunk, Thalhofer

STAFF: Pam Christian, Chief Collier, Bob Gazewood, Leslie Hauer, Valerie Raglione, Greg Wilder
City Attorney, Jim Jennings

PRESS: Webb Reubal, Oregonian
Robin Franzen, Gresham Outlook

GUESTS: Frits Van Gent, Leslie Howatt, Allen Kravitz, Bob Schmidt, Bill Saylor, Milton Foss

ITEM 2. CONSENT AGENDA:

MOTION: Councilor Bui moved to approve the Consent Agenda (Minutes of 5/23/89 - Regular Mtg.; 2.2 Business License Report - May, 1989; 2.3 Bills for month of MAY, 1989). Councilor Burgin seconded the motion.

YEAS: 6

NAYS: 0

ABSTAINED: 0

Bui - Yea; Burgin - Yea; Fowler - Yea; Jacobs - Yea; Schmunk - Yea; Thalhofer - Yea

ITEM 3. PUBLIC COMMENT

Mayor Cox called for public comment on non agenda items. There was none.

ITEM 4. PUBLIC HEARING: FY 1988-89 Supplemental Budget

Public Hearing Opened at 7:03 p.m.

Declarations or Challenges - None.

Summation by Staff: Christian reviewed briefly that the Budget

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Committee had approved the supplemental budget at a public hearing on April 25, 1989. Tax Supervision and Conservation Commission had certified the supplemental budget as approved by the Budget Committee.

Public Testimony:

Proponents

Opponents - There were no comments.

Recommendation by Staff - Christian stated that staff recommendation, as well as the Budget Committee, was to adopt the supplemental budget for FY 1988-89.

Council Questions or Comments - None

Public Hearing Closed 7:05 p.m.

ITEM 5. RESOLUTION: Adopting FY 1988-89 Supplemental Budget and Making Appropriations (756-R)

Mayor Cox read the resolution by title.

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

YEAS: 6

NAYS: 0

ABSTAINED: 0

Bui - Yea; Burgin - Yea; Fowler - Yea; Jacobs - Yea; Schmunk - Yea; Thalhofer - Yea

ITEM 6. RESOLUTION: Providing for Budget Authority for Local Improvement Districts and Making Appropriations for FY 1988-89 (757-R)

Christian stated that by State Budget Law doesn't allow spending money without appropriation authority. This resolution makes an adjustment to the 1988-89 budget for monies expended for LID projects currently authorized which include the North Harlow Waterline, Marine Drive/Sundial Road and the Grade School Access (preliminary engineering and completed waterline).

Christian stated that this was an adjustment to this year's budget to give authority to expend the money.

Mayor Cox read the resolution by title.

Councilor Bui stated that he understood this to be a local match and does not include federal, or does it include federal match?

Christian stated that this only includes this year. All of the federal money will be spent next year.

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

YEAS: 6

NAYS: 0

ABSTAINED: 0

Bui - Yea; Burgin - Yea; Fowler - Yea; Jacobs - Yea; Schmunk - Yea; Thalhofer - Yea

ITEM 7. RESOLUTION: Providing for Budget Transfers and Making Appropriations Changes for FY 1988-89 (758-R)

Christian stated that these were different funds than the supplemental specific funds to be addressed independently. They are generally Enterprise funds and would also be addressed during the water and sewer rates also.

Gazewood stated that the resolution is in three sections: 1) budgeting for a loan repayment made June 30, 1988 to provide for cash flow shortage in the water fund. There were receivables still outstanding but the cash had to meet the expenses disbursed as of that date. The \$9,000 was a repayment to that fund; 2) a \$15,000 cash shortage is projected as of June 30, 1989 and to avoid the fund being in a cash deficit position the request is for a \$15,000 loan from the general fund to finance that cash shortage (there are receivables outstanding that would cover the loan as it is collected); 3) provides interim financing for the LID's that are started and that are completed. The \$52,000 is a requested loan from sewer improvement fund to interim finance until different financing can be found after the new fiscal year.

Mayor Cox called for questions.

Councilor Bui stated basically it is bookkeeping. Gazewood stated, yes, it is to keep funds straight and not have audit exceptions relating to cash deficits.

Mayor Cox read the resolution by title.

MOTION: Councilor Thalsofer moved to adopt the resolution.
Councilor Bui seconded the motion.

YEAS: 6
NAYS: 0
ABSTAINED: 0

Bui - Yea; Burgin - Yea; Fowler - Yea; Jacobs - Yea; Schmunk - Yea; Thalsofer - Yea

ITEM 14. RESOLUTION: Authorization for Interfund Transfer from the General Fund to the Sewer Fund (759-R)

Mayor Cox read the resolution by title.

Gazewood stated that this was a resolution for authorizing the establishment of the loan from the general fund to the sewer fund. This is a requirement by Oregon Local Budget Law which permits the loan to be made.

MOTION: Councilor Bui moved to adopt the resolution. Councilor Jacobs seconded the motion.

YEAS: 6
NAYS: 0
ABSTAINED: 0

Bui - Yea; Burgin - Yea; Fowler - Yea; Jacobs - Yea; Schmunk - Yea; Thalsofer - Yea

ITEM 14A RESOLUTION: Authorizing An Interfund Loan from the Sewer Improvement Fund to the Special Assessment Fund (760-R)

Mayor Cox read the resolution by title.

Gazewood stated that the resolution would legally recognize the loan to the special assessment fund from the sewer improvement fund. This has to be repaid by law within the next fiscal year period.

MOTION: Council Bui moved to adopt the resolution. Councilor Jacobs seconded the motion.

