CITY OF TROUTDALE

"Gateway to the Columbia River Gorge"

AGENDA

CITY COUNCIL – REGULAR MEETING

Troutdale City Hall - Council Chambers
219 E. Historic Columbia River Hwy. (Lower Level, Rear Entrance)
Troutdale, OR 97060-2078

Tuesday, October 14, 2014 – 7:00PM

Mayor
Doug Daoust

City Council
Norm Thomas
Glenn White
David Ripma
Rich Allen
Eric Anderson
John L. Wilson

City Manager
Craig Ward

City Attorney
David J. Ross

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

2. **OATH OF OFFICE:** Haley Sapp, Reserve Police Officer — ***Mayor Daoust***

3. **CONSENT AGENDA:**
   - 3.1 **ACCEPT MINUTES:** September 9, 2014 Regular Meeting, September 9, 2014 Work Session, September 23, 2014 Regular Meeting and September 30, 2014 Special Meeting.

4. **PUBLIC COMMENT:** Public comment is limited to comments on non-agenda items. *Remarks shall be limited to 5 minutes for each speaker unless a different time is allowed by the Mayor. The Mayor and Council should avoid immediate and protracted response to citizen comments.*

5. **PRESENTATION/DISCUSSION:** The Springwater Area Proclamation — ***Mayor Daoust***

6. **DISCUSSION:** Local Public Safety Coordinating Council Justice Reinvestment Report. — ***Suzanne Hayden and Abbey Stamp***

7. **STAFF COMMUNICATIONS**

8. COUNCIL COMMUNICATIONS

9. ADJOURNMENT

Doug Daoust

Doug Daoust, Mayor

Dated: 10/8/14

City Council Regular Meetings will be replayed on Comcast Cable Channel 30 and Frontier Communications Channel 38 on the weekend following the meeting - Saturday at 2:30pm and Sunday at 9:00pm.

Further information and copies of agenda packets are available at: Troutdale City Hall, 219 E. Historic Columbia River Hwy. Monday through Friday, 8:00 a.m. - 5:00 p.m.; On our Web Page www.troutdaleoregon.gov or call Debbie Stickney, City Recorder at 503-674-7237.

The meeting location is wheelchair accessible. A request for an interpreter for the hearing impaired or for other accommodations for persons with disabilities should be made at least 48 hours before the meeting to: Debbie Stickney, City Recorder 503-674-7237.

DRAFT

MINUTES
Troutdale City Council – Regular Meeting
Troutdale City Hall – Council Chambers
219 E. Historic Columbia River Hwy.
Troutdale, OR 97060-2078

Tuesday, September 9, 2014

1. ROLL CALL, AGENDA UPDATE

Mayor Daoust called the meeting to order at 7:00pm.

PRESENT: Mayor Daoust, Councilor Ripma, Councilor Anderson, Councilor Thomas, Councilor White, Councilor Allen, and Councilor Wilson.

ABSENT: None.

STAFF: Craig Ward, City Manager; Debbie Stickney, City Recorder; Ed Trompke, City Attorney; Erich Mueller, Finance Director; Steve Gaschler, Public Works Director; and Travis Hultin, Chief Engineer.

GUESTS: See Attached.

2. CONSENT AGENDA:

2.1 MOTION: A motion supporting the re-appointment of Mark Clark to the Portland International Airport Citizens Advisory Committee (PDX CNAC), representing the cities of Troutdale, Wood Village and Fairview, for a 3-year term beginning November 2014.

MOTION: **Councilor White moved to approve the Consent Agenda. Seconded by Councilor Anderson. Motion Passed Unanimously.**

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

None.

4. PUBLIC HEARING / ORDINANCE (Introduction): An ordinance relating to the Troutdale Riverfront Renewal Plan and establishing a procedure for transfer of the former Sewer Treatment Plant property.

Erich Mueller, Finance Director, stated this is the next step in the path as we move toward the redevelopment of the Urban Renewal Agency (URA) Area. This is the first step

towards transferring the real estate owned by the City, which is composed of two tax lots associated with the former sewer treatment plant property, from the City's ownership to the URA's ownership. The URA, under the state statutes, has a greater degree of flexibility in terms of being able to pursue redevelopment incentives. Adoption of this ordinance is just one step along a long path. This is an open, public, transparent process so that the public is aware of what is occurring. Once we get further down the path and get the remainder of the necessary paperwork there will be plenty of opportunity for the Council and the public to ask questions and be clear about the deliberate process that we are going through.

