CITY OF TROUTDALE

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

7:00 P.M. -- July 27, 1993

NOTE: All times listed are approximate; items may not be considered in the exact order listed.

7:00 (A) 1. PLEDGE OF ALLEGIANCE, ROLL CALL, AGENDA UPDATE

7:05 (A) 2. CONSENT AGENDA:
- 2.1 Accept Minutes - July 13, 1993 Regular Session
- 2.2 Liquor License - Lotty's

7:10 (I) 3. PUBLIC COMMENT: Please restrict comments to non-agenda items at this time.

7:25 (A) 4. APPOINTMENT: Cable Regulatory and Fire Master Plan Committees

7:35 (I) 5. DISCUSSION: League of Oregon Cities charter review information.

7:55 (I) 6. PUBLIC HEARING: Forfeiting vehicles for certain traffic offenses.
Declarations, Challenges, Ex Parte Contact

PUBLIC HEARING:
- .1: Open Public Hearing
- .2: Declarations, Challenges, Ex Parte Contact
- .3: Summation by Staff
- .4: Public Testimony: Proponents
- .5: City Council Questions
- .6: Public Testimony: Opponents
- .7: City Council Questions
- .8: Rebuttal
- .9: City Council Questions
- .10: Recommendation by Staff
- .11: City Council Questions
- .12: Close Public Hearing Process.

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8:15	(I)	7.	DISCUSSION: Appeal of the system development charges for the Sunrise Pointe Project.
8:30	(A)	8.	RESOLUTION: Declaring certain personal property surplus and authorizing disposal.
8:40	(I)	9.	PRESENTATION: Multnomah County Transportation Capital Improvement Program - Projects relating to the City of Troutdale.
8:55	(I)	10.	DISCUSSION: Draft Request for Proposals - Natural resources protection, enhancement and restoration Ordinance.
9:15	(I)	11.	DISCUSSION: Joint code enforcement officer with the City of Fairview and Multnomah County.
9:30	(I)	12.	INFORMATION: Check Register - Month of June 1993
9:35	(I)	13.	COUNCIL CONCERNS AND INITIATIVES
9:50	(A)	14.	ADJOURNMENT.

Paul Thalhofer, Mayor
Dated: 7-26-93

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

July 27, 1993 7:00pm

Meeting was called to order at 7:03 p.m. by Mayor Thalhofer.

1. PLEDGE OF ALLEGIANCE, ROLL CALL, AGENDA UPDATE

Mayor Thalhofer called on Councilor Lloyd to lead us in the Pledge of Allegiance.

PRESENT: Thalhofer, Schmunk, Thompson, Pricket, Lloyd, Ripma.

2. CONSENT AGENDA:

2.1 Accept Minutes - July 13, 1993 Regular Session

2.2 Liquor License - Lotty's

Mayor Thalhofer called this item and read the consent agenda.

MOTION: Councilor Thompson moved adoption of the consent agenda. Councilor Ripma seconded the motion.

YEAS: 5
NAYS: 0
ABSTAINED: 0

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

Howard Hansen, 2500 NE 201st. I have been before this Council on several occasions and was labeled by the Outlook as Troutdale's most vocal critic. After this labeling I have reflected on this statement and choose to observe the Council in their work sessions and council meetings in order to better understand this diverse group of elected and appointed officials. After months of studying this group I came to several conclusions. First I perceive some of you invariably courteous to each other, constantly looking for reasons and opinions that will satisfy your conscience and also gain public support. Second, I am convinced that Troutdale Councilors, each in their own minds, are acting as they believe their constituents would have them do. Thirdly, Mayor Thalhofer proposed sweeping changes such as updating the City Charter by citizens not associated with the City government. Work sessions almost every Tuesday except those nights of the normal council meetings which is a very ambitious agenda undertaken to benefit Troutdale citizens. However, my conclusions might be premature or inappropriate based on the Council meeting of July 13th, 1993. The meeting opened timely with the Mayor's gavel and the pledge of allegiance seemed to go off without any flaws. At this point deviation from the printed menu began to be apparent. The disclaimer, also know as "note", indicated all times are approximates, items may

not be considered in the exact order listed. The Mayor advised them that the agenda changed and we were treated to an awards ceremony for City employees and the introduction of a new City sign. This was only the beginning. We were advised that the public comment on non-agenda items would be undertaken and at this point an observer of this council could immediately conclude we were about to see and hear another one of the now famous "Troutdale done deals." It was about to unravel before our very eyes. For the next two hours we were exposed to the appointed Mayor turning the Council meeting over to his anointed planning person for purposes of using the Council meeting forum for the benefit of Friends of Beaver Creek. This group attacked a property owner using reasons for wanting this council to respond immediately to them. It was very evident from their President's statement that they were following a popular form of stretching, in that you associate some low level complaint with a higher level one involving destruction, humongous losses to humanity, thus presumably startling everyone into paying attention to their cause. This stretching exercise appears to be more then a publicity grabbing stunt, this appears to be a conscious attempt to ratchet up a manufactured minor offense into a major one and it appears the council bought into this by the way of there offering of immediate response in the form of a motion to invoke a stop work order by way of the City Building Department. Mayor, Councilors your position does not confer privilege or give power it imposes responsibilities. This responsibility must be appropriately applied and diligently defended. From my own personal observations, research and careful consideration of this happening, it appears in my opinion that this City Council acted inappropriately and without due process. Three citations have been served on the property owner and a court date set for appearance. Remember, charges are not facts, and a person charged is presumed innocent until proven guilty in a court of law. This Council, knowing the allegations and knowing the citations had been issued, proceeded to hold a one-sided hearing in an effort to gain support for this stretching exercise of the Friends of Beaver Creek. The hearing was fraught with conflicts of interest. It also appears that there may have been a stretching of information used to obtain the citation that then was used to suggest that violations had occurred. Let me quote from the Readers Digest, "a little government and a little luck are necessary in life, but only a fool trusts either of them." As I attempted to gain confidence in this Council, I find many of my original predictions conveyed in dissertations before this Council are now more like prophecy then predictions. I am sure that Troutdale tax payers are thrilled with the increase in their taxes when this Council can find money for a study of the Beaver Creek problem as defined in the Council meeting of July 13, 1993 by the Friends of Beaver Creek. Apparently the Friends of Beaver Creek knew the correct buzz words to get this council on board there environmental train. Maybe I am being to harsh, after all the Beaver Creek crisis seems completely beyond most common folks comprehension and outside what I call common sense. However, you all bought into it and are willing to invest Troutdale's tax paying citizens money into this emergency. The Friends of Beaver Creek garnered sympathy from this Council and demanded immediate action based on there powerless position to withstand the assault of a businessman to develop his property. In this instance, it appears fact and fiction had collided. I suggest that this Council should be concerned by catching the dreaded syndrom know as chicken- littleism. Never kid yourself that one mans freedom, including his property rights, can be transgressed without endangering your own. It appears the Friends of Beaver Creek and this honorable City Council would rather seek a villain instead of solutions.

4. APPOINTMENT: Cable Regulatory and fire Master Plan Committees

Mayor Thalhofer called this item.

Councilor Schmunk stated as Chair of that selection committee, we have not met yet and I would prefer to have this postponed until the next meeting.

Mayor Thalhofer stated this item will be taken up at the next meeting.

5. **DISCUSSION:** League of Oregon Cities charter review information.

Mayor Thalhofer called this item.

Christian stated that Sandra Arp, the author of the paper you have before you outlining the Charter recommendations is here.