YEAS: 6

NAYS: 0

ABSTAINED: 0

Bui - Yea; Burgin - Yea; Fowler - Yea; Jacobs - Yea; Schmunk - Yea; Thalhofer - Yea

ITEM 8. PUBLIC HEARING: State Shared Revenues for FY 1989-90

Public Hearing Opened at 7:15 p.m.

Declarations or Challenges - None

Summation by Staff Christian stated that this is an annual statement of the City's intent to receive state revenues (liquor tax, cigarette tax, gas tax) which are distributed on a population formula. Jurisdictions must state that they will receive those funds.

Public Testimony:

Proponents -

Opponents - None

Recommendation by Staff

Council Questions or Comments - Councilor Bui asked if there was any idea of what monies would be forthcoming?

Gazewood stated \$240,000 with liquor tax combined equaled about \$96,000.

Public Hearing Closed - 7:16 p.m.

ITEM 9. RESOLUTION: Declaring the City of Troutdale Election to Receive State Revenues (761-R)

Mayor Cox read the resolution by title.

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

YEAS: 6

NAYS: 0

ABSTAINED: 0

Bui - Yea; Burgin - Yea; Fowler - Yea; Jacobs - Yea; Schmunk - Yea; Thalhofer - Yea

ITEM 10. RESOLUTION: Certifying City of Troutdale Eligibility to Receive State Shared Revenues (762-R)

Mayor Cox read the resolution by title.

Christian stated that the resolution certified to the State that the City provides four or more of the seven services stated. She stated
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that in reading the statutes it isn't clear as to how the services are provided. It appears that the services can be contracted and still be considered as providing the services.

MOTION: Councilor Bui moved to adopt the resolution. Councilor Burgin seconded the motion.

YEAS: 6

NAYS: 0

ABSTAINED: 0

Bui - Yea; Burgin - Yea; Fowler - Yea; Jacobs - Yea; Schmunk - Yea; Thalsofer - Yea

ITEM 11. PUBLIC HEARING: On FY 1989-90 Annual Budget

Public Hearing Opened - 7:20 p.m.

Declarations or Challenges - None

Summation by Staff - Christian stated that there were four Budget Committee meetings and a review of the budget was done line by line. An estimate of the effect of the tax rate wasn't available since the assessments aren't timed with any cities fiscal year. It is expected to be quite close to last year.

Christian stated format changes had been done based on Tax Supervising and Conservation Commission recommendation. Showing expenditures and revenues are shown differently. There is \$8,000 less from County Business Income Tax because Mr. Gutjahr had chosen to take a conservative estimate. There would be net result in the cash beginning balance of the City by \$8,000 less. Everything else remains as it was reviewed by the Budget Committee.

Public Testimony:

Proponents -

Opponents - None.

Recommendation by Staff - Christian added that Council had directed staff to make a special notation in the budget line item for donations that went specifically to the Police Department for the Reserve Program. That is shown as a new line item in the budget. Council Questions or Comments - None

Public Hearing Closed - 7:22 p.m.

ITEM 12. RESOLUTION: Adopting the City of Troutdale's FY 1989-90 Annual Budget, and Making Appropriations (763-R)

Mayor Cox read the resolution by title.

MOTION: Councilor Bui moved to adopt the resolution. Councilor Jacobs seconded the motion.

YEAS: 6

NAYS: 0

ABSTAINED: 0

Bui - Yea; Burgin - Yea; Fowler - Yea; Jacobs - Yea; Schmunk - Yea; Thalsofer - Yea

ITEM 13. RESOLUTION: Levying Ad Valorem Taxes for FY 1989-90 (764-R)

Christian stated that one-half of the debt service had been removed

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by request of TSCC. It was suggested that debt service appropriate only for one-half of an accounting year be shown rather than a calendar year due to the method of property assessment. The other half would be in the following year's budget.

Gazewood stated that with the TSCC request the overall net affect on the tax levy is a reduction of just over \$3,000 (dropped from \$8,500 to \$5,200 approximate).

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

YEAS: 6

NAYS: 0

ABSTAINED: 0

Bui - Yea; Burgin - Yea; Fowler - Yea; Jacobs - Yea; Schmunk - Yea; Thalhofer - Yea

ITEM 15. ORDINANCE: Request for Zone Change from R4/R5 to A2 (Tax Lot 89, Section 35, T1N, R3E, W.M.) Erick/Elsie Anderson, Leslie Howatt and Estel Owen ((526-0) First Reading

Leslie Hauer gave staff comments. She stated that this request was for approximately 7 1/2 acres located on 257th/Hensley. The request would allow for development of approximately 165 apartment units on the site.

Hauer stated that there was a split decision between the Citizens Advisory Board and the Planning Commission. The Citizen's Advisory Committee did review it and felt that it met the Comprehensive Plan criteria (need for housing stock, good access) and recommended approval. The Planning Commission considered the matter and decided to retain single family zoning.

Hauer stated Council could authorize the change if the findings are determined to be appropriate (area developed for the density; area where there are no known geologic hazards; close to shopping, employment, and good access; area adjacent to parks and recreation, permanently protected open space or bodies of water).

Christian stated that the Planning Commission minutes of 5/17/89 (pg. 10 [j]) also reviews the Planning Commission action on this specific application.

Hauer stated that the architect for the project was in the audience if Council wished to ask questions.

Council reviewed the map included in packet materials to determine the location.

Councilor Bui stated that he understood the Planning Commission took its action partially based on the fact that no one spoke as a proponent, was that true?

Hauer stated that that Mr. Thompson felt the neighbors were opposed to the request and the Planning Commission then moved to retain the

single family zone. There was no public comment, however.

Councilor Bui asked if Hauer felt there would be a negative impact if Council took affirmative action towards it. Hauer stated that it was her opinion that it would be an asset to the neighborhood and the community as a whole.