The transfer to the URA provides the ability for the URA to pursue redevelopment in accordance with the adopted Troutdale Riverfront Renewal Plan and be able to take advantage of those flexibilities in redevelopment that are provided to the Agency under state statutes.

Once we get further in the process of getting the remaining terms of the Purchase and Sale Agreement (PSA) negotiated with Eastwinds, then we will proceed through another process where there will be an ordinance and two public hearings before the real estate could be transferred from the URA to Eastwinds. That process will probably occur this fall.

We provided you with a copy of the draft Special Warranty Deed (Exhibit A to the Staff Report, copy included in the packet) to provide illustration and transparency about what is going on and to also illustrate clearly that the real estate is being transferred, but the City is able and is continuing to have assurances that the real estate, when it is ultimately acquired externally, will be developed in a manner that is in accordance with the adopted Troutdale Riverfront Renewal Plan. There is a revised Exhibit A (copy included in the packet) that was provided to you this evening. We are working through the process looking at the easements, working with the title company, trying to ensure that we are addressing all the aspects. It is still a draft. Ultimately the version that we will presumably execute will be yet furthered revised when we get the final title report and the final information on the easements, etc.

Councilor Allen stated the timing of this and the timing of the cleanup of the old sewer plant, a portion of which is being done based on an agreement that we have. Is this transfer going to affect that agreement?

Erich Mueller replied I believe the agreement that you are talking about is with the contractor that is currently using the area as a staging area for the I-84 Bridge construction.

Councilor Allen replied that is correct. The agreement is with the City and we are transferring the property to the URA. I just want to make sure there is not going to be a conflict.

Erich Mueller replied we don't expect there to be any conflict or difficulty in getting that accomplished. I believe they are currently scheduling to do their work in October. I don't expect the transfer of ownership to take place until at least then or the following month. We need to wait for the No Further Action (NFA) letter from DEQ on our property before we transfer the ownership.

Councilor Allen asked when it comes to development, it could happen fairly quickly or it can take years. If it should take years, is it going to be a problem that we don't have an easement for the trail?

Erich Mueller replied the trail process is something that we intend to address as part of the negotiation of the PSA. If for some reason that process got put on hold for an unexpected unknown reason, there isn't any reason why the City couldn't then pursue trail development independently.

Councilor Allen stated the reason I asked was because in Section 6 of the ordinance (page 3) where is says, "the City Official shall consult with the Public Works Director and determine the location and area of easements needed to accommodate sewer, water, stormwater and other utilities." I was just wondering why the trail was not included.

Erich Mueller replied the trail is viewed as a separate component verses the items that we were trying to address in that section related to the cities utilities infrastructure. There is survey work that needs to be done for the trail. There are still issues of exactly where the normal high water mark is and the riparian zone; all those pieces still have to be sorted through. In that section we were focused on infrastructure like water lines, storm sewer, etc.

Councilor Thomas stated in looking at the agreement transferring the property to the URA, this is something that we would have to do no matter who we sold the property to.

Erich Mueller replied certainly that is the expectation. The adopted Plan had always envisioned that the URA was to be the agent of the City to facilitate and conduct the redevelopment. In theory we could have done this back in January of 2006.

Councilor Thomas stated once the property is transferred to the URA, the URA could go ahead and do some development stuff on the property because at that point they own it.

Erich Mueller replied correct. The URA will then be the property owner and it has those flexibilities as a normal property owner and potentially some others given the state statutes.

Mayor Daoust opened the Public Hearing at 7:15pm and asked is there anyone in the audience that would like to speak to us on this issue?

Robert Strebin stated I keep wondering why when there is money involved and in Troutdale, Yoshida keeps appearing. I want to make sure that this is not a miracle deal

for Yoshida and a screw over of the City. I am not the only one that is worried about this. Suddenly out pops that we are going to transfer everything to Eastwinds, which is Yoshida. I want to know what is going on. The whole process seems like a scam. Maybe the Attorney General needs to look into it to see if things have not been done properly. There have been a couple of private meetings of the Council and then all of a sudden Yoshida is going to get the property with no other bidders so to speak. There is a lot of concern out there. How much money is Yoshida putting in this next election? Who is accepting money from Yoshida?