Sandra Arp stated I was originally an employee of the Bureau of Governmental Research and they are the author of the model charters for Oregon cities since the 1930's. What I did when I reviewed your existing charter, was to use the model and the examples from other cities, go through your charter section by section, looking for items where maybe the longest change since the charter was adopted or maybe the City has changes since the charter was adopted, were there internal inconsistencies, were there other problems that might have occurred since 1974. Then I sent a copy of the model along with my review and a couple of samples from other cities. Once you have decided whether you want to adopt a new charter or not, or amend an old one, then our services include reviewing what you draft before it goes on the ballot.

Councilor Schmunk asked do you have any idea how other cities set up the committee to review the Charter?

Arp replied it is a policy issue and there is really no set way you have to do it. Some cities have a Charter Committee and others just use the Council.

Councilor Thompson asked in your opinion, having looked at our charter, is it in need of so much overhaul that it would be better to throw it out and start from scratch or amend the existing one?

Arp replied my personal bias is when you are making substantial changes to a charter or to an ordinance, I think it is easier to start over. Then the language and the definitions match.

Councilor Pricket asked in the examples you gave us, most often the Mayor did vote, is that universal in the state?

Arp replied no. I think it is more common in cities where you have a City Administrator or Manager form of government.

Mayor Thalhofer asked could you please read through the proposed changes.

Arp replied section 2 refers to the City Recorder keeping the boundaries up to date. I would recommend just referring to the custodian of public records. Filing the legal descriptions with Multnomah County within 10 days, I am not sure that is possible anymore, you might want to look into that. That is not a common provision in a City charter. Number 2, gender neutral language is up to you but I have noticed in the last ten years we have had more and more women mayors and councilors.

Mayor Thalhofer asked what is the difference between a commission form of government and a council?

Arp replied in Oregon you have two different forms of commission government. There are some City councils that are called commissions, essentially they are just councils. In Portland, they have a form of government that is unlike any other in the State. Those commissioners are actually department heads,

they are executives of their departments, they are not elected policy makers only. They are both policy makers and administrators. That is an uncommon form of government in the United States. Item 3 section 11, specific officers are named, Recorder, Treasurer, Municipal Judge, City Attorney, we recommend that you not name specific officers except if you have a manager form of government you would name the Manager in the charter and the Municipal Judge. If you identify them then you have to have those positions. Number 4, Section 13, Council meetings. The way I read this, it looks as though you had to adopt rules and regulations at least once each month and I am sure you don't want to do that. Also the meetings, you need to state that you are going to meet in compliance with the State Public Meeting Law, you have to have certain kinds of notice and you can't call a meeting less then twenty-four hours ahead unless you have an emergency. Number 5, in section 8, it says the government of the City of Troutdale is vested in a Council and a Mayor. Talking about the duties of the Mayor it is unclear as to whether the Mayor is a member of the Council or not. If the Mayor votes only in the case of a tie, then the Mayor is generally not considered to be a member of the Council. It is much clearer if you identify if the Mayor votes only in case of a tie, if the Mayor votes on all the issues then the Mayor is a member of the Council and the Council is composed of the Mayor and how ever many Councilors you have.

Councilor Thompson asked is it very common for cities to have Mayors that only vote to break ties, or do most of the Mayor's vote?

Arp replied in the smaller cities it is more common to find Mayors that vote only case of a tie.

Councilor Ripma asked is it okay to have the Mayor not vote except in the event of a tie, but still be called a member of the Council?

Arp replied that is an inconsistency and it leads to a lot of questions. That happens inadvertently when a city adopts a charter they don't think about it, but later when it comes to certain voting questions, filling vacancies, how many members of the council are there. Section 15 says the yeas and nays upon a question before you shall be taken by role call. You have to do that, you do not have a choice so you do not have to mention that in your charter. Number 8, it reads as though the Council can adopt ordinances giving the Mayor the authority to vote on certain things. If that is the case, then they can also adopt an ordinance that says the Mayor can vote on every issue before the Council. Again, further confusing what might be or not be in the Charter. Number 9, if the Mayor is to have a vote on some or all actions, why also have a veto power. For instance, if you adopt an ordinance that says you can vote on this and you also veto this, does that give you two votes? Section 20, who can be removed by the Mayor. Section 20 should be amended to make clear that the appointed officers who can be removed by the Mayor do not include councilors that are appointed to fill a vacancy because those are sometimes considered to be appointed officers also. Number 11, section 21, I am not aware of any statutes that talks about time or state law that prescribes times for municipal courts to be open, so that should be deleted. Trial by jury, it says trial in a municipal court shall be had without a jury unless the accused, within a time limit, demands a trial by jury. I think there are other laws, Federal and Constitutional provisions which would require trial by jury. Section 12, talks about the Recorder and those duties, if you don't use specific City employees or officers in here, with the exception of the municipal judge and manager, you can take this out. Sections 23, 24, 25, 26, 27 and 28, the state law now tells us how to conduct elections. Delete the requirement for advertisement in the newspaper. The reason for that, historically, is because that was the only way people were able to read what the City was doing. Now, with the copies available at City hall prior to the meetings it is really not as necessary.

6. PUBLIC HEARING: Forfeiting vehicles for certain traffic offenses.

Mayor Thalhofer called this item.

Jim Jennings stated we will be withdrawing that matter from Council consideration at this time.

7. DISCUSSION: Appeal of the system development charges for the Sunrise Pointe Project.

Mayor Thalhofer called this item and asked the attorneys for the Sunrise Pointe project to come forward.

Councilor Lloyd stated I have had an ex-parte contact that needs to be disclosed. Early on I received a phone call before I knew any of this was going on from Mr. Kravitz. He informed me that he had this difficulty, I told him to have his attorney call the City's Attorney. Then he contacted me again and indicated there had been some discussions with the City Attorney and evidently with City staff that there had been a resolution to the problem and that they were going to ask that it come before the City Council. I suggested that he go ahead and have his attorney write up a short summation of what the problem was and bring it to City Council. I don't know any more about it then what is in the information that has been given to us and I have not made up my mind on the issue.

Jim Jennings stated the language regarding appeals is identical in each ordinance and the decisions to be made by City Council are all the same. The issue before the City Council tonight is what is the appropriate amount of System development charges to be levied against Mr. Kravitz. Mr. Kravitz is proposing to develop an apartment complex in the City of Troutdale. As part of his development package Mr. Kravitz is securing mortgage guarantees or actual mortgages from HUD. Mr. Kravitz submitted plans for development of this project several years ago and in response to a letter from Scott Cline dated February 4, 1992, and giving Mr. Kravitz a deadline of March 1, 1992, Mr. Kravitz submitted certain development fees and a revised set of plans. The letter is of some importance, it has been attached for your information and the operative language in the letter that we will be discussing tonight is on page 1, paragraph 3. The most important part of that paragraph is the last two sentences. After Mr. Kravitz submitted the revised plans and deposits, there was no further action taken on the plans by Mr. Kravitz for a period of some time, over a year. When I say no action, the particular plans were not acted on, permits were not taken out and as of yet have not been taken out. Mr. Kravitz indicates that the current status is, that HUD will close somewhere between the end of this month and August 6th, allowing him to proceed to draw permits. The issue before the City Council tonight is what is the appropriate amount of system development charges to be levied. The letter of February 4, 1992 discusses an amount of $223,579.72. The language in the letter speaks for itself. The City has reviewed the quote of $223,579.72 and finds that in fact this number was mistaken in that it quotes them from an 1990 SDC fee schedule. In fact the 1992 schedule, which was in place on this date, would have provided for SDC fees of some $253,000.00. For sake of discussion I am going to omit the dollars and cents and talk in thousands of dollars for the rest of the discussion tonight. The City had an escalating plan for system development charges in place as you will remember last year. System development charges were increasing daily over a period of time as new system development charges were being implemented. If permits were applied for and drawn today in the City of Troutdale, Mr. Kravitz's plan would call for a total system development charge of $329,000 or a difference of $106,000 from the figure that you see on the first page. Mr. Kravitz has informed the City that without approval at the current $223,000 figure quoted in his February 4th letter, he will be unable to process his HUD application and close at this time. Mr. Kravitz has indicated that it could take a time equal to the last year or more to process his application again through HUD. In our contacts with HUD, we have indications that the

