



# CITY OF Troutdale

## AGENDA

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

**7:00 P.M. -- May 26, 1998**

- (A) 1. **PLEDGE OF ALLEGIANCE, ROLL CALL, AGENDA UPDATE**
- (A) 2. **CONSENT AGENDA:**  
2.1 **APPROVE BUSINESS LICENSE:** Month of April 1998  
2.2 **RESOLUTION:** A Resolution declaring certain personal property as surplus and authorizing disposal.  
2.3 **MOTION:** A Motion to authorize the Mayor to send letters to Tri-Met and the Port of Portland concerning the Proposed Light Rail Extension to the Airport.
- (A) 3. **PROCLAMATIONS:**  
3.1 Land Use Planning Week  
3.2 Physical Fitness and Sports Month and Fitness Day in Oregon
- (I) 4. **PUBLIC COMMENT:** Please restrict comments to non-agenda items at this time.
- (A) 5. **PUBLIC HEARING: A Public Hearing to Consider the Following Resolutions:**  
5.1 A Resolution adjusting the Rate and Capital Improvement Plan for Water System Development Charges and rescinding Resolution No. 1298.  
5.2 A Resolution adjusting the Rate and Capital Improvement Plan for Sanitary Sewer System Development Charges and rescinding Resolution No. 1299.  
5.3 A Resolution adjusting the Rate and Capital Improvement Plan for Transportation System Development Charges and rescinding Resolution No. 1300.  
5.4 A Resolution adjusting the Rate and Capital Improvement Plan for Storm Water System Development Charges and rescinding Resolution No. 1301.  
Galloway
- (A) 6. **PUBLIC HEARING: A Public Hearing to Consider the Following Resolution:**  
A Resolution adjusting the Rate and Capital Improvement Plan for Parks and Recreation System Development Charges and rescinding Resolution No. 944. Faith
- (A) 7. **DELIBERATION ON THE ADOPTION OF AN ORDINANCE:** Reconsideration of Ordinance No. 658, adopting the Town Center Plan and Associated Zoning Map and Development Code Amendments, in accordance with LUBA appeal proceedings. Faith

(A) 8. **RESOLUTION:** A Resolution calling a Special Election to submit to the voters the question of contracting a General Obligation Bonded Indebtedness in the amount of \$16,000,000 to acquire property and construct, equip, and furnish a new Sewage Treatment Plant and a Laboratory/Administration Building and related facilities; and to pay all costs incidental thereto. Galloway

(I) 9. **DEPARTMENT REPORTS:**

9.1	Finance	<u>Gazewood</u>
9.2	Public Safety	<u>Berrest</u>
9.3	Community Development	<u>Faith</u>
9.4	Public Works	<u>Galloway</u>
9.5	City Attorney	<u>Sercombe</u>
9.6	Executive	<u>Kvarsten</u>

(I) 10. **COUNCIL CONCERNS AND INITIATIVES:**

(A) II. **ADJOURNMENT:**

  
Paul Thalhofer, Mayor

Dated: 5-20-98

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

May 26, 1998 - 7:00 P.M.

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

Meeting was called to order at 7:02 p.m. by Mayor Thalhofer. Mayor Thalhofer called on Councilor Daoust to lead us in the Pledge of Allegiance.

Deputy City Recorder Stickney called the roll.

PRESENT: Thalhofer, Smith, Ripma, Thompson, Kight, Regelein, Daoust

STAFF: Faith, Lantz, Galloway, Berrest, Sercombe, Kvarsten, Stickney

GUESTS: Michelle Meyers, Kevin Wing, Rod Park, Raymond Bartlett, Fred Rathbone

Mayor Thalhofer asked if there were any agenda updates.

Kvarsten replied there are none.

Mayor Thalhofer read a letter he had written to the Mayor of Springfield regarding the events at Thurston High School.

**2. CONSENT AGENDA:**

**2.1 APPROVE BUSINESS LICENSE:** Month of April 1998

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

**2.3 MOTION:** A Motion to authorize the Mayor to send letters to Tri-Met and the Port of Portland concerning the Proposed Light Rail Extension to the Airport.

Mayor Thalhofer called this item and read the consent agenda.

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

**YEAS: 7  
NAYS: 0  
ABSTAINED: 0**

- 3. PROCLAMATIONS:**  
3.1 Land Use Planning Week  
3.2 Physical Fitness and Sports Month and Fitness Day in Oregon

Mayor Thalhoffer called this item and read both proclamations.

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

Mayor Thalhoffer called this item.

Rod Park, Metro Councilor stated he appreciated the support received in the Troutdale area. I'm looking forward to working with this Council and the others in the area. I am trying to create the partnerships that I talked about in my campaign.

- 5. PUBLIC HEARING: A Public Hearing to Consider the Following Resolutions:**  
5.1 A Resolution adjusting the Rate and Capital Improvement Plan for Water System Development Charges and rescinding Resolution No. 1298.  
5.2 A Resolution adjusting the Rate and Capital Improvement Plan for Sanitary Sewer System Development Charges and rescinding Resolution No. 1299.  
5.3 A Resolution adjusting the Rate and Capital Improvement Plan for Transportation System Development Charges and rescinding Resolution No. 1300.  
5.4 A Resolution adjusting the Rate and Capital Improvement Plan for Storm Water System Development Charges and rescinding Resolution No. 1301.

Mayor Thalhoffer called this item, closed the City Council Meeting and opened the Public Hearing at 7:13pm and asked Mr. Galloway to step forward.

Galloway reviewed the staff report contained in the packet and asked if there were any questions.