Councilor Wilson stated I would like to say that all of our meetings have been public.

Robert Strebin stated but somehow or other this sneaks under. There were a couple of executive sessions that nobody knows what happened. I would like to know if Yoshida was part of those executive sessions.

Councilor Wilson replied no. Only the City Council or people who work for the City attended.

Robert Strebin asked was Yoshida discussed?

Councilor Wilson replied we discussed the topic.

Robert Strebin replied then you discussed Yoshida.

Mayor Daoust called for order. This isn't a question and answer period between the Council and the audience. We accepted your comments, and thank you. Is there anyone else who wishes to speak to us?

Mr. Brown stated you let Junki Yoshida come up here and pretty much chew out the whole City of Troutdale and you let him ramble on for 10-15 minutes. If this guy wants to speak let him speak.

There was no additional testimony.

Mayor Daoust closed the Public Hearing at 7:20pm. A second hearing will be held on this ordinance at our next meeting.

5. PUBLIC HEARING / ORDINANCE (Introduction): An ordinance of the City Council of the City of Troutdale, Oregon, relating to Nuisances and amending Chapter 8.28 of the Troutdale Municipal Code.

Mayor Daoust read the ordinance title.

Councilor White stated in reading this ordinance it was very familiar and I remembered that I first read this document when I was on the Citizens Advisory Committee (CAC). They have been asking us for some work to do. They are the original authors of a lot of this body of work. I think it may have been an oversight on our part not to have them

review this document prior to us considering it. I am suggesting that we send this to the CAC. I think it is the right thing to do. We have staff now that can staff those meetings.

Councilor Allen stated I would agree. This is important code. We haven't discussed this much in a work session, we certainly haven't gone through it line by line so it would be good to have extra eyes on this ordinance.

Mayor Daoust asked does staff have any comments?

Craig Ward replied it Council chooses to refer it to the CAC that is your call and staff will do everything we can to support that CAC bringing forward a recommendation.

Councilor Ripma stated it is a modest enough change, but it never hurts to have more public comment.

Councilor Thomas stated I am not opposed to sending it to the CAC to have them look at it. I would like to get it done soon though.

Councilor Anderson stated it is fine with me.

Councilor White stated maybe we can give them some direction on specifics.

Councilor Anderson stated if we are going to have them look at it, lets have them look at it unbiased.

Councilor Thomas stated we have been trying to do something about chronic nuisances for about a year. Part of the delay was because of change in city attorneys, but in the meantime we have property owners dealing with these kinds of issues and they have no recourse. For us to keep spinning isn't moving the process and isn't helping out the property owners who really need the help. That is why I would like to see this move quickly.

MOTION: Councilor Thomas moved to table this discussion and forward it to the Citizens Advisory Committee for their evaluation. Seconded by Councilor White. Motion Passed Unanimously.

6. RESOLUTION: A resolution granting a non-exclusive franchise to Portland General Electric.

Steve Gaschler, Public Works Director, stated here with me tonight is Deane Funk who is the government relations person with Portland General Electric (PGE). We are not asking for any significant changes from the previous agreement. The only changes were to the wording in the indemnity and insurance clauses and increasing the insurance.

Steve Gaschler reviewed some of the major provisions included in the franchise agreement.

The current franchise agreement expired on December 31, 2013. There were provisions in the agreement that if a new agreement isn't in place the existing agreement continues on until a new agreement is entered into.

Deane Funk, PGE, stated this is pretty straight forward. One thing that is distinct about Troutdale is that we always hold Troutdale up as the model for the 1½% privilege tax as the only city in Oregon that dedicates that tax and actually has a nexus between the tax and the use of it.

Councilor Thomas asked was the previous agreement for 10 years?

Steve Gaschler replied yes.

Councilor Thomas stated I seem to recall something in our ordinances that we have an 8-year limit for franchises.

I want to thank PGE for their assistance in getting the undergrounding done. In the past PGE has helped us fund some of our undergrounding projects and we have paid you back with the privilege tax revenues. That has been really helpful for us to get more reliability of power service in the City.

MOTION: Councilor Wilson moved to adopt the resolution granting a non-exclusive franchise to Portland General Electric. Seconded by Mayor Daoust.