Councilor Burgin stated that the Plan appeared to have access to both 257th and Hensley. Hauer stated that was correct. Councilor Burgin asked how far west on Hensley was it from the entrance to it? Hauer couldn't state how far but, it could be measured. Councilors Burgin and Schmunk discussed the area and where other entrances were already located.

Mayor Cox called for comments from the audience.

Leslie Howatt stated that he wasn't able to be at the previous meeting. No one spoke as a proponent and no one spoke as an opponent as far as he knew. He reviewed the Comp Plan and felt that it appeared to be closely to the guidelines the Comp Plan set forth. 257th had been substantially improve, the college, transportation facilities had all been improved. In conjunction with the Planning Commission they made it known that there seemed to be a shortage of multi-family housing in the Troutdale area at an affordable price. The primary guideline of the Comp Plan is to provide places for people to live. It appeared that property along the arterial fit what the Comp Plan tried to accomplish.

Howatt stated that cluster housing had been envisioned but was out of vogue. The property had laid idle for a substantial amount of time due to the level of demand for the type of development. More recently with the improvements and desire of more people to live in the area, it became feasible to look along the lines of multi residences. It appears to be a logical development.

Howatt stated he was one of the property owners and would respond to Council questions.

Councilor Bui asked if the rent amounts were known as yet? Howatt stated that the developer would know and was available for comment. He stated that economics would prevail, but it was expected that they would be affordable.

Allen Kravitz, architect and project developer, spoke to Council. Both pieces of property were under contract to purchase if the re-zoning was successful. He felt that it was an excellent piece for multi-family apartments. The studies are preliminary in nature but, thought it to be a viable project. He stated that his brothers as well as himself planned to keep the project and retire from the income from the business. Kravitz stated that it was an upper end project, families and professional people that could pay good rent. Primarily 3 bedrooms and 1 bedrooms ranging from 1 bedroom - \$450; 2 bedrooms - \$550; 3 bedrooms - \$600 - at least approximately. There will be an investment of between \$5.5-\$6 million for this project.

Kravitz had flown up from California today for the meeting and will begin tomorrow if successful in the zone.

Kravitz stated that it is hoped to begin construction this year if at all possible.

Councilor Thalsofer asked about the 'affordability' of \$450 for a one bedroom. He felt there was a duty to provide affordable housing in Troutdale. He felt that a person could have a house for that per month. Councilor Schmunk stated that he had lived in his house too long.

Councilor Thalsofer stated that the question of density was more the concern then. Kravitz stated that the financial institutions controlled the process in terms of what type of income can be produced from construction, etc. there is a density to be supplied then. Otherwise the capital put into a project becomes too much to make it feasible. This takes about \$700,000 cash to do the project.

Christian stated the housing mix and requirements of LCDC is that a 'mix' of housing be provided...not necessarily affordable. Troutdale is hurting for upper end both in rental and single family.

Christian stated that property owners within 250' were notified individually - over 70 notices were sent to adjoining property owners.

Mayor Cox read the ordinance by title.

MOTION: Councilor Bui moved to pass the ordinance as written based on the fact of housing stock and need for multi dwelling housing in the area. Councilor Fowler seconded the motion.

Councilor Thalsofer wanted to note that he voted in favor of this because he lived in his house too long.

YEAS: 6

NAYS: 0

ABSTAINED: 0

Bui - Yea; Burgin - Yea; Fowler - Yea; Jacobs - Yea; Schmunk - Yea; Thalsofer - Yea

ITEM 16. MOTION: Authorizing the Mayor to Enter Into Intergovernmental Agreement with the Bureau Of Emergency Communications

Chief Collier stated that there had been over 1 year of negotiations to get to this point. The major change is that it returns the management of BOEC to a civilian director.

Councilor Bui asked about City of Portland going with the new enhanced 911 to encourage, create and require the enhanced systems. Would we then have to come up with additional monies to maintain the same vehicles and equipment?

Christian asked if Councilor Bui was referring to Public Safety Levy?

Councilor Bui was. Christian stated that Commissioner Bogle had met with Troutdale staff and Mayor. There is a chance that additional equipment funds would need to be committed depending on the system. However, the user Board will now have much more influence in the discussions with what happens with BOEC.

Christian stated that one of the big expenditures in the levy is outfitting cars with MDT's which is an added level of service, but not required. We would not be required to furnish MDT's to each car. They will accommodate the lack of MDT's by providing a dispatcher to do license plates as an example. Christian stated that Commissioner Bogle was extremely aware of these concerns of any of the jurisdictions.

Councilor Burgin asked where the City of Fairview was in this? Christian stated basically riding on the County's shirt tail. They aren't a party because they don't pay their BOEC communication fees.

MOTION: Councilor Bui moved to authorize the Mayor to enter into an agreement to participate in the BOEC dispatch concept. Councilor Burgin seconded the motion.

YEAS: 6

NAYS: 0

ABSTAINED: 0

Bui - Yea; Burgin - Yea; Fowler - Yea; Jacobs - Yea; Schmunk - Yea; Thalhofer - Yea

ITEM 17. MOTION: Authorizing the Mayor to Enter Into Agreement with Multnomah County Juvenile Justice Division for Community Services Program

Raglione discussed background information and stated that two concerns were 1) a need for an age limit; and, 2) the responsible party for worker's compensation insurance. Raglione stated that for any special concerns it only needed to be listed on the last sheet of the agreement. The County is responsible for the worker's compensation insurance.

Councilor Burgin was concerned about an age limitation. He asked that staff try to consider work tasks that could be done for individuals under 16 years rather than eliminate them entirely.

Raglione stated that the schools in the area can also be a source for the work projects.