Councilor Kight stated that the Transportation SDC has been reduced by 4.8%. I want to focus on that, often we are chastised as a government body for increasing our SDC's on a regular basis. In this case we actually show a minus, would you explain this?

Galloway replied this relates to a project that was previously in our capital improvement plan to make major improvements on Jackson Park Road. In a meeting several months ago Council decided, based on input from several residents in the area, that it was not a desirable project. That is the basic reason for the decrease.

Councilor Daoust asked what is the project on the Capital Improvement list "construct an intertie with Fairview?"

Galloway replied we currently have an arrangement with Wood Village and Gresham, where our waterline is connected with their jurisdiction. 99.9 percent of the time they are closed and there is no transfer of water. They are there in the event of an emergency. We currently do not have that with Fairview because we do not have a location where our waterlines come close in proximity to each other. Fairview had plans to extend waterlines on their portion of Marine Drive and when that occurs, since we have a waterline that runs to our city limits on Marine Drive, we would be able to make that connection and have just one more backup with Fairview.

Councilor Daoust referred to attachment "A" of the sanitary sewer system and asked, when we are talking about the design and construction of the new sewage treatment plant you use a figure of 46.67% of the debt service. Is that the SDC share of the debt service?

Galloway replied yes. The system development charge that we assess can only be utilized for capacity increasing improvements. Because we currently have a treatment plant that operates at 1.6 million gallons a day capacity, where we could go forward with the concept of constructing an entirely new plant, it really would have two elements to it. One is simply replacing the existing, which would not be increasing the capacity, therefore, would not be eligible for SDC's. Then we have the amount of capacity we are constructing beyond what we currently have today, which I think very clearly would be eligible for system development charge coverage. The ratio of 1.4 million gallons a day increase divided by the 3million gallon per day total capacity of the plant.

Mayor Thalhoffer asked if there was anyone here who would like to testify on this issue.

Mayor Thalhoffer closed the Public Hearing and reconvened the City Council Meeting at 7:25pm.

**MOTION: Councilor Ripma moved to adopt the Resolutions set forth in 5.1, 5.2, 5.3 and 5.4. Seconded by Councilor Regelein.**

**YEAS: 7  
NAYS: 0  
ABSTAINED: 0**

**6. PUBLIC HEARING: A Public Hearing to Consider the Following Resolution:**

A Resolution adjusting the Rate and Capital Improvement Plan for Parks and Recreation System Development Charges and rescinding Resolution No. 944.

Mayor Thalhoffer called this item, recessed the City Council Meeting and opened the Public Hearing at 7:28pm and asked Rich Faith to come forward.

Faith reviewed the staff report contained in the packet.

Councilor Regelein asked that the fee almost doubles, how much of this is based on growth as opposed to existing parks and population?

Faith stated that the entire increase is attributable only to growth. That is the only way we can compute SDC's.

Councilor Kight stated that there is a letter from Kevin Wing of the Home Builders Association of Metro Portland. He brings up several issues. One has to do with the new maintenance facility shed of \$250,000. He feels that the SDC's should not pay for the entire cost of that. As I understand it there has been an adjustment made to that number.

Raymond Bartlett stated that is correct. We have adjusted the rate by the ratio of what portion of the maintenance facility shed will be used by Parks Department vs. other public works purposes. That ratio is 70%, 30% assigned to maintaining buildings. When we applied the ratio of future to total population,

it further reduces it. The impact on the SDC charge is a reduction from \$830 to \$790.

Councilor Kight stated that all of the SDC's currently from parks are collected from those people who are building residential homes. His (Kevin Wing) argument is that commercial property also benefits by having a good quality park system. In fact often commercial property owners end up using the parks either in the form of a company picnic or a promotional activity because they are limited to space. He also mentions many other communities incorporate a ratio, not necessarily the same for residential and commercial. Would you please comment on this.

Bartlett stated other cities have, usually they look for some specific nexus between the park being developed and commercial and industrial use. For example, if you were building a jogging path through an industrial district with the intention that the employees would use it, then an SDC is constructed on recovering the cost. If specific improvements are made to commercial area parks such as park benches, street trees or things that would beautify a commercial district, again, a specific SDC is created for that. The argument against doing that on neighborhood parks and community parks is that it is primarily the population that uses it, who may or may not work in the community. If you charge the industry as well you may be guilty of double dipping. I didn't find anything in the Parks Plan that was specifically designed for commercial and industrial benefit.

Councilor Kight stated that Mayors Square sits in the middle of our commercial district, chances are that it's going to be used by retailers and businesses in the area. I am a little confused when you say there is not a nexus between commercial areas and parks in Troutdale.

Bartlett replied that the bulk of that site was completed already and does not qualify, and the small piece that is left of \$30,000 is a possibility.

Councilor Kight replied that one of the things that make an area desirable for promoting commercial development is livability to the community. Could you give examples of other communities that do have an SDC for parks for commercial as well as residential?

Bartlett replied The City of Wilsonville has one, which has a very large commercial and industrial area with parks built specifically for it. Most of the employees do not live in Wilsonville. Another example is the City of Portland where again there are major park facilities in the downtown area and again most of the employees commute from outside the city and they also have regional facilities involved such as the Rose Garden area. We have somewhat of a parallel to that here, the mouth of the Sandy River and the Columbia Gorge where you do have a regional attraction already, and in recognition to that you are also getting a \$1 million grant from Metro which is deducted from the calculation of the SDC.

Councilor Kight asked do you think there needs to be more study on this before we make a decision?

Bartlett replied I would wait another year and see what other larger communities are doing and see if they can develop the connection.