VOTE: Councilor White - Yes; Councilor Allen – Yes; Councilor Wilson - Yes; Councilor Ripma – Yes; Councilor Anderson – Yes; Councilor Thomas – Yes; Mayor Daoust – Yes.

Motion Passed 7- 0.

Ed Trompke stated I didn't find anything in the code limiting the franchise to only 8 years. If there is such a limitation on franchises, the agreement does provide that it would continue until a new agreement is entered into so it would run the 10 years anyway.

7. STAFF COMMUNICATIONS

Craig Ward reminded the Council that next week is the Mayor's Town Hall meeting on the future city hall.

Reynolds High School has had a practice of putting out American Flags along their property lines on Cherry Park Road and 257th. They will be doing that again this week for the anniversary of 9-11. This year they will be left up at night and they will be lit.

Craig Ward provided the Council with a copy of a Fact Sheet (copy included in the packet) on the animal material removal action that Eastwinds is planning. This will be distributed

to the downtown businesses, adjacent property owners and it will be available for the public at City facilities.

Doug MacCourt stated this is still subject to final ratification by DEQ. DEQ has graciously offered to be the receiver of complaints.

8. COUNCIL COMMUNICATIONS

Councilor White thanked the organization that conducted the half marathon in Troutdale. The event went smoothly. I appreciate staff and police for all their support.

I want to invite fellow gardeners who may have an abundance of extra vegetables and fruit to donate it to the CROPS program at Edgefield North right off of Halsey. The CROPS program is ran by Multnomah County. The food is distributed by SnoCap to families in need. I want to give a special shout-out to Jerry Hunter. I have seen the garden and I have seen him working with the people and the volunteers. They are doing more than just feeding people with that project, they are actually changing the lives of the people that are working in the garden. It is an impressive program. I also want to recognize Councilor Allen for donating his equipment for them to use in the garden.

There was an article in the Champion, and because of where I live I received a letter, inviting people to come in and check their flood certificates and flood mapping. There is confusion that we are trying to sort out on those maps. It was probably just an annual notice because we are heading into the rain season. FEMA has gone on record saying that there is either a mathematical error or an oversight with the maps. Hopefully we are conveying that to our residents.

Councilor Allen stated I would like to confer with our attorney about a charter question. I just wanted to see if there was any objection.

Mayor Daoust stated you can confer with our attorney just like the rest of us can.

Councilor Wilson stated Boy Scout Troop 174 will be putting up special 9-11 Flags throughout the City.

Councilor Ripma stated I would like to say a couple of words about the public comment that was made concerning the sale of our Urban Renewal Area property. There is no way to reassure everyone. Property deals can go array. We on the Council, and I in particular and our City Attorney, went over everything very carefully to make sure that this was a good deal for Troutdale. It is very important. You can hardly say that we've rushed into it; we have been at it for about 8 years. While it might look like it is rolling fast with Yoshida - Eastwinds is particularly situated to want to do the deal and there isn't anybody else. Anybody that redevelops that area has to follow the City adopted Plan for that property including the public right-of-way along the river and public access along the river. It is a beautiful plan and a good plan. I for one was very worried about it to. The Plan calls for Eastwinds to clean-up the site, including their own significant problem on their property. There is no way to reassure you that everything is going to work out fine because I don't

know that either, but we did check and we were trying to look out for the public interest in this. It is not a sweetheart deal; I think we all made sure of that. I appreciate and understand the concerns. We are going to make sure that it is going to happen the way that we are planning it to happen, or this deed will revert back to the City. It is as fair as it is going to be on something like this. Troutdale doesn't sale land very often. I am usually pretty much against us getting rid of public land because we might need it in the future, but we have always planned on selling this property. It was the old sewer plant and we built a new one. We are going through the state rules on how we have to do this and we are following them all. I think it is going to be a good thing for Troutdale.

Mayor Daoust stated I was going to volunteer Doug MacCourt to speak with the two gentleman in the rear of the room during the break to answer questions they may have about the urban renewal area.

Councilor Anderson stated I want to thank our staff and members of the community for the outpouring of support for Reynolds High School (RHS) on the kid's first day back. They received over 7,000 post cards from all over the world.

Councilor Thomas stated we have had several accidents at Buxton and Cherry Park Road. Is there anything that we can do at that intersection to let folks know that corner is coming?