Councilor Burgin stated that experts say that alternatives and restitution should be provided. He felt that someone should provide that. If it costs a little, then so be it but he felt that we should make the effort to come up with a listing of work tasks that could be done for persons 13 to 16.

Councilor Bui stated that Gresham had developed a cadet program to get kids interested in some kind of public service work.

MOTION: Councilor Bui moved to authorize the Mayor to enter into

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the agreement with the caveat of an age limit of 16.

Councilor Bui didn't feel that the City had the resources right now to hold hands with the younger ones. He felt that until a list of tasks or alternatives could be developed, the best thing would be to authorize entering into the agreement, and have staff prepare a list of tasks that can possibly be done by 13-16 year olds.

Thalhofer asked if the youth could be assigned to some of the parks and the recreation program. Christian stated that would be a good idea, as helpers to the recreation program coordinator. They must, however, be accompanied by a city employee.

Christian stated that staff would bring this matter back to Council with a full report on what is possible; where they can be assigned, based on the ages; any other programs that are available to be looked into; other staff members may have ideas also.

MOTION: Councilor Bui moved to amend the motion to authorize the Mayor to enter into an agreement with Multnomah County Juvenile Justice Division to allow youth under 16 for work referral and direct the staff to investigate duties for individuals under 16 years of age. Thalhofer seconded the motion.

YEAS: 6

NAYS: 0

ABSTAINED: 0

Bui - Yea; Burgin - Yea; Fowler - Yea; Jacobs - Yea; Schmunk - Yea; Thalhofer - Yea

ITEM 18. MOTION: Authorizing the Mayor to Enter Into a Lease Agreement -- Wastewater Management

Wilder reviewed materials and correspondence for this item. Wilder addressed the letters from DEQ and stated that the City would still be held liable for processing our sludge, even if contracted out, if the rules of land application are not followed. He stated that the original lease was in the packet and was blue lined for clarity as to what has been deleted and the re-negotiated lease was yellow lined for new language in the lease.

Councilor Fowler stated that the letters from DEQ don't appear to require certification. Wilder stated that the May 25 letter stated that certification is not a requirement but the City may include it as a lease item. It is Council decision as to whether or not to include it.

Councilor Fowler asked where DEQ had the authority to dictate requirements of the City? Councilor Fowler added that if they state that they don't have control over it, then they shouldn't give advice over it either.

Jennings stated that he didn't know that they were giving advice over it, they are saying that the City can or can not include it if they choose to do so. When a question is directed to them as to whether or whether not something can or cannot be included in the lease, I don't think it beyond the purview of their response to say we don't require that you put it in the lease, that is up to you.

The liability issue is a separate issue and has nothing to do with DEQ.

Councilor Thalhofer asked the City Attorney opinion about a conflict of interest.

Jennings stated that Councilor Thalhofer had earlier asked Jennings to clarify on Council's responsibility and anyone else responsibility that had previously considered the lease in another setting. In this case the Troutdale Business Association.

Jennings stated that all public officials are guided by ORS 244.020 (4). This section deals with conflict of interest. In summary, it states that a public official cannot engage in any deliberation where he or she has a pecuniary interest in the subject being considered. That can either be direct or indirect money interest. (i.e., if an individual is a member of a business which stands to benefit by a zone change that individual is required to declare their conflict of interest. By doing so, at the start of deliberations you declare that you have a conflict of interest and briefly state what it is. You are not thereafter precluded from the deliberations [discussions] and it is up to the individual to decide whether or not you will vote. You aren't automatically excluded from voting unless the public body [rest of deliberative group] decides that you are excluded from voting.

Jennings stated that he was cautioning Council that even though you are not necessarily excluded automatically, there can be repercussions from being an interested or conflicted person and deliberate. Those repercussions could include possible fines from the State Ethics Commission if you are found to have deliberated and made a decision when you should not have done so. It does not mean that a decision by Council is void or even voidable, but it does mean that you personally could be subject to scrutiny by the State Ethics Commission if you deliberate in something where you could have pecuniary interest.

Jennings stated that then Councilor Thalhofer discussed the T.B.A. and their deliberations of this specific issue raises a second point which must be carefully considered. Members of two groups [Council members and members of another group] must be very careful in discussing City Council business outside the Council Chambers that they not meet in a quorum of City Council members and reach a decision concerning action Council is going to take and then carry that decision to Council. That is a violation of public meetings law and can carry much more serious consequences. \$i.e., Action voided and individuals violating the law could be considered to be liable

themselves for liable under certain circumstances.†

Jennings stated that it was his opinion that as considered, there is no prohibition against individuals who were on the T.B.A. Board of Directors who met and discussed this matter with representatives and essentially made a decision to pass on a recommendation from the group as a whole to Council. He stated that he didn't see that as a violation nor representing a pecuniary interest as such in the discussion. He didn't see that there was necessarily a pecuniary interest and need to disqualify oneself for purposes of the State Ethics Commission oversight.

Jennings did feel that it was a good idea for anyone participating in a discussion and who has previously considered or discussed the matter in another setting to so declare as you would at a Planning Commission meeting. Not removing oneself from discussion or voting, just to announce previous consideration of the issue in an organized forum.

Councilor Thalsofer disclosed that he is President of the T.B.A. and as such was Chair at the Board of Directors meeting when this subject was discussed. There was not an official vote, however, there was a quorum, [4 of the 7 members were there]. Although there was a recommendation of the Governmental Relations Committee of the T.B.A. [Composed of: Fritz Van Gent; Frank Windust; Phil Meecham] That was the committee that came up with the recommendation.

Councilor Thalsofer declared his conflict of interest which is not pecuniary.

Jennings stated that each should acknowledge any ex parte contact had with anyone proposing any act or action. That should also be disclosed. A proponent of any action making a presentation or discussed the matter in person, by mail, or by phone, that should be disclosed also.