Councilor Ripma referred to page 2 of 3 of the Resolution, section 6, "as set forth in the Capital Improvement List, Table 4 of attachment "A," which may be amended from time to time by resolution of the Council." I don't recognize table 4, have we acted on this?

Lantz replied one reason you may not recognize it is because it is a different sort that is taken out of our Park Plan from 1995. In the plan the list is divided by the year, for calculation purposes Ray has it sorted in a different order. We have also recognized the addition of the skate park as something that is desired in the community so we specifically identified that instead of leaving it in phases.

Councilor Ripma stated that item is \$150,000 on the list and I don't recall the Council ever voting on this or even discussing it other than we have heard some public testimony.

Lantz replied what is in the Park Plan are phases identified for development for this park and we decided to recognize the skate park as a phase.

Councilor Ripma asked if the skate park was a listed item in the phases?

Lantz replied no, we identified this as one of the phases and essentially what that represents is a basic infrastructure in the park.

Councilor Ripma stated then what concerns me is this is the first time this item has appeared. It is appearing as an attachment to a Resolution talking about SDC charges. The Council has never discussed it and I don't think this is the proper way to handle getting something like this on a Capital Improvement list.

Lantz stated we can revise it to read as it does in the Park Plan, as a development phase for that park.

Councilor Daoust stated as I understand it, the amount is not an additional amount added onto the park as a project, it was simply pulled out to show a possible project in that park.

Councilor Ripma asked if phase one of Hoodview Park was \$650,000 before and is now \$500,000 with the skate park at \$150,000, is that what you are saying? My thinking was that this skate park will need neighborhood input and needs to be considered carefully. Is it true that this list doesn't represent a list of actual projects, but just a guess that can be changed?

Lantz stated that the Park Plan done in 1995 lists specific sites with phases for acquisition and development. Within those phases it doesn't always itemize specifically which things are going to be built in that phase. Those items are decided upon during the specific planning processes. For example, at Columbia Park when we had phase I and phase II going on, we brought back to City Council the fact that the building of the park was going to cost more than originally projected and asked for approval to go ahead with it. When there are major expenditures associated with these phases it does come back through the planning process and through a public process to specifically identify what is included in those phases.

Councilor Ripma stated if Parks Advisory Committee wants to spend \$150,000 on a skate park and the neighborhood welcomes it, it will have my support, but I don't like it itemized.

Mayor Thalhoffer stated I am not comfortable with what is being presented here as far as the Capital Improvement list. Council has not acted on it.

Councilor Kight asked when you say phase I development, is that just the acquisition to purchase the

property?

Lantz replied no, what you are talking about refers to acquisition, development refers to getting the infrastructure into the site such as utilities and parking.

Councilor Kight stated he shares the same concerns as Councilor Ripma and Mayor Thalhoffer. Now going back to the deduction of money for the maintenance facility, was the SDC reduced as a result of that?

Bartlett replied yes.

Councilor Regelein stated that he heard earlier that the SDC was reduced to \$790, but what we have here still shows \$830.

Bartlett replied that after this report was sent to you we received a letter from the Home Builders Association and we then made the adjustment.

Councilor Daoust stated that the Council did approve in 1995 a Master Plan for Parks, and within that was a capital improvement list that almost matches what we have here. I think with the exception of the skate park, I recognize these park improvements specifically listed here from the 95 Plan, so I think it was appropriate for you to use this list as the basis for capital improvements.

Councilor Kight stated that we have not increased our Park SDC since 1992, it's now 1998 and it's going up 100%. Do most wait this period of time before they make almost a 100% increase in their SDC's, or do they have an index where they automatically increase it 3% per year?

Bartlett replied I've seen it done every way. What you are doing with the sewer, water, storm water and streets where you index it each year is the best way to go about it.

Mayor Thalhoffer asked if there was anyone here to testify.

Kevin Wing, Home Builders Association stated that I didn't plan on being here tonight so I had submitted some written testimony also. I appreciate Councilor Kight bringing up those issues. I want to thank Rich, Val and Ray for being receptive to meeting with me and working this out prior to coming before the Council. I did want to hi-light one issue regarding the maintenance facility shed. I do appreciate the adjustment that was made, I think that makes the fees more fair. I would suggest that staff look at the other line items more specifically and ensure that there are no other such sheds included within the line items. I want to make an argument for including the commercial use factor in this. This community is a little bit unique in that the growth that is expected in this community to the year 2015 is predicted to be heavily weighted toward commercial growth. Metro expects residents to increase in Troutdale by 72% by the year 2015 and commercial growth to increase by 172%. You need to look at some sort of commercial factor and recognize that commercial growth benefits from a healthy park system. In order to make the SDC as fair and equitable as possible they should be asked to pay a share. I think there can be a nexus made that would include a percentage for commercial. I would like Council to consider using a longer phase in period. It is my understanding that it would take effect on July 1<sup>st</sup>, that only gives builders 30 days to make financial adjustments. We would like to ask for 60 or 90 day period before this is effective.



Mayor Thalhfer asked do you disagree with Mr. Bartlett's definition of a commercial SDC?

Wing replied I realize that is what other local governments have used, for example the City of Portland has one. The analysts that come up with these formulas for SDC's are debating between themselves on the more general issue of how much commercial development benefits from a healthy park system in a city, and how much of a factor that is in deciding whether or not they are going to put their business in the city. Since the majority of growth in Troutdale is expected to be commercial, some sort of calculation could be made that would take them into account.

Mayor Thalhfer asked do you see Mayors Square as a commercial park? It was designed as a public park for general public to visit and for concerts to be held there. Do you consider that because it is close by to commercial enterprises?