Steve Gaschler replied we are working with Multnomah County on that area. We have talked with the Sheriff's Office and the Police Officers regarding those accidents and the last three accidents involved intoxicated drivers. We are looking to do some kind of mitigation at that curve. The County is looking to try the least expensive fix first and see what happens and if that doesn't seem to improve the situation then they will spend a little more money.

Mayor Daoust stated I was at RHS on their first day of school, Friday, September 5th. There were a lot of senior citizens from Cherry Park Plaza out there waving to the students and welcoming them back. You could see the smiles on the kid's faces as they passed the people on the sidewalk that were waiving to them. It was a very positive thing. It was a good school, community connection. The post cards really caught fire with over 7,000 cards from across the country. The RHS Student Council will be determining how to distribute the cards.

Metro's Community Enhancement Program. There has been some discussion on what to do next with that. Metro is going to have a public hearing on that program. We had a presentation from Metro on May 13th. It looks like Metro is going to go ahead with the program. Basically what that leaves us is either adopting an IGA with Metro committing to accept the funds and administer the program, or we can have Metro independently administer the program. We could discuss the two options at a regular meeting, I think that is the most efficient way to handle that subject. That program results in grant money coming back to the City and there is some flexibility in what enhancement projects can

be funded with that money from Metro. We can discuss how to distribute grant money at a council meeting.

Craig Ward stated we will need to work out the administration of that grant money if we sign an IGA with Metro. There will be subsequent steps should we chose to go ahead and administer it ourselves. An advisory committee needs to be formed and that committee has to include the Mayor and a Metro Councilor. There is only a certain portion of the funds that can go towards administrative overhead. The grant money has to go to non-profit organizations. We will appraise you of all of those details in later work sessions. The initial choice is whether or not we chose to administer it through an IGA with Metro, or we just let Metro administer it.

Councilor White stated I appreciate the work that Councilor Wilson has done; he has done a lot of research on this. I want to make sure that Councilor Wilson is comfortable not having a work session.

Councilor Wilson stated we don't have a choice. We either give it to Metro to administer or we do it. I just feel like we are being forced into something that is not a tax to take care of our roads, it is not a tax to take care of our parking issues, it is a tax just to have another fee. Anyone who is against this fee that Metro is imposing on us should contact Metro and let them know they are not happy about having to pay another fee for the sake of Metro wanting a fee.

Mayor Daoust stated they should attend the October 30th public hearing. We can put this on an agenda after October 30th.

Regarding the Bike Hub/Artist Hub workshop, Claude Cruz, Rip Caswell, myself and city staff are trying to organize that meeting. That work session will probably take place in late October or November.

There is the "If I Were Mayor" contest put on by the Oregon Mayors Association (OMA). We skipped last year but I would like to put that on this year. I have some literature from the OMA. We can have a local contest and submit our winners to the statewide contest. The winner of the statewide contest gets an Apple I-Pad. They are looking for one elementary poster winner, one middle school essay winner and one high school digital media presentation winner. The theme is "If I Were Mayor, I would..."

Finally, the Mayor's Town Hall on a future city hall is Tuesday, September 16th at 7pm in the Police Community Room. We will take public input on the future of our city hall – what would go into a city hall, where we might locate it within the City, etc. This is a good opportunity for the public to provide us with input on our future city hall.

9. ADJOURNMENT:

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

Meeting adjourned at 7:54pm.

DRAFT

Doug Daoust, Mayor

Dated:

ATTEST:

Debbie Stickney, City Recorder

CITY OF TROUTDALE

CITY COUNCIL – Regular Meeting & Work Session

Tuesday, September 9, 2014

PLEASE SIGN IN

Name – Please Print	Address	Phone #
Frank Wendust	Corbett	503-5132
Eric Apalategui	Oregonian	5034226047
[illegible]	Troutdale	5038674268
Doug McCord	Alan Wynne LLP	503-705-6031
David Becker	2049 SW 257	503-914-7539
Robert S Stubin Jr	27205 Hall Rd	503-665-2756
Claude Cruz	Troutdale	503 799-9667
Diane Castillo White	Troutdale	503-888-1405

DRAFT

MINUTES
Troutdale City Council – Work Session
Troutdale City Hall – Council Chambers
219 E. Historic Columbia River Hwy.
Troutdale, OR 97060-2078

Tuesday, September 9, 2014

1. Roll Call

Mayor Daoust called the meeting to order at 8:15pm.