time-line for approval of a sum different then $223,000 may take as little as 60 days, although we do not dispute the fact the Mr. Kravitz would have to reapply. The indication from Mr. Kravitz is that the HUD package, when he first submitted it, must include a specific section on the fees that are being paid by Mr. Kravitz. He submitted his package indicating that the fees he would be paying would be some $223,000. It is our understanding, consistent with that of what Mr. Kravitz has told us, that if he has to go back to HUD with a higher figure, HUD must reconsider the project at least from the terms of an economic feasibility stand point. There are certain legal issues which need to be addressed by the City Council tonight. Before I discuss those legal issues, however, I want to make sure the City understands what its position is. It is acting as a fact finder and a decision maker this evening. The City must decide tonight what the appropriate amount of SDC's to be levied in this case might be. Issues to be considered tonight are and I am only going to frame some of them. First is the February 4th, 1992 agreement, a binding contract between the City and Mr. Kravitz which can not be varied from the $223,000 figure. Second, what is the affect, if any, of a mistake on the part of the City regarding the amount to be levied between $223,000 and $253,000. Third, assuming $253,000 was the appropriate figure to be levied, how long, since the letter is silent and the ordinances are silent, how long is this figure good. Fourth, is there a connection, and if there is what is the connection, between the Uniform Building Code which requires that every six months plans be resubmitted, that they die if there is no action taken on them. Fifth, what happens when revised plans are submitted, does that have an affect on both this letter and the ordinances. Sixth, does the Director of Community Development have the specific authority to set the fees by letter at an initial review of plans before final permits are pulled. Seventh, since there is a mistake as to the amount to be levied, and if there is a contractual agreement between the City and Mr. Kravitz, should that contract be either reformed up to $253,000 or should it be rescinded and be declared to be not binding on the City based upon this mistake. There are a number of other collateral issues regarding municipal employees, there rights to bind the City and I don't think those need to be addressed. I think we have framed the major legal issues. I think it would be appropriate for Mr. Armstrong to address his clients position. Each of the SDC ordinances are silent on the specific issue of when the assessment is to be made. We can not look to the SDC Ordinances to tell us where in the process of permit application and plan securing, they can't tell us where on that timetable the actual calculation is to be made. The history of the City of Troutdale has been that a preliminary number is given early to the developer or home owner and that a final number is given fairly soon before application. Most of the time there is a very limited amount of time, 15 to 30 days between the time of application and the time of permit drawing. So that escalation of fees of this magnitude has never come up before, so we have no history to which to guide the City Council on how it has been done by history. Finally the one guiding State Statute regarding SDC Ordinance, is unfortunately not of great help, the Statute is 223.299 section 4A. It defines a system development charge as a reimbursement fee, improvement fee or combination, and ours is a combination of reimbursement and improvement fee, which is either assessed or collected at the time of increased usage or issuance of a development permit or building permit or connection. What this language says is, you can either assess it at the time the people connect to the system or get the permit or you can collect it. What is left unsaid is what you do in between those.

Alan Kravitz stated we first started looking at this parcel at Hensley and 257th in April of 1989. Our plans were approved by the City the first time in June of 1990. We were working on financing with a local bank then and as we all know the financing rules took a dramatic change that year. Financing became unavailable to us, we were working under a premise that changed. So for a year we did not know what to do with the land and we then became familiar with the 221D4 process with HUD, which is the process for getting mortgage insurance where you can come up with a lot less down. As soon as we got seriously into the process we informed the City and we were working towards completing our process with HUD. That was in February of 1992 when Scott wrote the letter. We resubmitted the plans in

February 1992 and we paid the fee that was mentioned in the letter. It took us until May of 1993 for HUD to finally issue a firm commitment. In that time we had been in touch with Sue and Scott from time to time. We had resubmitted our plans and committed to a general contractor. In June of 1993 we met with Sue and I reminded Sue of the letter and she pulled it out of the file and confirmed the agreement and you heard testimony from the City Attorney as to what happened. We were quoted another fee that was $30,000 more. I said I would have to go and talk to my partners and HUD and see what we can do. We have bids from sub-contractors and we are ready to break ground. We were informed that there was a staff meeting to try to come to a compromise, the compromise was mentioned to us and before we could respond the compromise was withdrawn. We were sent just the other day the new SDC amount, the highest amount you have quoted, this is just a week or two old for us. We have a firm closing date with HUD which is on the 6th of August. We are in a position now, where we were told today by our attorney, that any additional amount of fees we have to come to the table with cash. We have no alternatives, they will not reprocess the loan.

Mr. Armstrong stated we believe that there was a binding agreement. At the time the figures were given to us that they were being used as part of this HUD process. We believe that this is something that the City should honor having made that commitment. We think that the most straight forward and appropriate response for the City would be for the City Council to allow the appeal and determine that the figure that was established in the February letter for this development project is the figure that should be charged by the City for the system development charges.

Jennings stated I am going to try real hard not to be an advocate of any position here but logically I am having trouble understanding Mr. Kravitz's point of view, if there was an SDC commitment in 1990 at a specific figure and it did not come together because of financing. In comparison, there is a long period of time here which was delayed by financing. Is there any parallel to be drawn between those two fact situations and if there is, why wouldn't the City be held to the 1990 standards for the commitment. Maybe I don't understand the facts of the 1990 situation.

Mayor Thalhofer asked did you make any deposits in 1990?

Kravitz replied no, Scott's letter in 1992 was what we had told him that HUD had requested of us. We needed to know the amounts of the fees because they do there market analysis very early in the process to determine its feasibility. We figured that the letter then froze the commitment as did HUD, and we proceeded.

Councilor Lloyd asked are we continuing to escalate system development charges at this rate?

Christian replied no.

Cline stated every March they will be reevaluated. In 1992 when this was coming down we did not have a Public Works Director at that time, also we were in the process of revising our SDC Ordinance to come into compliance with new state requirements. We knew that they would be effective March 1, 1992 and that is why that was considered with reference. It was indicated in the letter that there could be an estimated increase of up to $85,000 or more in the SDC if it is submitted after the March 1, 1992 date.

Councilor Lloyd asked are there any more of these out there?

Cline replied there is only one other one but there is a signed agreement on that one so it does set it apart as far as being somewhat different then this one. This is really the first time we have encountered it.

Councilor Lloyd asked why do they have a signed agreement and these people don't?

Cline replied I wish I could give a real good reasonable explanation.

Councilor Lloyd asked would we have been willing to sign an agreement with these folks if they would asked for it?

Cline replied we would have given them the same option.