Jennings stated that ex parte contact must be disclosed.

Councilor Bui disclosed that he was Vice-President of the T.B.A. currently and he did participate in the hearing called together by the Chairman of the Intergovernmental Relations Committee of the T.B.A. The issue is that when there is a matter relating to a business and its existence, development, furtherance, or its fatality within the City of Troutdale the Business Association has a sub-committee called the Intergovernmental Relations Committee whose responsibility it is to review the matter with the proponent who is indicating that he has problems and then if they see fit, call the President of the Association and call the Board of Directors together and discuss the issue...which was done. As Councilor Thalsofer indicated, there was no formal action taken. However, I made the recommendation that they should talk with Mr. Wilder previous to this Council meeting to see what conflicts they had with the agreement, if the negotiations could be taken outside of Council so that there would be no Council action.

Councilor Schmunk stated that she spoke with Mr. Saylor on two occasions at different businesses within the City of Troutdale. She stated she also received a letter.

Councilor Fowler stated that he was a member of the T.B.A. and has spoken with Mr. Mauck many, many times. He stated that he sat through the long program with the last issue of BOD when the engineering firm was so far off and have had contact with Wastewater Management. He was not on the Governmental Committee and was not at that meeting. He stated he had received a letter

Councilor Burgin stated that he had received a letter from Wastewater Management.

Mayor Cox stated that he was a member of T.B.A. as most people in the area. In a City the size of Troutdale you belong to everything. He had spoken with Mr. Saylor and Mr. Schmidt and also received a letter.

Councilor Jacobs had not spoken with anybody, however, did receive a letter.

Councilor Thalhofer stated that he had also received a letter.

Jennings stated that this has been gone through due to the sensitivity of this matter. He didn't want to single out Wastewater Management...anytime in any deliberations that there has been ex parte contact, that declaration should be made at the beginning of the deliberations, or state any conflicts of interests there may be.

Councilor Thalhofer asked Wilder as to why we need the certification for this particular operation when it isn't required by DEQ or any other body that he was aware of?

Wilder stated that during the original negotiations, the certification issue was an oversight. When the issue came before again and the opportunity to include the item was before us, it would protect the City against the possibility against improper disposal...not completely, but put them on the same certification level as the City. They are operating under a solid waste permit, although they are applying liquid waste products to the land as we do out sludge products. It just seems good common sense to include that item for consideration. An optional revision to that paragraph which would remove the certification requirement except when they are treating or discharging treated material from or discharging to a facility that is required to be certified. That would help protect the City against the issue stated in DEQ's June 22 letter which states ...if we contract with another firm to treat our sludge products and they are improperly applied the City will be held liable not the party discharging.

Mr. Saylor stated that one of the advantages is that they are an emergency outlet for the various municipalities around that have digesters and their own plant application methods. If they have

a problem with a digester that goes down, they like us to process their sludge. That is a problem - does that mean that we have to be certified to the level of all the municipalities in the area? He didn't feel it made sense at all.

Councilor Jacobs asked what level plant Troutdale was and what the majority of other municipalities were?

Wilder stated Troutdale was a level 2; Portland 4; Sandy 1; Estacada 2; Gresham 3.

Christian stated that Troutdale was acting as a property owner and was a property owner trying to negotiate a lease and mitigate against the risk the City would have as a property owner as well as a potential discharger to this particular operation. That is the issue and the issue of certification. It is a mitigation of liability that the City could be subject to should there be any permit violations or problems with the ultimate discharge of the treated sludge.

Christian stated that the lease language could be changed to read accept from or discharge to our plant (Troutdale's) that they have the same certification that our plant does (Operator I). Let the other jurisdictions worry about their own potential liability.

Councilor Schmunk asked where the separation was in whose sludge was whose? Christian stated that you can't separate it.

Jennings responded to Councilor Fowler regarding responsibility of handling the discharge into the Plant.

What difference does it make who discharges into the City's plant? The discharge from most industrial users it is on a scale of a limited amount. When talking about Wastewater Management, there only product is waste to be treated. Their discharge is significantly greater than any other industrial user. It isn't out of the question at all to limit or attempt to monitor by having regulated operators running the material that is getting into them. It isn't a question of on or off, it is a question of gradation. If Wastewater Management discharges 50% of the total flow that the City receives in one day, it makes sense to try to regulate that.

What responsibility does the City have?

Jennings stated that there is a secondary responsibility which hasn't been discussed. The City of Troutdale is the leasing agent for this piece of property. A leasing agent is never entirely going to absolve themselves of the responsibility for the actions that the tenant does while on the land. You can't walk away from what is called an ultra-hazardous activity. The City has a responsibility to monitor what happens on land that is leased.

Jennings stated that crack houses are a perfect example. Landlords are being held liable for what takes place in those crack houses. The City has exactly the same responsibility as a landlord. To know what is going on and do everything they can to mitigate the impact of what

goes on in the surrounding area. There is an absolute legal responsibility to do so.

Jennings stated that the question for Council is to decide whether or not the approach staff is taking is a reasonable approach. The City has a responsibility and a concern for what takes place on leased land owned by the City.

Bill Saylor stated that if the City wanted to contract with Wastewater Management to process sludge then a contract could be done between the two -- but not in the lease. In that case then, they would get a certified operator as required then by the contract.

Jennings stated that the only people the City could contract with is Wastewater Management for disposal of City sludge. The City has no control over contracts other than through the lease agreement. The only control the City has is through the lease agreement itself.

Mr. Saylor stated that the sludge being discharged is classed as non-hazardous.

Jennings asked if there were any other problems with the lease other than the certification issue?