PRESENT: Mayor Daoust, Councilor Ripma, Councilor Anderson, Councilor Thomas, Councilor White, Councilor Allen and Councilor Wilson.

ABSENT: None.

STAFF: Craig Ward, City Manager; Ed Trompke, City Attorney; Debbie Stickney, City Recorder; Steve Gaschler, Public Works Director; Erich Mueller, Finance Director; and Travis Hultin, Chief Engineer.

GUESTS: See attached.

2. Discussion: Street Funding Analysis Report from FCS

Steve Gaschler, Public Works Director, stated tonight we are going to look at the pavement funding analysis work we have done. We are going to do a quick review of our pavement preservation, which you have seen before. We will then look at a 10-year cost and revenue analysis, and finally we will show you what an estimated fuel tax could look like, followed by a discussion on where we go from here. If you want to continue this we would like to bring back to the Council a public outreach plan regarding street funding.

Doug Gabbard, FCS, showed the Council a PowerPoint Presentation (attached as Exhibit A).

Mayor Daoust asked why is it an assumption that gallons sold declined over time?

Doug Gabbard replied that is the historical experience in Oregon.

Steve Gaschler stated better fuel mileage and alternate sources of transportation contribute to that.

Mayor Daoust stated I appreciate the uncertainty in saying that between this and between that we are not quite sure how much it would be, but how much does that matter. If we are supplementing our street program, does that uncertainty in the amount of revenue that we will bring in really matter?

Doug Gabbard replied it matters only to the extent that you have a critical use for that money in the first year. If you are planning to do something with that revenue that absolutely has to be done in that year then you have a little bit of a risk. If it is money that will just be considered extra and you will be able to do some additional projects that you would not have otherwise been able to do, then there is very little risk.

Councilor Thomas stated you mentioned in your presentation that this didn't include any increases in the state gas tax. I think they are looking at trying to do that again.

Doug Gabbard replied yes Councilor.

Councilor Thomas stated there are some proposals coming through to do some type of a mileage tax. How would that fit in with this scenario? When you talk about mileage in most cases it is supposed to be the mileage driven within the state and once you cross the river technically you shouldn't be paying. If that is the case how would you calculate it in miles driven in Troutdale because that is really what you are talking about with a local tax?

Doug Gabbard replied that would be an interesting analysis. The analysis that we put before you tonight is based on the assumption that there are no changes in state policy, no changes in the state tax rates, no changes in the method of taxing, and therefore no real changes in the monies that you can expect from the state highway fund. If the state were to go in the direction of a road user fee, that would complicate the analysis considerably unless you were to wait until you had a few years of that under your belts and we knew what was going to happen. If you were thinking about a local gas tax at the same time as state policy was changing, now you have all kinds of variables in motion and who knows what the real numbers would be.

Councilor Thomas stated but you are projecting out to 2022.

Doug Gabbard stated yes, but with the clear assumption that state policy is not changing.

Councilor Thomas stated I would expect that before 2022 something will change. There are a larger number of electric vehicles using the roads now and the state will want to find a way to get some of that money. I don't think registration fees will resolve all of that. If we are trying to figure out a plan that is long-term it seems to me that some consideration has to be given to the fluctuations. If the state raises the gas tax $0.05 per gallon and all things stay equal then we might be better off in 2022 then what you are showing.

Doug Gabbard replied yes, that is absolutely true. It would make your tax rate last longer in filling the gap in your street fund.

Councilor Anderson stated it is a core function of government to maintain infrastructure, and streets are part of that infrastructure. To that point you said a gas tax is an imperfect solution. What is the perfect one?

Doug Gabbard replied as a rate consultant my perspective of what is a perfect revenue source is one whose behavior matches the cost that you are trying to recover. If you have

costs that are raising on a gentle slope I would like to have a revenue stream that also raises on a gentle slope. What is particularly vexing about a gas tax is that if you have declining fuel sales but a cost in tax rate, that is a declining revenue source. It is for that reason that I call it imperfect.

Councilor Anderson asked Steve, can you talk about the administration portion of the street fund, the dollars that are allocated? In looking at that it seems to me that roughly the same amount, or even a little more money, is going towards administration than is actually going to pavement condition improvement. Is that accurate?