Councilor Lloyd stated so there is another developer out there who was smarter and asked or because the City was more generous and volunteered has a signed agreement, so they are going to get the benefit of the cheaper system development charges then these folks are?

Cline replied that was not the intent. The intent was to treat everyone equally.

Councilor Thompson asked Mr. Kravitz, during construction, being in the development field, I assume that you are familiar with the fact that interest rates vary and if you applied for a loan a year ago the rate is not going to be tied into forever, isn't that right?

Kravitz replied if you get a commitment letter from a lending institution the rate is tied.

Councilor Thompson stated if they would give you a commitment letter. But if you don't have the commitment letter you are essentially saying that you are going to have to take the rate when the loan is approved at whatever the rate is at that time, isn't that correct?

Kravitz replied yes.

Councilor Thompson stated by the same token, if you are contracting with subcontractors and you are talking about a problem a year earlier, you are likely to get quoted a lessor fee than you would currently, isn't that true in the building industry? Costs consistently escalate.

Kravitz replied they can go down as well.

Councilor Thompson stated I understand that.

Kravitz replied I am going to answer your question, but I know what you are leading me to. Obviously, we thought we had an agreement here.

Councilor Pricket stated I have a problem in considering this as a binding contract, the fact that it has some conditions placed on it like most contracts do. It says "if revised plans are received in this office prior to March 1st. That brought up a problem that the attorney mentioned. Doesn't that bring the building code into it. If it does, then in six months that plan doesn't exist anymore because you didn't act on it. Unless you had written and asked the Building Official for another six months extension. One of the conditions of the contract are not valid.

Kravitz stated I don't agree that there is a time frame.

Armstrong stated not only that but the revised plans were submitted. It doesn't say if the revised plans are submitted and they remain in effect. It simply says these are the conditions to be met; submission of revised plans and payment of $5,000 deposit by March 1st, both of which were met.

Councilor Pricket stated I realize what you are saying. I think that still brings up the question that the City Attorney had in mind, didn't that legally put the plans in and then the plans would start from that time. If the plans are not valid then is the contract valid?

Armstrong stated I think what the contract envisions is that you do these two things, they were both done. It doesn't say and if you do not begin construction in six months this commitment is no longer valid.

Councilor Ripma asked how long do you consider that commitment? Forever.

Armstrong stated for the period in which the said process goes forward, which it continually did. The point of the commitment in the first place is understood. The letter beside is specifically an aspect of the HUD application process.

Councilor Ripma asked does it say that someplace in the letter, that it is good for the duration of the HUD process?

Armstrong replied no.

Councilor Ripma stated could I ask staff, following up on Don's question. If there a signed SDC agreement, does the development then pay the SDC's or not.

Cline replied the SDC's are actually paid at the time the permits are pulled for the project.

Councilor Ripma asked have you fellows heard of a signed SDC agreement?

Kravitz replied that does not sound familiar.

Councilor Ripma asked have you done developments before?

Kravitz replied numerous.

Councilor Ripma stated there are three plans that were submitted, in 1990, 1992 and 1993 why?

Kravitz stated the first thing submitted in 1990 is we were proceeding with private financing through a lending institution, we had every anticipation of building in 1990.

Councilor Ripma asked why did you submit another one in 1992, you said they were the same?

Kravitz stated we did submit the same plans in 1992.

Councilor Ripma asked why?

Kravitz replied we resubmitted them because the City asked us to resubmit them. The plans had little if any changes to them. We responded to the Fair Housing Act which had come into effect.

Councilor Ripma asked Mr. Cline, did they have to submit their plans in 1992? Why weren't their 1990 plans still good, why couldn't they pull permits on their 1990 plans?

Cline replied for one, as Mr. Pricket has already pointed out, according to the building codes they are only good for 180 days. If the permits are not pulled within that 180 days then they can be returned back to the applicant or the Building Official has the authority to dispose or destroy the plans.

Councilor Ripma asked Mr. Kravitz were you aware of that?

Kravitz replied absolutely.

Councilor Ripma asked so you had to submit the plans in 1992 if you were going to go forward because the 1990 plans had expired. Is that correct?

Kravitz replied the City had the option to keep those plans and reprocess them.

Councilor Ripma stated that is contrary to what Mr. Cline just said and what Mr. Pricket said.

Kravitz stated they can reprocess the plans, the old ones just by accepting them. It is a new application.

Councilor Ripma asked do you have to pay again?

Kravitz replied yes and we did.

Councilor Ripma stated you then submitted plans in 1993, is that for that same reason as in 1992, that they had expired?

Cline stated we had a significant code change that did effect the structure of the buildings.

Councilor Ripma asked could he pull permits on the 1992 plan in 1993?

Cline replied no.

Councilor Ripma stated it seems to me that they knew that the plans were good for 180 days and you had to submit new ones in 1993 and you just don't like the fact that the fee went up, but that happens. Let me ask another question, what else has changed? What changed between 1992 and 1993?

Cline stated there was the adoption of a new State Code.

Councilor Ripma stated what else did they have to do?

Councilor Pricket state Chapter 31 was introduced to bring the State Law into compliance with the Federal Law and it is quite extensive. The state had fought it for a long time.

Councilor Ripma asked was there anything else?

Cline stated there were no major changes. What are you looking for?

Councilor Ripma stated someone mentioned sprinklers, either you Jim or you Scott.

Cline replied that is incorrect.

Councilor Ripma so sprinklers were required in 1992 and in 1990.

Cline replied yes.

Councilor Thompson asked isn't it true that if the code changed that you would have to conform with the code that is in existence at the time you pull your permits to build?

Cline replied yes.

Applicant stated the fact of the matter is that the City was informed of our progress when we made our application to HUD. We also told you that these processes can take a year or more. We kept in contact with the City. If there were changes to be made, we have to rely on guidance from the City. We were not guided. We were led down a path that we expected would accommodate us in our getting permits and paying fees that we had agreed upon that were written in a letter that we presumed is a contract. If there were changes to be made, we should have been informed and we weren't.

Councilor Ripma you mentioned that this HUD process was on-going, but you didn't keep your permit alive even by asking for a six month extension, which puzzles me. Why didn't you do that?

Armstrong stated I think the point that Mr. Cline started to make is that the plans still could have been used that were initially submitted so long as they were modified to reflect any other changes that may have been in the law. But that doesn't suggest that the City in fact viewed the plans as irrelevant and no longer applicable. It was, as Mr. Cline started to say, an on-going process that was understood by the City as an on-going process and all that was necessary was that the plans be in compliance with the codes as they then existed. But it isn't a matter in which the plans were treated as irrelevant and the project was dead and that the permits were no longer applicable.

Councilor Ripma stated I am getting confused about the six month period. As I am understanding listening to you and reading the material and talking to Mr. Jennings, I thought that the permits, you submitted a plan, you pay the fee for reviewing those plans and you had six months to pull permits to start construction and at the end of that six months you had to resubmit and repay for the review of the plans, is that right?

Cline replied yes, but they are also allowed to request from the Building Official an extension of the validity for an additional six month period.

Councilor Ripma stated but they did not do that.

Cline replied no. That is straight from the UBC, it is not modified specifically to Oregon, it is nationwide.