Wing replied I think that would be a prime candidate. New businesses are going to benefit from that park, residents and new residents as well and both should be required to pay for the increased demand.

Mayor Thalhfer replied that employees of businesses will use it a little bit, but generally speaking it appears it was built for the use of the general public not just the employees of the businesses around it.

Wing stated that SDC's try to pinpoint where the increased demand lies, who is causing the increased demand. If you have a park in the middle of a business section you could say that the employees and people coming to shop at those businesses are going to create an increased demand on that park. Therefore, you come up with a percentage to determine what percentage of the increased demand they should pay for.

Councilor Daoust stated when it comes to Mayors Square, we are almost done with that park, we have very little money left to spend on it, it is a minor percentage of the acreage in the city. I would say that is a real small impact to business if we included it. On polarization, if most of our commercial property is on the north side of the city and I think most of the proposed new parks are in the southern half of the city, how do you draw that polarization with asking new businesses coming into town to pay for the new parks which are on the other end of town?

Wing replied it is still an issue which is being debated amongst the analysts which create the SDC fees. The argument goes that businesses are attracted to a community based on livability. Businesses benefit from a healthy park system and therefore they should have to pay a percentage of it. The Mayors Square issue is a small amount of money in the grand scheme of things. State law requires that SDC fees be fair and equitable and that future residents pay no more than the future increase in demand that is assigned to them. When we were talking about the maintenance facility shed, we got a \$40 reduction, it is not a lot of money but we try to make these things as fair as possible.

Councilor Kight stated the more I hear the argument about commercial sharing in the park SDC, I see the nexus myself. It is not only parks, it's your schools, road systems and your water. In other words all the facilities that attract people to your community. The total livability for the community is a draw to commercial retail business. Do you know of any community that has it currently, and you know approximately what kind of ratio commercial business pays for parks SDC's as opposed to residential? Is there some sort of formula that you are familiar with?

Wing replied I am not, I could try to find out for you.

Councilor Kight asked that you commented that you would like to see a longer phase in period, I tend to agree with that. What kind of phase in period are you looking at?

Wing replied we would like to see 90 days but may agree to 60 days.

Councilor Thompson stated your indicating that you would like to have it effective August 1<sup>st</sup> instead of July 1<sup>st</sup>.

Wing replied I think that would be more fair and equitable.

Mayor Thalhofler called for Mr. Bartlett to come forward and asked do you have a different opinion than Mr. Wing on the commercial SDC's.

Bartlett replied I have no arguments.

Councilor Daoust stated that currently when a builder builds a home he has to dish out almost \$6,000 for water, transportation, storm and sanitary SDC's, and the increase we are talking about is \$577 more, which is the increase for all five SDC's we are talking about including parks SDC's. That is less than a 10% increase. Is that an extraordinarily large amount compared to other city's?

Bartlett replied no, but I would have to agree with Mr. Wings comments that hitting a developer with it tomorrow morning who is already in the process of obtaining development loans may be a bit difficult.

Mayor Thalhofler asked if there was anyone else who would like to testify.

Mayor Thalhofler closed the Public Hearing at 8:18pm and reconvened the City Council Meeting at 8:13pm.

**MOTION:**        **Councilor Ripma moved to have staff return with a Resolution regarding the Capital Improvement Plan for Parks and Recreation System Development Charges that has a longer phase in of 60 days from adoption, and adjust the figures on the Maintenance Facility as reported verbally here to us tonight, and also make sure there are no other buildings that are included in the improvement list such as sheds that might not be properly chargeable to this SDC and finally the Capital Improvement List table 4 be adjusted to remove some of the specific items such as the skate park and make it more general. Seconded by Councilor Regelein.**

**YEAS: 7  
NAYS: 0  
ABSTAINED: 0**

Mayor Thalhofler called for a break at 8:22pm and resumed the City Council Meeting at 8:37pm.

**7. DELIBERATION ON THE ADOPTION OF AN ORDINANCE:** Reconsideration of Ordinance No. 658, adopting the Town Center Plan and Associated Zoning Map and Development Code Amendments, in accordance with LUBE appeal proceedings.

Mayor Thalhoffer called this item, recessed the City Council Meeting and opened the public hearing at 8:40pm and asked Rich Faith to come forward.

Faith reviewed the staff report contained in the packet.

Councilor Kight stated that you have given us a lot of material and choices to make. One is the mini storage, I know you explained it, but I did not grasp it. I know where the buildings are located and I know they are separate buildings but how does that affect what is happening with the Bennett property? Can't we make this proposal specific to the Bennett property so it would not impact the Mini Storage property?

Faith replied the way I have crafted it, it pertains to that zoning district (Faith put up a zoning map). The map represents the adopted zoning for the Town Center overlay district and those properties shown in purple represent properties zoned for mixed office housing. It was my intent to try to structure something in the development code that would apply uniformly within this zoning district as opposed to trying to craft language that clearly focused on one individual piece of property. I suppose technically that could be done. I was fearful in doing it that way, it certainly could be subject to some kind of scrutiny or challenge that you are clearly singling out an individual piece of property in terms of trying to apply a zoning standard. The way it is structured it would apply to all the properties in the mixed office housing represented in the purple color on the map. Therefore, the only other piece of property that currently has structures that exceed the 15,000 square foot limit is the Bennett site and the Troutdale Mini Storage site. If this language were adopted then the same opportunity that is afforded the Bennett site for converting to retail uses could also be exercised at the Troutdale Mini Storage site.