Steve Gaschler replied the numbers that Doug presented are accurate. Where those come from is that you take the total cost of the administration, which also includes city administration such as Craig, Erich, Ed, Debbie and everyone else, and that is spread over all of the funds – street fund, water fund, sewer fund, and is based roughly on the revenue of each of those funds and how big they are is how they are proportioned. So the street fund picks up what I would call its fair share, compared to my other funds, of that overhead piece which is the equivalent of myself, Travis, and a piece of everyone else. As a business it looks abnormally large to me also, but I think as a function of a government entity it takes a lot of overhead to run these. It is a little different than what you would see in a normal business.

Councilor Anderson stated apparently the League of Oregon Cities (LOC) is advancing, and Councilor Thomas touched on it a little bit; are you familiar with what is coming down the pike in terms of the, and Councilor White you could probably speak to this better than I because you were at the meeting last night, is it the elimination of the option. Would it eliminate our option?

Councilor White stated they are going to close that window where cities can impose their own.

Councilor Thomas stated they want to open it up and make sure that cities can impose their own gas taxes.

Councilor Anderson stated so we would have the ability to do this.

Craig Ward stated it is just an LOC position. It is their proposal through the Legislature. There is no guarantee. As we have learned in the past, if you rely upon a revenue stream and you are complacent, in a few years you may be seriously disappointed. There is certainly no guarantee that an LOC legislative proposal is going to be successful.

Councilor Anderson stated I think something is going to happen. This is volatile. I don't have anything against electric cars, but they put the weight on the pavement that helps deteriorate the pavement but yet they aren't paying anything towards the restoration of it. How that is solved I don't know. It is a problem and I think something is going to happen. I am glad we are having this discussion.

Councilor Ripma stated these 14 cities that impose a gas tax, did they all have to put it out to the voters? How do you sell something like this? $0.04 a gallon in Troutdale, first of all our businesses along Frontage Road would have a fit. They draw a tremendous business marketing gas that is cheap and people know that. This would not be an easy sell. I don't think it would be an easy sell politically in Troutdale at all. Can you give me a clue how Astoria, Canby, Coburg and others did this? When were they imposed and how did they manage to sell it to the voters? Did the voters ever turn one down?

Ed Trompke replied not to my knowledge. I know in Tigard it was sold as being the traffic from Hwy. 99 would pick up the biggest amount ,and most of that is commuter and through traffic. Five or six years ago the gas tax in Washington was, I think, $0.14 a gallon higher than Oregon but the prices of gasoline in Vancouver were as much as $0.08 to $0.10 per gallon cheaper than they were in Portland. There is a lot of price setting that is driven by the companies that has nothing to do with the tax. To say that the prices here would go up at all is not something that you can anticipate. The gas companies can simply shift where they make their money to some other stations. It is a very complicated marketing structure.

Councilor Ripma stated basically all of these 14 cities had to put the gas tax to the voters.

John Ghilarducci, FCS, stated before this last state gas tax increase, which by the way took 18 years to get done, local gas tax did not require a public vote. As part of the deal to get the state gas tax raised first of all they suspended local gas taxes altogether and then allowed cities to impose them again but only if they passed a public vote. Not all of these cities have passed a public vote. Many of them were in place before the last increase so they were able to do it without a vote.

Councilor Ripma stated I would be interested in knowing which ones had to go to a public vote. I am also wondering if the public ever voted it down. It could be that it is not as unpopular as I am thinking.

Councilor Wilson stated I think most of these were implemented before they were required to go to the voters. Sandy has a gas tax but they are not on this list.

Doug Gabbard stated they might be one of the six cities who do have a gas tax but it is not administered by ODOT. ODOT offers a really good cost effective option for administering the gas tax and they are the source of data that we used to do the analysis. There is no law that says you have to have ODOT administer your gas tax.

Councilor Wilson stated the amount of gallons you have here is just based on population. There could be more because of the people passing through.

Doug Gabbard replied that is absolutely true. That is the risk of estimation. We know the gallons of the cities with a gas tax because that is reported so we used that to estimate for Troutdale.

Councilor Allen stated it is generally not the lighter vehicles that cause the damage to the roads, it is your larger vehicles like my pickup truck, and more to the point would be my dump truck which pays a mileage fee instead. I don't think we get any portion of that.