Armstrong stated but there is no connection in the February letter from Mr. Cline that treats those two as having that kind of relationship. A letter was sent both to Mr. Kravitz and to HUD regarding the issue

of the SDC's for purposes of the HUD application. That process proceeded as expeditiously and directly as possible, and the application as Mr. Kravitz shows on his time flow chart had already been made to HUD. The request to the City to establish what those SDC's would be was part of that HUD process. That HUD process runs its course and the City understands through the ongoing informal contact that the HUD process is on-going and as late as June of this year reconfirmed that the 1992 SDC fee charge schedule still applies as a result of the February letter. So the City all along understands this process, treats it as an on-going process, recognizes that the HUD process is running to its conclusion. The thing to look at Mr. Ripma is item "B", which is the communication from Sue Barker in which she indicates that the SDC's are $253 instead of $223. As late as June, a month ago, the City is saying, you are right, we understand it is on-going project, we understand that the 1992 schedule applies, it was miscalculated apparently so it is $253 instead of $223. There is no action by the City saying that our plans are no longer valid or the commitment is gone. A week later comes this announcement that the commitment disappeared and there is no longer an obligation on the City's part to charge the SDC's at the figure that was established back in February of 1992. The fact is that the City went along continuing to recognize that this vary process was on-going with HUD, they had no difficulty with it at any point in that process and now, even after recognizing it a month ago, has said we are not going to honor that commitment.

Councilor Lloyd asked why did we change our mind and who made that decision to change our mind?

Cline stated the ultimate authority by the Ordinance on the SCD's and the charges that are imposed actually comes from the Public Works Director. Sue gets the information from the developer and she will work up the estimate, but the actual figures would have to have approval from Mr. Galloway.

Councilor Lloyd stated has what has been said here been the correct chronology that the City really didn't have any argument until the last month?

Cline replied I wouldn't say that the City has ever argued, I don't think it was ever brought to the attention of the staff until that point, that the situation was out there.

Galloway stated the exhibit "B" that was mentioned and used as this proves that the City is still relying upon the 1992 figures, I think overlooks that fact that there were several portions of exhibit "B", one of which states at the top the figure of $253,000 and since adopted would be as of the date of a deposit, which was back in February 1992. But then on page 3 it shows what those figures would be at the current rate and this is the one that is in error, it says $384,000 it should have said $329,000. I am not sure that the June 1993 document does in fact indicate that the City was still using the figures from 1992. One of the things that we got here and Scott said, the Resolutions do have me as the authority on the SDC's. When this was brought to me, my position was that the appropriate rate to charge would be the rate that is in effect at the time they are getting ready to build. That would be the traditional way that we have done it. I did indicate that since Mr. Kravitz had mentioned the February 4th letter, that if that were binding upon the City, that different rate would be in effect and at that time I found out that Sue had sent the matter over to the City Attorney for consideration. I think the City's position at that time, and my position was, current rates are what we would use unless there was a finding, and I think that is what we are here for this evening, is the February 4th letter a valid commitment upon the City.

Councilor Lloyd asked Mr. Galloway, explain to me why some of the developers get a signed development agreement that fixes their fees and others don't, I am not sure I understand that.

Galloway stated I am not sure I do either. I think the agreement is normally entered into at the time that

the charges are finally calculated and is usually the day of or a few days before the actual payment is submitted. There are a few and Scott said there is still one out there where an agreement was entered into and is still pending. Normally it is a matter of a few days from the time the agreement is signed, often times when we work those up and sign them the day the person comes in to pay.

Councilor Lloyd asked why would you do that, why would they need one?

Galloway stated that is the document that is used to determine what the calculation is so that the permits can be drawn.

Councilor Lloyd asked do these agreements usually have an expiration date on them?

Galloway replied I don't believe there is language like that on the document.

Armstrong stated I frankly think that particular fact is a determining factor of where this ultimately has to come out. And I explained that in the letter that Mr. Cline has stated, and it has now been reiterated that the commitment as a result of a written agreement for SDC's having been entered into, apparently is going to be honored by the City. That is not a condition that was identified in Mr. Cline's letter, that you must sign an SDC agreement in order to treat this as a binding commitment. You can not now add that and say because you don't have that agreement signed your commitment disappears.

Kravitz stated if any of you were in our situation, what would you have done differently in order to have avoided this problem? I think we have done everything that we were directed to do.

Councilor Ripma stated to answer your question, I see the letter as having an intimate relationship to permit review that was done in February of 1992. Mr. Cline did not intend, at least I can't believe that we should be held, that this is an open ended commitment. Under your analysis you could go on and on. What could you have done, let me ask, what did you do about these other additional increases in costs that occurred while you were in the HUD process? How are you handling those through HUD?

Kravitz replied there were none. Once you get a firm commitment from HUD you can not change any numbers. Up until that point as long as the bottom line doesn't change, as long as your net operating income and your expenses don't change, you can change line items within it and we did that within that one-year period while we were processing.

Armstrong stated there isn't a reference to HUD in the letter to Mr. Kravitz, but that same date in page 3 of our attachment is a letter to HUD from Mr. Cline which indicates that the appropriate SDC charges have been calculated.

Cline stated if I remember correctly, Mr. Kravitz called me and told me he was going through this process and I need to get to HUD what they are looking for is a confirmatory letter of where we were in the process and wanted to know what approval processes we had gone through and that is why this letter that I had written references that yes the approvals are in place as far as we don't need to go through any more public hearings as far as the City is concerned, the land use has already been approved, we have reviewed the plans, where we stand now is basically review revised construction plans and pulling permits. There wasn't a specific reference in there, although I do think they received a letter I sent out to Mr. Kravitz on that same day.

Councilor Thompson stated if the HUD process takes so long, if the price of lumber and labor goes up during that lengthy period, then the responsibility lays with HUD because of the delay. It seems to me like or my impression is why are you trying to blame the City for the increase cost for the delay of time when it is not the City's fault, it is HUD's fault. It is not our fault that the SDC rates went up because it took you so long to arrange the financing.

Kravitz stated we were under the impression that we had a contract.

Councilor Thompson stated we are not any different then a lumber supplier or anybody else. If the delay is not our fault, I don't think we have responsibility for it.

Kravitz stated you are correct, if lumber costs go up, we pay the additional costs unless we have an agreement to buy it at a certain price. We thought we had that agreement.

Councilor Ripma stated if you are forced to pay the $329,000 for SDC's, how much higher does your total that you are getting from HUD increase, what is your costs?

Armstrong replied as HUD evaluates the income and expenses, and they consider the system development charge an initial expense to a project, they do a number of processes by which they establish the mortgage amount, one is by income and expenses and one is that they don't lend more than 90% of any project, well we are bound by the first one which is income and expenses. Obviously, if our system development charges go up and our income doesn't go up our loan amount goes down.

Mayor Thalhofer stated I have a question for the City Attorney. As we have dealt with them over the period of time, February 1992 when there was a figure sent to them for SDC's through the month of June of this year, is the City bound by their action in an implied way that they are dealing with these folks and acting as though everything is okay. Nothing has ever been said up until now about the six month problem.