Councilor Daoust asked what was the rationale for the Planning Commission to come up with the maximum gross floor area of 15,000 square feet?

Faith replied the 15,000 square feet was based primarily on a recommendation from our consultant who we retained to assist in preparing the Town Center Plan. I believe that the original proposal was 20,000 square feet and after discussions at the Town Center Task Force level it was decided that we really do want to keep the retail uses outside of our central business district limited in size.

Councilor Ripma asked if we elect to reconsider the Ordinance and consider the language you set forth and we limit the changes to this district, can we consider this the first reading of the Ordinance?

Sercombe replied no we cannot.

Councilor Kight stated I see there are still conditions attached to this particular property, is that correct? So that restaurants or retail would be a conditional use within the Bennett building?

Faith replied that is correct, it is still listed as a conditional use.

Councilor Kight asked have you seen the building itself?

Faith replied only from the outside.

Councilor Daoust stated I have seen the inside. It is a structurally sound building with wood beams and concrete walls. It has potential to be crafted into something better.

Mayor Thalhoffer stated I visited the building on Saturday morning, it is ugly but if you have any imagination or vision you can envision a building like that after it has been fixed up. It has a lot of possibilities.

Mayor Thalhoffer asked if there was anyone else who would like to speak on this issue?

Dave Bennett stated I would like to extend a thank you to those of you who have found the time to come down to visit. Originally after the work shop you presented three options to me that would be possible; one was that you are not going to change anything. Option one that was presented to me was the 40,000 feet in the existing structure without conditional use and option two was with conditional use. I might have missed something here, I think the staff report here was under conditional use only. My request is for the 40,000 feet, that is the first thing I want to accomplish. I would rather not have conditional use, for one main reason, my resources are limited and it is easier to go out and start beating the bushes when my options are open and I don't have to second guess what might work in the building and have to come for a conditional use. I understand the Council's fears as Jim was pointing out when we were discussing this earlier, who is to say all of a sudden I'm not going to put in a video arcade or poker house or something like that. There are numerous options, I am asking you to help me keep my options open so I can go to work without spending resources. I have no intention of letting the building go, but I could die tomorrow, so I understand some of your fears.

Councilor Ripma stated in the mixed office housing district, retail uses were a conditional use before this came to us, so the issue was increasing the size for buildings that existed prior to March 10, 1998 from the 15,000 square feet maximum up to 40,000 which I understood you wanted. Is the 40,000 square feet what you were looking for?

Bennett replied I have talked to numerous people, most people are saying I should fight as hard as I can and protect my position as best as possible and try to eliminate the conditional use if I can. The 40,000 square feet is a number I picked and that was based on the downstairs area, the 12,000 feet upstairs could go to office space or living quarters.

Councilor Daoust stated regarding the conditional use, when you come before the Planning Commission to request a conditional use, it is not like you have to have every tenant lined up ahead of time. The amount of specificity, I don't think is as much as you may think it is. Rich could you elaborate on this.

Faith stated you do not have to have every detail but you have to know fairly well what the concept is of what it is you are asking for. If for example he were to come in and ask for a conditional use permit to convert my manufacturing building into retail, but I don't know how much of it is going to be retail or how long it is going to take to convert it to retail, or what kind of shops are going to be in there, I just want a conditional use to convert it to retail. I think that would be too vague for the Planning Commission to make an informed decision. So it is important to have a good idea conceptually of where you are headed and what the time frame is you are trying to operate under to get to that point.

Bennett stated that is where the difficulty lies. When I talked to Mary Graves several months ago, she

thought about nature stores and book stores and we pursued those things, in fact six different book stores, every one of them shot it down in a heartbeat. So if I come to you with conditional use and say I want this 40,000 feet to be for book stores and maybe a small nature store and they say great, and then I go out there and I can't find anyone who wants to come in there, how do I go about doing that?

Faith stated you would not have to identify every use. For example when the factory mall came in, they obviously did not know what every single tenant was going to be, but they had a drawing and a site plan and they knew where the buildings were going to be and where the parking was going to be and the landscape plan. There may be numerous tenants that come in after the fact that are all permitted as part of the retail operation, and I think this is much the same way. As long as we have an overall plan that tells us that this is the portion of the building that is going to be used for retail and I intend to divide it up into ten different shop areas and whoever I can attract there will be a retail business, that may be sufficient. We would also need know the plan for parking, landscaping and other features along with the access to the site.

Councilor Ripma stated isn't it true that conditional use is necessary in this zone to enforce the maximum square footage for retail in this zone. Your request to exempt from conditional use applies to the entire zone and the idea is to have a mixed office housing with this small retail limitation. It would be difficult or impossible to enforce the idea of the zone without a conditional use.

Faith stated not necessarily. Even through a site and design review process, if there is a maximum floor area limitation, it can still be evaluated and administered and enforced through the site and design review application. As it is now written, we have under permitted uses, personal service uses with a maximum gross floor area of 2,000 square feet. That can only be enforced through the site and design review process.

Councilor Ripma stated it does say in both of these that the maximum square footage shall be considered a use limitation, is that a condition?

Faith replied no, what that means is you can not apply for a variance.

Mayor Thalhoffer asked can this be done without a conditional use?