Mr. Saylor stated that he had enclosed a signed copy of a lease which was sent to all Council members. He stated that there weren't any other problems other than the certification. He had filled in the other spaces with the dates and proper criteria. In regards to the liability issue, if that is there concern, he asked that the liability limits be lowered to \$500,000 due to the expense involved. If liability is a concern he stated that he made a notation on the lease he signed that he will continue to carry the \$1,000,000 liability.

Frits Van Gent spoke stating that the Wastewater Management plant is not a treatment plant. It isn't under control of DEQ and didn't feel that they should have to meet the requirements as though it was a treatment plant. It is a different process. He had been asked by the Board of Directors of the T.B.A. to try to make it as simple as possible and continue negotiations with the City. Van Gent stated that he called Wilder and Wilder stated that it was up to the Council. That is why the signed lease from Wastewater Management was sent to all Council members. There were two changes 1) delete the certification requirement, and 2) the liability issue of \$500,000 or \$1,000,000. Van Gent stated that if there was a concern maybe the City should sell the property to Wastewater Management so he could at least make a go of the plant. If the business fails it goes to the City of Troutdale. He recommended that the lease be signed as it was sent to the Council.

Mayor Cox asked if Wilder had the costs if the City did the processing for them. Wilder stated that Mr. Saylor had submitted a letter to the City suggesting a possibility of processing City sludge which was .06 cents per gallon (\$600/day) or \$219,000 per year to

process City sludge. The City processes its own sludge through approved DEQ methods at 1.2 cents per gallon. This would be 4 1/2 to 5 times the City current costs; it would increase the budget by approximately 44%; and increase the current user fee ordinance of \$13.20 per ERU to \$18.33 per ERU.

Councilor Fowler asked if Gibbs & Olson was looking at doing a study for new digesters and such? Wilder, yes. Councilor Fowler asked if this would replace that? Wilder stated that two or three months ago a letter from Gibbs & Olson asking a number of questions to be included in their review was sent to Wastewater Management. They have not as yet had a response from them. Gibbs & Olson is currently on hold until the new 503 regulations (August) is developed. That would allow the new regulations to be included in the review. However, Wilder stated, that would not incorporate a chlorine oxidation process without the detail requested in Gibbs & Olson letter to Wastewater Management which to date has not been responded to.

Councilor Thalsofer asked about a compromise taken that Christian suggested. To have a certification only if the City of Troutdale is processed?

Mr. Saylor stated that he was for that 100% but only in a contract not in the lease. If he accepted sludge from any other municipality other than Troutdale he would have to be certified to their level. If not, the City could state he was in violation of the lease and put him out of business.

Councilor Thalsofer stated that it would only apply to the City of Troutdale. Saylor stated that if the lease stated that in order to process sludge for the City they be certified to the level of Troutdale, he had no problem with that. It was a simple statement and he had no problem with that.

Jennings stated that was okay. However, he understood that there were two concerns: 1) City of Troutdale transaction with Wastewater Management and the 2) other entities transactions with them. All we are doing is controlling the activities of the City of Troutdale and no other materials received from any other jurisdiction.

Wilder stated that if materials are received from another facility and by chance choose to discharge to Troutdale, they are still taking someone elses from some other certified plant and discharge to Troutdale we would have that mix to deal with. As long as our interests are protected, that is what the ultimate objective is. If they would accept the issue of certification of their operators being commensurate with our plant, if they treat our sludge or discharge to us...that is an acceptable compromise.

Mr. Saylor stated that he and Wilder periodically butt heads but by and large get along. They are discussed a test program in which sludge from the City could be run 50-100 gallons on a test. If run on a long term basis, we agree to certify.

Wilder stated that it would be a limited amount but, test or otherwise we would still be faced with the same issue of liability. That is for Council determination. He stated that he personally questioned doing it.

Mr. Saylor stated that the possibility of selling the facility to the City of Troutdale at a cost of more or less digesters could be put in for at a treatment cost per gallon that is competitive with any processes out there. The idea that we would charge .06 cents per gallon, yea we are a private enterprise and we need to make a little profit if that's what it is all about. We are in line with other processes in the area.

Jennings stated that an addendum could be developed if and when there was a testing process.

Council asked Jennings to change the language in Section 19.

Councilor Burgin objected to the way the lease was being negotiated. As one side of the lease the advice that we take in Counsel needs to be discussed among Council not discussed by the other party to the lease. If Council members have a question which would then be directed to the public.

Jennings asked about the concern of continuously supervised. Council Thalhofer asked Wilder his opinion.

Councilor Burgin felt it was a reasonable requirement.

Milton Foss spoke from the floor without being recognized. Mayor Cox stated that he was out of order. After the Council had the opportunity to hear the wording for the motion, he could then be recognized. [Mr. Foss left the Chambers prior to the vote.]

The assignee shall not process any sludge from the City of Troutdale nor shall they discharge to the City of Troutdale, unless the assignee's sludge treatment facility is continuously supervised by a person having adequate knowledge of the system and having a current State of Oregon, Department of Environmental Quality operator's certificate commensurate with the State of Oregon Department of Environmental Quality's requirements for operator certification for the City of Troutdale.

Jennings stated that the liability should be considered for Council along with the language.

MOTION: Councilor Thalhofer moved to approve the lease with the language change to Section 19 as stated by the City Attorney and the liability from \$500,000 to \$1,000,000. Councilor Fowler seconded the motion.

YEAS: 4

NAYS: 1

ABSTAINED: 1

Councilor Burgin stated that the discussion is for the purpose of a

lease agreement...We aren't passing an ordinance governing anybody who pumps septic in the City of Troutdale. Whatever is agreed to between a tenant and a property owner is strictly between those two parties.