Jennings stated there is age old concept in the equity side of the law and that is called an equitable estoppel. In this case it is possible that the City is estopped up through June from changing the numbers from $223,000. But, I am going to put on my City advisory hat now as opposed to just a legal reference. There are a couple of issues that need to be addressed before you begin asserting a estoppel. The first is, was the City aware that Mr. Kravitz was relying upon this number in his application process and the extent to which he was relying on this number. For instance a fair question of Mr. Kravitz and Mr. Cline might be, in soliciting this number was Mr. Cline advised that the number had to stay the same for as long as the process was going to take, or, did Mr. Kravitz during the course of his contact with the City over the next sixteen months let the City know that all the numbers he had been given were critical to the health of his HUD application. Those are questions which I have not heard answered yet and before we make a decision on estoppel those issues need to be decided. Remember in making this analysis also, that there is no mention in the system development ordinances of its relationship with the UBC. Also in the UBC there is no direct relation mention of system development charges. Remember also that in our Development Code, which is the third document we have not talked about, there is no mention either of the UBC or the system development charges. So, the City Council tonight, if they make a connection between the permit process and system development charges, are going to have to extend it by logic and not by written word. To answer your question Mr. Mayor, yes there is a concept whereby the City might be estopped from asserting a position now but they can't change the contract numbers. But in making that decision we have to know what everybody knew going into this and

whether the City was aware of the reliance being placed upon these numbers. Another issue is that the City was mistaken of the numbers at the get go and that also tempers your analysis tonight. In deciding this I think there are three benchmark figures that the City Council should keep in mind. The first is a figure of $223,000 which obviously relates directly to the letter. The second is the figure of $253,000 which relates to whatever there might have been in the way of a mistake and whether or not the document should be reformed to reflect the mistake. The third is the figure of $329,000 reflecting what todays current prices are. In making the decisions, I will tell you from a legal point of view, I think the raise to the $253,000 is very defensible legally. I think between $253,000 and $329,000 there is no strict criteria on where you end up there if you end up anyplace between those two numbers, there is no landmark for you.

Armstrong stated if this other developer signed an agreement, if I understand correctly from the suggestion that has been made, the period between when the commitment was made and the agreement was signed, it has now been more than six months and yet the City intends to honor that commitment. There was no statement in the letter from Mr. Cline that to make this a valid commitment from the City, you are going to have to sign such an agreement.

Mayor Thalhofer asked are there any other facts that you would like to bring to our attention.

Armstrong stated to reform the agreement, if there were a mistake that was made and the figure should have been $253,000 instead $223,000, you would either have to show that there was a mutual mistake or unilateral mistake where the party who is to be harmed by the change is somehow guilty of some kind of inequitable conduct and I don't think there is anything to suggest that this was a mutual mistake, that Mr. Kravitz knew $253,000 was the right number not $223,000. In terms of any unilateral mistake that may have been made by the City in calculating that charge, I don't think there is anything that Mr. Kravitz did that would relate to something that was improper on his part that could then be used to allow the unilateral mistake to provide a basis for reformation. I question whether the City is in a position to try to reform the agreement.

Jennings stated the fact is Mr. Armstrong is correct that one of the categories for reformation is unilateral mistake coupled with fraudulent conduct. There is also another classification where the equitable circumstances are such that to allow the contract, whether it is unilateral, and to allow the contract to continue would be inequitable to the party who is required to perform reformation will lie. So in this circumstance the court will find that would be inequitable to have the citizens of Troutdale pay this extra $30,000 to $40,000 at least the court could rely on two cases that have been quoted.

Mayor Thalhofer stated at this time the City Council will discuss the matter.

Councilor Thompson stated I think that there is definitely responsibility on the part of the developer to pay any increased development fees that occur while the plan is pending. However, there probably is perhaps some justification in what the developer is saying here and in the interest of getting things started I will make a motion.

MOTION: Councilor Thompson moved that the Council sets the development at $291,471.00 which represents half way between $253,088 and $329,855.

Motion died due to a lack of a second.

Councilor Ripma asked is a settlement offer or a compromise, along the lines that Councilor Thompson just stated, an option for us?

Jennings replied yes.

Councilor Lloyd stated this is a tough question for the City. We didn't raise the SDC's just for the fun of it, we have a lot of projects that need to be built and paid for so it is tough not to ask someone to pay what the current development fees are. But, I think a government owes its citizens and those that come to do business in the City correct information. Even though there might be a technicality for slipping up here and there, I think the City ought to be held to a higher standard of conduct then that. I don't think the City ought to be able to just change its mind. I might not feel that way in this case but for the fact that if evidently if you are smart enough to get a signed agreement you get one of these deals but if you are not, you don't. To me that just isn't the way government ought to work. Everybody that comes to the City should get the same deal. I don't see how you can treat one developer one way and another one another way based simply on a signed development agreement. As to the exact amount, if you follow the logic down the road, you say well you have to let them have the $223,000. I think the understanding of what went on in those times is the people would pay, if they came in and did this they would pay whatever fees were in effect at that time. They could freeze the fees at that point and time and that says to me that they should, if there was a mistake in the mathematical calculation then that mistake ought to be rectified and the correct 1992 fee should be assessed. I think they should be entitled to have frozen that 1992 fee, whatever that is, which is what I understand the other developer is going to get. That seems to me to be fair and in accordance with treating people consistently and fairly and being in a position that people who do business with the City can rely on what they are told.

Councilor Ripma stated I hate to have what it sounds like Councilor Lloyd and other Councilors are basing their decision on this other signed agreement. We don't have it before us. I understand from Mr. Cline that that type of SDC agreement is signed just days before payment is made and locks it in. The position that you taking Councilor Lloyd is that this guy is going to be able to come in years later with this signed agreement and use it to pay the fee that is in there. I challenge that, we don't know what is going to happen. Our normal practice is to charge the system development charges that are in effect at the time construction permits are issued. If we do anything but that we are short changing the other citizens of Troutdale and the other developers that come along later who are going to have to make up for what we are forgiving for these folks. I challenge the assumption that they brought to us and plea to us that they relied on this letter as a contract. If they had come in to pull the permits on the plans that were submitted and paid for at that time, February 4, 1992, if they came in within the six months, I would hold the City to that figure. The suggestion that this second letter dated the same day to HUD, somehow locks us in is ridiculous. It says in the letter that they will be charged whatever applicable fees at the time construction plans are received. The letter of February 1992 was not a binding contract with respect to the system development charges.

Councilor Schmunk asked are you in favor of the $329,000?

Councilor Ripma replied anything else is unfair to the citizens and future developers who will have to make up the difference.

Councilor Thompson stated talking about the fact that the City should be held to a higher standard then anybody else, I don't believe that. I don't believe that the City is held to such a standard that none of its employees can make any errors and if they do make errors we have to stick by them. I don't believe

that is true and I don't think that is true for any business.

Councilor Lloyd stated I did not say that Mr. Thompson.

Councilor Thompson stated I thought that is essentially what you were saying.

Councilor Lloyd stated I said they made an error in the calculation and that error should be corrected. But I think citizens ought to be able to rely on what they are told by people.

Councilor Thompson stated I fully agree but as I said I don't hold the City employees to such a standard that they may not be guilty of misinterpretation or of not clearly stating what the position is. I don't believe that anybody should be held to that kind of standard. As far as the other contract is concerned, that is all hearsay, we don't know anything about another contract and that is not before us tonight so I am not going to base my decision on that either. As far as the developers, if they are knowledgeable developers and they know anything about HUD they should have known from the beginning that it would take a year or so to go through the HUD process and have made sure that they got a commitment. Again, I feel there is probably enough evidence that we should compromise the amount in the middle and that is what I originally proposed.