Faith replied not as it is being proposed. I am proposing that the use of retail uses and restaurants be retained within the list of conditional uses as it was adopted by the City Council on February 10<sup>th</sup>. I am advocating that we still keep it in the list of conditional uses with the exception that existing buildings could exceed that 15,000 square foot limitation. In the initial discussions we talked about various options that could be considered in the language to address his wishes, but without knowing what the wishes of the Council would be. We could craft language that would put this under permitted uses but recognize that treats them entirely separate from any new use that comes in because if you are talking about a new retail use, it is going to be listed as a conditional use, but if you are in a building that existed prior to March 10, 1998 then you are a permitted use and up to 40,000 square feet. My feeling is that's very inconsistent, and it obviously singling out one individual piece of property which I do not feel comfortable doing. My recommendation is to go with the other option, leave it as a conditional use with that exception.

Mayor Thalhoffer asked why are you uncomfortable doing it without the conditional use?

Faith replied it seems we are going beyond what is really the issue before us, that a decision has been made that the mixed office housing district is not intended to be a retail zone, but that limited retail will be permitted by conditional use permit. Consistent with that is, even if we are talking about a specific piece of property that has the potential to convert to retail, that I still think it ought to be treated the same as any new use that comes in that would have to go through conditional use. We are granting a concession or compromise here in terms of allowing an exception to that to go up to 40,000 square feet but I would like to treat all of these consistently and if a new retail use has to go through a conditional use permit, I see no reason why a current building that is going to convert to retail should not also go through a conditional use process.

Councilor Kight asked if we removed the conditional use for the Bennett property would we not also have to do the same for the Mini Storage?

Faith replied the way I drafted the language, I don't believe it would apply to them.

Councilor Kight asked couldn't the Mini Storage people come back and make a case?

Faith stated that was part of my fear. I am seeking help from the city attorney in terms of spot zoning and legal issues. If you were to write this in such a way that it only applied to one piece of property and not another, if you are in danger of spot zoning.

Sercombe stated I think it is a concern to have some uniformity of treatment within the legislation in general. Although it is a fairly common thing particularly in State Legislation to have legislation of particular applicability so that it affects only cities of greater than 4,000 in population for example. I think legislation can be designed to have particular applicability, but it runs the risk of having legislation deal with things in a very general way and not specifically.

Councilor Daoust stated I think that Mr. Bennett can do what he wants to do if we leave it as a conditional use. The one thing we are assuming though is that the Planning Commission will approve it. What would happen to Mr. Bennett if he took the time and energy to go before the Planning Commission and they did not approve the conditional use?

Faith stated that is very true. One of the overriding issues that would enter into the decision would be access.

Bennett stated the reason I tend to push for no conditional uses is originally when it was zoned as a business park it would be easy to upscale to something else. This has been in the works for a long time. Secondly, Councilor Daoust pointed out there are a lot of ways of getting shot down. Access is a major one. In terms of the Mini Storage, I am willing and hoping you are going to adopt some kind of site review that is going to make me keep that historical building looking like a historical building only something that goes along with the town center you are creating.

Mayor Thalhoffer asked what if we didn't have conditional use?

Faith replied I have drafted language that would allow for what David Bennett wants to do as a permitted use. The way it is written it would pertain strictly to his piece of property, it can be done. That is a decision that is yours to make. My only objection to that is singling out a individual piece of property and

treating it differently from all other potential and future retail uses that would occur in this mixed office housing district.

Mayor Thalhoffer asked would it include the Mini Storage?

Faith replied the way it would be written is that the only piece of property that could have retail use as an outright permitted use would be a piece of property that had a building that existed prior to March 10, 1998, and that exceeded a certain square footage. That was how I was going to draft it, so it came down to there was only one piece of property that this fits and that is D & D Manufacturing. All other retail uses and restaurants in this zone would still be listed under conditional use subject to a 15,000 square foot limitation.

Councilor Kight asked one particular property would be favored over all the others. The others already have conditions on them for retail and or restaurant if they want to change the use, is that correct?

Faith replied they would be subject to conditional use and the 15,000 square foot maximum.

Councilor Kight asked could other people, after we give Mr. Bennett, get the same type of favored treatment to have the conditions removed from their property?

Faith replied if they wanted to petition for a change in the zoning text that would accommodate them the same as David Bennett is seeking.

Councilor Kight asked Mr. Bennett, could you live with having the conditional retail and restaurant if we could approve it for the 40,000 square feet?

Bennett replied I would have to think about it, I would not decide tonight. I would like to respond to an earlier comment. I don't think it is special treatment. Anyone has the right to go for a zone change if they desire no matter what I do or don't do. Secondly I don't think it is special or favorable treatment when I have building that is 75 years old. I have been in discussion at one time or another for over two years, its not like I am trying for something new. I think it is a special condition.

Councilor Daoust stated if we refer to buildings that were existing prior to March 10, 1998 that may include more than we want to include. Is it legal to put in an earlier date there, buildings that existing prior to 1927? Can we designate a different year and narrow down the field to just one building?

Sercombe answered yes.

Faith stated that change would then only apply to one building that currently exists in the mixed office housing district.

Mayor Thalhoffer asked if there was anyone else who would like to testify.

Fred Rathbone stated I have worked with David Bennett. I would hope that you would be able to use the suggestion that Councilor Daoust has suggested. We think that it will hinder and delay for several years his success of filling the building by having the conditional use. I would encourage you to allow him to have the 40,000 feet and in an outright zone as you would on a general commercial and condition it

as you want to with anything other than that.

Mayor Thalhoffer stated that the access to this property is probably one of the biggest problems.

Rathbone stated if I were on the Planning Commission I would have to say that. You have to have a destination item, where someone comes for a particular service.

Mayor Thalhoffer asked if there was anyone else to testify.