Bui - Abstained; Burgin - Yea; Fowler - Yea; Jacobs - Yea; Schmunk - Nay; Thalsofer - Yea

Councilor Bui stated that he felt he had a conflict and abstained. Councilor Thalsofer stated that he didn't feel he had a conflict in that he didn't have a pecuniary interest.

RECESS: Mayor Cox called for a short recess at 8:57 p.m..
RECONVENE: 9:07 p.m. Mayor Cox reconvened the Council meeting.

ITEM 19. ORDINANCE: Establishing and Imposing Wastewater availability charges, user fees and wastewater system development/improvement charges and repealing Ordinance #512-0.
(527-0) First Reading

Mayor Cox read the ordinance by title.

Christian stated that a revised page 6 was replaced by a new page 6 at the Council members areas. She stated that this would bring the collection timing dates in sequence -- billed at the same time, fall due at the same time and are delinquent at the same time. It also reduces by 15 days the 75 day delinquency period that there currently is. In effect, at the end of 60 days the water could be shut off instead of 75 days.

The cash deficiency in the sewer fund particularly at the end of the year because it is budgeted so closely.

Wilder stated that the ordinance did increase the user fees from \$11.50 to \$13.20 per ERU. The increase would be commensurate with the C.O.L. index had that been applied the past few years. There is an ordinance that stated that monies left over at the end of the year could be used to reduce fees in the ensuing year. Likewise expenses would be respond quickly to expenses. The amount has steadily decreased over the past few years as the rate setting formula has been refined. The current deficit is approximately 10-14%. There is no monies to carry forward.

Wilder stated that one of the new users had been found to be discharging at a rate of greater than twice the billing amount. As single industrial customers are analyzed, there may be more that need to be recalculated. It is open to a mid year course adjustment.

Councilor Schmunk asked how many select facilities there are? Wilder stated probably 40 to 50. Some could be handled by taking the water meter reading alone because it is generally known what is being discharged by the majority of the facilities [i.e., High School]. The ordinance allows a year to evaluate the facilities that we aren't sure of and is done on what the user states they estimates it to be.

Wilder stated that the SDC's remain the same. The constituents that make up a residential unit change from year to year depending on what the discharge is at the plant and what the average strength is. He thought Troutdale was one of the few cities that are always current within twelve months of what actually is an equivalent residential discharge.

Councilor Thalhofer asked if the rate increase could wait till mid year to be done. Wilder stated no there was currently a deficit and there is no option at this time.

Councilor Bui asked if such things as a new apartment complex, et cetera would make any changes? Wilder stated absolutely, there is no question. There will be a point when the plant can't handle the capacity and an upgrading and remodeling will be done.

MOTION: Councilor Burgin moved to pass the ordinance with the new page 6 as replacement. Councilor Schmunk seconded the motion.

YEAS: 6

NAYS: 0

ABSTAINED: 0

Bui - Yea; Burgin - Yea; Fowler - Yea; Jacobs - Yea; Schmunk - Yea; Thalhofer - Yea

Wilder stated that the water rates are more affected by additional hookups than sewer. The sewer system is reaching capacity.

ITEM 20. ORDINANCE: Establishing and Imposing Water availability charges, user fees, commodity charges, standpipe charges, improvement charges, and modifying Ordinance #279-0 and repealing Ordinance #511-0. (528-0) First Reading

Mayor Cox read the ordinance by title.

Wilder stated that the proposed rate schedule would reduce the constant dollar requirement (unadjusted value) for residential users by approximately 2%. The overall effect in current dollars (adjusted values) reflect a decrease slightly greater than 5%. The system development charges are recommended to remain at \$650 per equivalent residential unit.

The definition for equivalent residential unit has adjusted downward from 265 gallons per average household per year to 260 per average household per year.

The other change for both the water and sewer ordinances is deleting the requirements to pay availability charges to unbuildable lots. So a new definition has been added for an unbuildable lot and removing that from us charging them for availability charges.

MOTION: Councilor Bui moved to pass the ordinance. Councilor Thalhofer seconded the motion.

YEAS: 6

NAYS: 0

ABSTAINED: 0

Bui - Yea; Burgin - Yea; Fowler - Yea; Jacobs - Yea; Schmunk - Yea; Thalhofer - Yea

ITEM 21. MOTION: Authorizing Mayor to Enter Into Contractual Services Agreement -- Insurance Agent of Record

Christian stated that at the time bids were asked for handling all of the City insurance matters. It was based on a one year performance standard due to performance standards we were interested in the agent meeting prior to a longer commitment. Christian stated that Stamm, Stuart and Bybee have been outstanding...not only in a timely fashion but in person on numerous occasions to review specific situations and discuss options that were available.

MOTION: Councilor Bui moved to approve the contract as presented.
Councilor Thalhofer seconded the motion.

YEAS: 6

NAYS: 0

ABSTAINED: 0

Bui - Yea; Burgin - Yea; Fowler - Yea; Jacobs - Yea; Schmunk - Yea; Thalhofer - Yea

ITEM 22. RESOLUTION: Requesting Action Dedicating Fuel and Highway Use Taxes from the Metropolitan Service District Garbage Transfer to the Impacted Portion of I-84

Christian stated that this item was for information only. If Council requested, a resolution would be done in the City format and scheduled for the next Council meeting. City Attorney, Jim Jennings, had forwarded it for information purposes.

Burgin stated that he had the information. There was no request to agenda this item at a later date.

ITEM 23. BID AWARD: Marine Drive/Sundial Road L.I.D.89-002

Wilder reviewed the agenda item. On Monday, June 12th, the bid opening was held in the Council Chambers at 2:00 p.m. Alliance, Richard Robertson, Arndt and SRH all bid on the project. The bids were broken into two schedules A and B. Schedule A was for all water and water related facilities, PVC pipe for power conduits and, Schedule B for pump station and sewer related pressure mains and associated power conduits.