Mayor Thalhofer stated it appears to me that by the letter dated February 4, 1992, that we locked in the figure of $223,000 but I would agree on the $30,000 because that was a mistake so I am saying $253,000 we were locked into. The reason I say that is this letter is not an agreement but it is a letter telling Mr. Kravitz that is the amount. We made a mistake in that amount which I feel can be corrected. It is a letter clearly stating that there will be no change in your SCD's assessed to this property if you do such and such prior to March 1st which they did. That is what the letter says and Mr. Kravitz received that letter and also solicited a letter from the City to HUD stating virtually the same thing but no figures are mentioned but giving HUD assurance that the fees are set and to proceed. It also appears to me, that locks in the amount of $253,000. Then you have this relationship between the City and Mr. Kravitz proceeding and everyone knowing that HUD is involved in this and it is going to take some time and it goes on down the line and now we have this dispute. For the first time we have a dispute toward the end of the process and it seems to me, in all fairness to Mr. Kravitz, that we are locked into the $253,000 and we will see to it that this doesn't happen again by amending some ordinances. I think in all fairness, I agree with Councilor Lloyd that people have a right to rely on what the City tells them and in this case Mr. Kravitz has the right to rely on the words in writing from our Community Development Department in the letter to HUD. Therefore, it seems to me that the City should set the fee at $253,000 for the fairness of the whole issue.

Councilor Ripma stated I would like to call attention to the Council the precedent that is involved in this. Taking it to its extreme the right to rely on whatever a City employee says, admittedly in this case erroneously, and locking that in for an indefinite period of time and allowing someone to rely on it, puts us in a very dangerous position that I would think Mr. Mayor, would require that the City no longer issue any kind of estimates until the final figure is determined. The figure that was given out in February of 1992 was erroneous at the time. To allow a developer to come in this much latter and force us to rely on that figure is going to cost something like $100,000 that has to be made up somewhere else if we are going to build the systems that the development charges are suppose to build. Think of the precedent that is sets, City employees on one mistake will be costing the City a fortune. The other factor, since this is the first time since this sort of thing has come up, we really are setting a precedent and up until now we have charged developers, regardless what was quoted, we charged the actual charges that were in

effect at the time building permits were issued. I say we just have to hold, in fairness to everybody else who had to abide by and were subject to those rules, we have to be consistent and enforce them here to. While I sympathize with the situation, I am seriously thinking about Councilor Thompson's compromise. I see a divided Council with a lot of strong feelings and perhaps a compromise is in order to resolve this. I am afraid Mayor, that I do not agree with you. I don't agree that we as a City have to be bound by whatever mistaken numbers are given out by City employees, it is to dangerous.

Mayor Thalhofer stated Councilor Ripma, not to be argumentative but this letter did not say it was an estimate, it said it was the figure. I think that the precedent that we set here does not have to be that troublesome because I will recommend very strongly, after we take care of this matter, that we draft an ordinance that will address this matter. But in this case there was nothing that said this was an estimate.

Councilor Thompson stated one thing in response to that, if you were talking to a private employer and an employee made a $100,000 mistake, I don't think the private employer is going to stand by that.

Councilor Lloyd replied I do think a private employer would in fact be bound. They would not even have this type of process to go through that we are going through today. When you give someone information like this and they rely on it, you are going to be bound by it in my opinion. I understand what Councilor Ripma said and I agree with him, we need these systems developed in this town and we need the money. But I think you have to deal with people fairly.

Councilor Schmunk stated I have to agree with the $253,000 not saying it is right it is just a happy medium.

MOTION: Councilor Pricket moved to set the fee at $253,088.03 according to exhibit "B" page 2. Seconded by Councilor Lloyd.

YEAS: 3
NAYS: 2 (Ripma Thompson)
ABSTAINED: 0

Councilor Ripma stated I think we need to direct staff to amend the SDC ordinances so that it is clear that the SDC's apply at the time the permit is issued. I think that would be a wise thing since we just cost the City a whole lot of money.

Mayor Thalhofer stated I am going to recommend that we consider that.

Jennings stated there are five SDC ordinances and each of those have exactly the same language. One line which simply says that SDC's shall be calculated at the time the permits are issued would be sufficient. Earlier the discussion was had and suggested that if an estimate is made that it be stamped in bold letters on the top of each page that states it is an estimate only, and that final fees will be calculated at the time permits are issued. That should solve the problem, each of the ordinances can be amended accordingly.

8. RESOLUTION: Declaring certain personal property surplus and authorizing disposal.

Mayor Thalhofer called this item.

Cline reviewed the staff report contained in the packet.

Council had no questions.

MOTION: Councilor Lloyd moved to approve the Resolution. Seconded by councilor Pricket.

YEAS: 5
NAYS: 0
ABSTAINED: 0

9. **PRESENTATION:** Multnomah County Transportation Capital Improvement Program - Projects relating to the City of Troutdale.

Mayor Thalhofer called this item.

Galloway reviewed the staff report contained in the packet.

Councilor Ripma stated I have two things that I would like addressed regarding two of these Capital Improvement Projects. They are minor changes to our comments on the County's Plan. I have been in continuous contact with the County about Troutdale Road and Stark Street project for a long time and I have always found the County to be cooperative and willing to listen to the city. I suggest that as long as we are making comments to the County about these projects I would like to include a couple of things. I will start with Troutdale Road, what I wanted to do is ask Mr. Galloway to add a sentence which reads "if any road widening is done on Troutdale Road between Cochran and Stark, whether to provide for bike or traffic lanes or paved sidewalks are added, it should be done on the west side only to prevent damage to the walnut trees on the east side". I think that is the County's intention. I have heard it many times from Larry Nicholas and others but I see no reason why we shouldn't add that comment because it doesn't appear in their plan. I would like to have that added if there is no objection from the Council.

Councilor Schmunk asked don't the standards say now that they have to have sidewalks on both sides of the street?

Galloway replied I believe that is correct.

Councilor Schmunk stated so you can not suggest that they only put sidewalks on one side because the standards say they have to put them on both.

Councilor Ripma stated no, in fact you can. I have talked to Larry Nicholas and what they do is they put the paving down only on the west side and re-stripe the road. It is very doable.

Galloway stated it is my understanding as well that is the County's intention. I think if the Council desires, I don't think that we are jeopardizing anything by putting that comment in.

Councilor Thompson stated I don't have any objections to the comment. I think the walnut trees should

be saved if at all possible.

Council had no objections to adding the comment.

Councilor Ripma stated the other one has to do with Stark Street between 257th and Troutdale Road. That is the last remaining un-widened section of Stark Street. I have a concern with this project. I have talked to the Mt. Hood College Board about a proposal. The college has done an internal traffic study and has requested that whatever the County does on Stark Street that they do a new entrance to the college on Stark Street. In connection with that the college is currently considering a proposal that I wanted to take to the City and the County to have a alternative to the standard five lane arterial design with sidewalks that immediately border the road bed, which is the County standard for arterial widening, on this stretch of road. I think it is very important to the City that the County consider other alternatives. The one before the College Board calls for a separate pedestrian path that runs separate from the road bed along the tree line that the County has established on the right-of-way, and perhaps a narrower road bed. I am not asking the City to decide this issue now. Basically my request is that Mr. Galloway in his letter, add the following language "we ask the County to consider alternatives to its standard five lane arterial design for this portion of Stark Street. One alternative being considered is by the Mt. Hood College Board, includes a new north entrance to the campus and a separated pedestrian path to the south. The County is requested to study the traffic needs and consult with both the City and Mt. Hood College before deciding on a final design. Regardless of the plan selected, the project should include an upgrade to the Beaver Creek culverts if necessary". The reason for this is if we don't give any direction to the County, they will proceed with a normal standard five lane design. I consider this last stretch from 257th to Troutdale Road as unique, it borders a college on one side, it crosses Beaver Creek. I ask the Council to support me on this.