Councilor Ripma stated I favor the staffs recommendation I think it is a good compromise. I would go along with Councilor Daoust suggestion of moving up the date maybe another 50 years to limit this to a single building. I think that it would be very unfair and inconsistent and embarrassing to have our code say that you can by right build 40,000 square feet of retail in a mixed office housing zone, but everyone else who comes in for 15,000 square feet has to get a conditional use. I think that is so out of line and irrational that it offends me just as a councilor or someone who likes orderly laws. The reason for conditional use permitting is to apply conditions on the development that are necessary, usually for the public good, and if there are traffic problems getting in and out of this site, which there are going to be, I trust the Planning Commission will put reasonable conditions on there to facilitate the public's access in and out. If Planning Commission approval is a worry because of access, there is probably a good reason for it. I favor leaving it as a conditional use, otherwise I favor this exception and I favor Mr. Bennett and I trust and hope that he will be able to do something wonderful with that building. I favor re-opening public testimony on the changes only rather than the entire downtown zone. This is a fairly minor change and I would favor us just handling it.

Councilor Regelein stated that I agree with Councilor Ripma. I am very uncomfortable anytime we would make an exception for one property within a zoning area. We have to apply our zoning laws fairly and equitable to all properties. I would favor retaining the conditions.

Mayor Thalhoffer stated that this building has access problems. It has been stated if it is a destination type of operation that people will come, they wouldn't if it was just a retail store. I understand the arguments of not being consistent, but here we have a building that was built in 1927, it is an unusual building, there are not many buildings in Troutdale like that. I think you can make exceptions and grandfather certain buildings in. If there is any one that does qualify for grandfathering it would certainly be this one. I don't see anything wrong with making this a special situation, grandfathering this building in as 40,000 square feet of retail space as a permitted use. Sure there will be others who will want to have retail space of more than 15,000 without a conditional use permit, I understand that. We are dealing with a very peculiar building in a peculiar area, if access is going to cause a conditional use permit to not be issued, which we aren't sure if it would be, it would give the Planning Commission good cause to do so. I would be comfortable granting an exception in this case on a grandfather clause basis and letting them have the 40,000 square feet of retail space as a permitted use and it being the only one, because it is the only building built in 1927 that is still in downtown Troutdale I believe.

Councilor Ripma stated if access is going to be that hard, that argues more for conditions rather than removing all conditions.

Mayor Thalhoffer replied no, not to me. Not when the proponent thinks that if they make a destination activity there that it's going to bring people in who wouldn't come into normal retail stores.



Councilor Smith stated I feel his biggest obstacle would be that access road, so consequently you will have to have unusual things that people are going to want to go to. Standard stores wouldn't work. Because of that I think he should have more latitude because it is a preexisting building. Just like in the downtown area we lifted the SDC's on the existing buildings because we wanted revitalization of the old buildings to upgrade them. I think that comes under a grandfather clause also, and I think he should be able to do something with it to make money. It does have things against it but it is a good building and it has a lot of possibilities. We should let him try without the added complications.

Councilor Kight stated in my earlier comments I mentioned that the Planning Commission and the Site and Design Review Committee. In going through that process I don't see it in such a negative way as some of our councilors have addressed this project. I don't see it as a stumbling block at all. Because of the fact that this property is unique, and we have discussed the fact that it is difficult to get to, and there is going to be unusual things to overcome, it might be helpful if those are revealed to the people, either the co-developer or himself since he hasn't gone through this process before. He is going from the manufacturing process to the retail or possibly the restaurant. I think he got some valuable information tonight, such as he can develop the property in phases, that if he comes forth with a plan that might actually accelerate the process. I agree with the other councilors, if we are going to grant an exception to this particular property and show favoritism towards this property, this is going to impact other commercial developments that are going to come before the Planning Commission and the City Council and ask for the same. I think this property can still be developed with the conditions that we are applying and I agree with staffs recommendation and we should apply it to this property.

Councilor Daoust stated I usually like orderly conditional uses, but I have to look at the fact there has to be some way for a city to deal with existing historical buildings. Even Congress when they make appropriations get real specific. If Congress can do it, why can't the Troutdale City Council? Personally I don't have a problem with that. I think we can still maintain the intent of the mixed office housing by just focusing on one building in order to allow the entrepreneur to take the risk and work with investors to do what they want to do. I would favor an outright permitted use specifically on existing historical buildings that existed prior to 1927. I would have to clarify that with Mr. Bennett, I know certain parts of his building were added onto after 1927. Again I favor an outright permitted use for an existing historical building to allow retail uses and restaurants up to a maximum floor area of 40,000 square feet.

Councilor Regelein asked would someone please define historical? Old does not mean historical.

Ripma stated I think they just mean old.

Councilor Thompson stated I agree with Councilor Kight and Ripma. I see no reason that this should not go through a conditional use process. In order to preserve the building I guess we could go ahead and write it, but still leave the use of the building as a conditional use. The way everybody talks about going before the Planning Commission it sounds like you are going before a firing squad. The Planning Commission is there to say that the development rules that we have put together are functioning. I am in favor of option two, to reconsider and adopt a new ordinance incorporating the proposed revisions as attached in exhibit "A", and I would agree to changing the date from March 10, 1998, so that it is clear there is only one building, although I hate doing that but I would agree to that.

**MOTION: Councilor Ripma moved to reconsider the revised mixed office housing district as set forth in exhibit "A" changing the date specified in two places to 1950, then we re-open**

**public testimony related to these changes only and that we the Council handle it, and preserve the conditional use. Seconded by Councilor Kight.**

**YEAS: 4**

**NAYS: 3 (Daoust, Smith, Thalhofer)**

**ABSTAINED: 0**

**8. RESOLUTION:** A Resolution calling a Special Election to submit to the voters the question of contracting a General Obligation Bonded Indebtedness in the amount of \$16,000,000 to acquire property and construct, equip, and furnish a new Sewage Treatment Plant and a Laboratory/Administration Building and related facilities; and to pay all costs incidental thereto.