Wilder stated that he had met with Mac MacElroy who continued to state his support and the support of Troutdale facility for this needed project, however, the Virginia based ownership isn't as supportive. MacElroy felt that with the land development group out of Arizona reviewing this, the Virginia group would be more supportive of it. Notwithstanding, they still do not have enough to remonstrate enough to kill the project.

Alliance Corporation of Canby, Oregon submitted the low bid for both schedules. It is the recommendation of the consulting engineer that

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the award of Schedule B be delayed until the next meeting.

The total project bid exceed the engineer's estimate for the project by nearly 14%. Staff is recommending only Schedule A be awarded. It is recommended that the Mayor be authorized to executive the construction contract if the engineer and staff can negotiate with the apparent low bidder to bring the cost down to within 10% of the engineer's estimate.

Jennings stated that there is case law that says that City Council's have to be very careful once an LID is formed in splitting - City of Sandy. Court of Appeals stated that was a denial of due process because when the people didn't remonstrate it was because they thought they were getting 107 parking lots. The entire thing was void and the City of Sandy ended up paying the entire project costs.

The bid was low on both schedules. The ordinance provides that you aren't to let a contract bid if the bid price is substantially above the engineer's cost. What is substantially -- City of Sandy ordinance states 15%.

Jennings recommended that the ordinance be passed after the LID making the bid award but that the instructions be given that the award is not to be let unless the contract price is within 10% of the engineer's estimate. That would satisfy the bid requirement and protects the City's liability. It should also be noted that Reynolds has apparently appealed formation of the LID to the Land Use Board of Appeals. Jennings stated that it was his opinion that would not keep the City from going forward with the process. The City should go forward, notwithstanding the fact that there may be an appeal.

Wilder stated that the letter from the engineer outlines several items that could be negotiated with the contractor and those items could bring it to well within the 10% margin.

MOTION: Councilor Bui moved to authorize the Mayor, City Engineer, City Administrator to award the bid to the most advantageous method for the project. Councilor Schmunk seconded the motion.

YEAS: 6

NAYS: 0

ABSTAINED: 0

Bui - Yea; Burgin - Yea; Fowler - Yea; Jacobs - Yea; Schmunk - Yea; Thalhofer - Yea

ITEM 24. RESOLUTION: Accepting Preliminary Assessment Role and Authorizing Community Services Director to Call for Bids for Construction of Grade School Access streets and sidewalks (89-003) (765-R)

Mayor Cox read the resolution by title.

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

YEAS: 6

NAYS: 0
ABSTAINED: 0

Bui - Yea; Burgin - Yea; Fowler - Yea; Jacobs - Yea; Schmunk - Yea;
Thalhofer - Yea

Christian stated that Multnomah County executed an agreement awarding CDBG funds to the City and setting forth the general conditions, and that for some reason, this document was not forwarded to the City for proper execution earlier. Therefore, at this time Council is asked to authorize the Mayor, by motion, to enter into the agreement with Multnomah County for this grant.

MOTION: Councilor Fowler moved to authorize the Mayor to enter into the agreement with Multnomah County for receipt of CDBG funds. Jacobs seconded the motion.

YEAS: 6
NAYS: 0
ABSTAINED: 0

Bui - Yea; Burgin - Yea; Fowler - Yea; Jacobs - Yea; Schmunk - Yea;
Thalhofer - Yea

ITEM 25. RESOLUTION: Accepting North Harlow Waterline Extension
Project LID #89-001 (766-R)

Mayor Cox read the resolution by title.

Wilder stated that the original estimate for this project was \$70,500.00 for construction costs. The actual construction costs will be \$40,459.00.

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

YEAS: 6
NAYS: 0
ABSTAINED: 0

Bui - Yea; Burgin - Yea; Fowler - Yea; Jacobs - Yea; Schmunk - Yea;
Thalhofer - Yea

ITEM 26. DEPARTMENT REPORTS:

Public Safety. Chief Collier had nothing to add to his report. No comment from Council.

Finance. Gazewood had nothing to add to his report. No comment from Council.

Community Services. Wilder had nothing to add to his report. No comment from Council.

City Attorney. Jennings had nothing to report. No comment from Council.

Executive. Christian had nothing to add to her report. No comment from Council.

ITEM 27. COUNCIL CONCERNS AND INITIATIVES

Bui commented on the high number (2,469) of outstanding citations listed in the municipal court report to Council.

Christian stated that a lot of those citations are pending and are awaiting further action.

Christian reminded Council that there would be no 6/27/89 Council meeting due to elections.

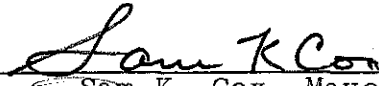
ITEM 28. ADJOURNMENT

MOTION: Bui moved to adjourn the meeting. Jacobs seconded the motion.

YEAS: 6
NAYS: 0
ABSTAINED: 0

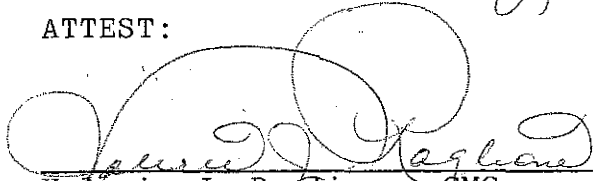
Bui - Yea; Burgin - Yea; Fowler - Yea; Jacobs - Yea; Schmunk - Yea; Thalhofer - Yea

The June 13, 1989 Council meeting was adjourned at 9:53 p.m.



Sam K. Cox, Mayor
Dated: July 13, 1989

ATTEST:



Valerie J. Raglione, CMC
City Recorder
CC4:10