Councilor Schmunk stated I don't support this at all. What I am afraid of is if they read the letter and take this suggestion, they might pull it out of the pile and we won't get anything. It is the last stretch of Stark Street, but we must realize that we are within an urban area and the streets are going to be similiar. I think your point Councilor Ripma, and it is a good one, you want to be the last one in and you want the streets to stay the same, but you can't do that, we are in an urban area. When we want these things improved they have done traffic studies on them numerous times, these have been on their plans for a number of years and we have approved them in the past. I think that this particular Stark Street improvement, we should consider what they are having done. There is also going to be another entrance on the other side where the pub is at and the additional development of apartments and there will be another street feeding in on the other side of Beaver Creek. I would like to see what the college has to say in writing. I don't dispute what you have to say but in dealing with the Mt. Hood Parkway and other things that the college has been involved in they never seem to respond until after the fact. I am concerned that they have the funding to do these things now, I think maybe we should go ahead and approve them.

Christian asked Multnomah County is doing a project now from Troutdale Road to Evans, what does that include?

Galloway replied the contract has been awarded. It involves primarily half street improvements on the north side of Stark between Troutdale Road and Evans and undergrounding of utilities, and I am not sure if the signal change is with this project or with the Troutdale Road project.

Councilor Ripma stated if there is a problem with my language could we just ask that the County consult

with the City and college on the design and consider alternatives.

Councilor Schmunk stated I don't have any question that the County will come to us with the details.

Councilor Thompson stated Councilor Ripma, you stated that the County is going to study the traffic there anyway and I think we could trust the County that if the traffic doesn't justify it that they would make it a three lane road and if the traffic does justify it, it will probably go to five lanes.

Councilor Ripma stated I would be willing to live with something like that if we make the comment. Perhaps the language could be that we ask the County to study the traffic conditions and come back to us with a proposal.

Galloway stated a couple of thoughts to add. It is classified as an arterial and generally the County would build a road to its standards. It is also, as I understand it, the section of Stark in Troutdale is the last section of Stark that has not been upgraded to its proper standards. The County does not normally get into the business of building interim roads. In other words, its going to be five lanes in three years but lets only build it as three now. I think doing what you are asking them to do would be difficult to accomplish. I also think, that if you say it only needs to be three now, lets build it at three now and we can always come back and build it to five when the traffic studies demand that, I think is much easier said then done. Just looking at the numbers, and perhaps that is what Councilor Schmunk was eluding to, the entire Capital Improvement Plan for the County is 150 projects $140 million requirement in the five years that this program covers they anticipate doing about $18 or $19 million dollars worth and then maybe about $5 million dollars a year. That would tell us that if they did all the projects on that list and there was never a new requirement in the County, both which are probably not valid assumptions, but for the sake of argument, just to exhaust the list that they have right now would take at least 30 years. So the idea that five or ten years from now when Stark really needs to be five lanes that somehow they would magically come in and give us the additional lanes, may not be a valid assumption. I think there are some longer range concerns. Another one would be, if you notice on the last page of the CIP the County list projects and I think the title of that is constraints. When there are certain problems on a particular project it often times requires the County to bypass the normal priority system and go to something else. I guess I would be concerned that whatever language we end up giving the County not be so restrictive or negative that it flags this project as being a problem project and they bypass it and go on to another project.

Councilor Thompson stated I agree with Mr. Galloway. I personally would rather not do anything that might jeopardize this project.

Councilor Ripma stated I didn't say this would be easy. I also know that the County will do it and they did it on the Sweetbriar Cochran interchange. Just because the money is available to pave a wide five lane road down the hill isn't a good reason to do it. I am asking you to consider the aesthetics of this project. All I am asking is that the County consider some alternatives. If we don't ask, they won't do it. But if you do ask, I have found the County to be responsive every time. My request is simply that the County consider some alternatives.

Mayor Thalhofer stated the County has been very cooperative with us and Councilor Ripma did point out a very good example at the intersection at Cochran. That might be something we could ask for. It certainly shouldn't threaten the County to ask for it, not demand it but just consider alternatives.

Galloway stated to verify the language you are wanting. An alternative to the design of five lanes.

Councilor Lloyd stated my point was, I think we need a wider road. But I do think it is a unique area with a big tree down at the bottom and I don't want to see any design threaten that big tree. I think it is an area where you might consider putting in your five lanes but you have a bicycle or sidewalk that is detached with trees.

Councilor Schmunk stated if you could put in there because of the uniqueness of the college. The whole street has to go to the south, it can not go to the north because of the cemetery.

Councilor Ripma stated that would be fine to add because of the uniqueness of the college site you might consider alternatives.

Galloway stated I think I have enough guidance on this issue.

10. DISCUSSION: Draft request for proposals - Natural resources protection, enhancement and restoration Ordinance.

Mayor Thalhofer called this item.

Christian reviewed the staff report.

Council had no questions of staff.

11. DISCUSSION: Joint code enforcement officer with the City of Fairview and Multnomah County.

Mayor Thalhofer called this item.

Christian reviewed the staff report.

Councilor Lloyd asked how many complaints are illegal dumping as opposed to tall grass?

Jodi replied very rarely do I get illegal dumping calls.

Councilor Lloyd asked what else then comes under the category of nuisance that you address?

Jodi replied abandoned vehicles, trash, pools that are not surrounded by a fence, fences that are down, construction debris, rodents.

Councilor Ripma stated I feel that this kind of service, nuisance abatement, is one of those functions of government that is important to people. Do I understand, that up until now the County has not done this service for us in Troutdale, we have done it ourselves?

Cline replied correct.

Councilor Ripma stated the County is looking for some help to retain someone and is now offering that

service to us. It seems like if we can find $15,000 it is a very good deal.

Councilor Pricket asked will he be able to cite people into our court?

Christian replied yes.

Mayor Thalhofer stated I feel if we can find the money, Mr. Gazewood do you have an answer to that?

Gazewood replied I don't see a problem from the standpoint of the budget.

Councilor Thompson asked is there some action you need us to take tonight?

Christian replied we will have to bring back an intergovernmental agreement at a later date, I just needed to know if there was a consensus from the Council.

Council had no objection to proceeding.

12. INFORMATION: Check register - Month of June 1993

Mayor Thalhofer called this item.

Council had no discussion on this item, it is informational only.

13. COUNCIL CONCERNS AND INITIATIVES

Mayor Thalhofer called this item.

Council had no concerns.

14. ADJOURNMENT

MOTION: Councilor Schmunk moved to adjourn the meeting. Councilor Pricket seconded the motion.

YEAS: 5
NAYS: 0
ABSTAINED: 0

Unapproved Minutes

Meeting Recorded by
George Martinez

Minutes Prepared by
Debbie Stickney, City Recorder
July 17, 2000

CITY OF TROUTDALE

PUBLIC ATTENDANCE RECORD
MEETING DATE 7-27-93 TYPE Council

PLEASE COMPLETE THE FOLLOWING

PRINT NAME	ADDRESS	PHONE#
Jim Galloway	City Hall	665-5175
C. Scott Cline	104 SE Kibling	665-5175
H.G. HANSON	2509 N.E. 20th TTD AVE	665-1002
Pat Smith	1200 Kendall Ct	666-2712
Richard B. Shepard	2404 SW 22 Troutdale	667-6672
Nick O. Ekland	1620 NE Gresham	665-3269
KEN TREBELHAN	1310 NE FRANCIS CT.	667-2537
Jodi Anderson	City Hall	665-5175
SPIRO LOUKAS	7795 [illegible]	637-1825