Mayor Thalhofer called this item and called on Mr. Galloway to come forward.

Galloway reviewed the staff report contained in the packet.

Mayor Thalhofer asked if there was anyone else who would like to speak on this issue?

**MOTION: Councilor Ripma moved adoption of the Resolution. Seconded by Councilor Kight.**

**YEAS: 6**

**NAYS: 1 (Smith)**

**ABSTAINED: 0**

**9. DEPARTMENT REPORTS:**  
**9.1 Finance**  
**9.2 Public Safety**  
**9.3 Community Development**  
**9.4 Public Works**  
**9.5 City Attorney**  
**9.6 Executive**

Mayor Thalhofer called this and asked Chief Berrest to start.

Berrest stated he had nothing to add.

Faith stated he had nothing to add.

Councilor Kight commented on the excellent article in the Oregonian on our Recreation Program.

Galloway stated he had nothing to add.

Sercombe stated I had sent some information to you on Friday of last week concerning a matter that came up that day and it requires some immediate action. I have before you a suggestion that you adopt

a motion to deal with this matter. The matter concerns the City's interest in a trust under the will of Vera Strebin who died on March 10<sup>th</sup> of this year. Mrs. Strebin left in her will a trust in which the City is one of the remainder beneficiaries of the trust together with the Troutdale Historical Society. Her estate is being probated at this time and her probate attorneys wish to make some technical amendments to this trust in order to qualify for a charitable deduction so the estate can take advantage of the charitable donation. The particular changes they seek to make to the trust instrument make it harder to invade the principal of the trust over the length of the trust and make it more likely that there will be sizable assets left in the trust for the City when it comes time for the City to share in the proceeds of the trust. They seek by tomorrow the City's consent to change the terms of this trust so that they can process it before the court in time to make deadlines for the probating of the estate. I proposed in a memorandum to you a motion that would authorize the Mayor to execute any modifications to the Vera Strebin Trust or other related documents when City consent and execution of the documents is recommended by the City Attorney. This would delegate the mayor the authority to sign the necessary paper work to make the minor changes to this trust so it would qualify for charitable deduction. My recommendation would be that the Council adopt the motion.

Councilor Ripma stated I have checked with the City Attorney and this request named me as a trustee of this trust. Apparently it doesn't represent any kind of conflict of interest and I will be permitted to vote on this. I should also note that I am President of the Troutdale Historical Society which will also share in this charitable trust.

**MOTION: Councilor Kight moved to authorize the Mayor to execute any modifications to the Vera Strebin Trust or other related documents when City consent and execution of the document is recommended by the City Attorney. Seconded by Councilor Regelein.**

**YEAS: 7  
NAYS: 0  
ABSTAINED: 0**

Mayor Thalhoffer asked Mr. Kvarsten if he had anything to add.

Kvarsten replied no.

**10. COUNCIL CONCERNS AND INITIATIVES:**

Mayor Thalhoffer called this item.

Councilor Smith stated she had nothing to add.

Councilor Ripma announced the opening of the exhibit on the Smelt Runs in the Sandy River.

Councilor Thompson stated he had nothing to add.

Mayor Thalhoffer asked council to provide him with their vacation schedules for the summer months.

Councilor Kight stated he had nothing to add.

Councilor Regelein stated he had nothing to add.

Councilor Daoust stated that being on the Multnomah Animal Control Advisory Committee I know that Multnomah County now has Animal Control Codes. The expectation with Multnomah County is that we repeal our current animal control codes and adopt Multnomah County Codes. That could mean some changes to Troutdale, in the fact that we do not license cats now, if we adopt Multnomah County's Codes that means the People in Troutdale will have to license their cats. I would like to speak with the City Administrator and go over the impacts this will have on Troutdale so I can share our concerns with Multnomah County before we officially adopt it.

**II. ADJOURNMENT:**

Mayor Thalhofer adjourned the meeting at 10:27 P.M.

**MOTION: Councilor Thompson moved to adjourn the meeting. Councilor Kight seconded the motion.**

  
Paul Thalhofer, Mayor

Dated: 6-30-98

ATTEST:

  
Debbie Stickney, Deputy City Recorder

# CITY OF TROUTDALE PUBLIC ATTENDANCE RECORD

May 26, 1998  
CITY COUNCIL - REGULAR MEETING

PLEASE COMPLETE THE FOLLOWING

NAME <small>(please print)</small>	ADDRESS	PHONE #
Mark Berrest	Police Dept.	665-5175
Jim Galloway	City Hall	665-5175
Rich Faith	" "	" "
Michelle Meyers (The Outdoors)	1140 Division - Gresham	492-5118
Valerie Landy	City Hall	665-5175
KEVIN WING	HOME BUILDERS ASSOC. OF METRO PORTLAND	684-1880
Rod Park	2100 SE 282nd Ave Gresham, OR 97080	663-3715
Raymond Dorellet	13315W Broadway Pl, OR 97201	228-3225

# CITY OF TROUTDALE PUBLIC COMMENT SIGN-IN SHEET

May 26, 1998  
CITY COUNCIL MEETING

PLEASE COMPLETE THE FOLLOWING

<b>PRINT NAME</b> <small>☞ ☞ (please print) ☞ ☞</small>	<b>ADDRESS</b>	<b>PHONE #</b>
Rod Park		