Doug Gabbard replied yes you do. That is part of the state highway fund. What we typically think of as state gas tax is really distributions from the state highway fund and that includes gas tax, weight mile tax and registrations.

Councilor Thomas stated if we impose a gas tax it is only on retail sales. Anybody that is buying fuel that pays a weight mileage tax wouldn't be paying that anyway.

Councilor Allen stated not through the local tax, but through the weight mileage tax they would.

Councilor Thomas stated they wouldn't be paying that $0.02 per gallon because they pay everything to the state. I did some research on this when we were looking at it 5 years ago. The only thing that we would actually put a tax on is the retail sales piece. The stuff that goes into commercial vehicles, which is the big truck stops, is all exempt from what you pay local. When you look around these fuel stations you can't say there is 30 trucks going through here and that is revenue; that is not. What it really is is how many pass-through vehicles you have going through the different stations. When this came up prior to the moratorium saying that cities couldn't impose a gas tax, virtually every gas station owner in the City of Troutdale showed up and they weren't exactly thrilled and it was mainly because of the margins. They are like restaurants they have to sell by volume to make money. When you take away a certain amount of their margin it cuts into their profit and competiveness with other sources.

Mayor Daoust stated you just blew my argument that his numbers were under estimated because I was going to bring up the truck traffic that we have. Is Councilor Thomas' statement true that any commercial vehicles would not pay a local gas tax?

Doug Gabbard stated I am a little puzzled by the question because in Oregon the tax on gas is not paid at the pump. The actual tax is paid by the first sale of the gas once it arrives in Oregon. It is not the consumer that is paying the tax, it is not even really the gas station that is paying the tax.

Councilor Thomas stated the trucker pays it.

Doug Gabbard asked are you speaking of the weight mile tax?

Councilor Thomas replied yes.

Doug Gabbard replied that is a separate tax. The fuel tax at the state level is paid on the first sale of fuel once it reaches Oregon. When you look at ODOT's list of licensed dealers, dealers does not mean gas station, dealer means people who are licensed to distribute gas that ultimately ends up at your gas station. I am not enthusiastic about getting on

board with the idea that the diesel that goes in trucks doesn't pay, I am not sure that is true.

Mayor Daoust stated so all of the trucks that go through Troutdale may increase our gallons sold. My argument is that your numbers may be under-represented for Troutdale because of the large truck traffic we have coming through Troutdale. Because of the way it is calculated the truck traffic would make a difference.

Doug Gabbard replied that is my belief. The tax is not just on gasoline. Most cities, except for Coburg, tax both motor fuel and use fuel, which is a way of saying motor fuel equals gasoline and use fuel equals diesel. The vast majority of cities tax both gas and diesel.

Councilor Ripma stated I think it would be valuable to have a breakdown of which of these 14 cities listed had to go to the voters, when they were imposed, and did any city attempt to adopt it and the voters voted it down. Basically some more facts.

Steve Gaschler replied we can get that information.

Councilor Anderson stated gas tax is only one option. I would like to see other options.

Councilor Wilson stated Oregon City has a fee of $7.50 on every utility bill.

Councilor Ripma stated we already discussed a street fee and that went down. Are there any other options?

Councilor White asked is there any information on what actually occurred in the cities that imposed this gas tax? Did there sales drop dramatically? There was an internet black list; it is 14 cities and they kind of got targeted to not shop there. There was a big push to boycott those cities.

Steve Gaschler replied that would be a very difficult question to answer because there is no data before they imposed the tax to go back and compare it to.

Ed Trompke stated the Mayor of Tigard reported asking the station owners whether there had been any significant decrease in volume and he said no.

Mayor Daoust stated when we were discussing this before we were talking about a $0.01 or $0.02 per gallon tax. In FCS's professional opinion is our bottom amount a $0.04 per gallon tax?

Doug Gabbard stated $0.04 per gallon is the right amount given our current understanding of your costs. If you decide to be less aggressive with your pavement preservation then maybe a different number is appropriate. Given what the City wants to accomplish now $0.04 is the right number.

Councilor Allen stated it is expensive to keep the roads in good condition but it is even more expensive not to.

Councilor White stated I notice that some cities are putting roads on a diet and doing rain gardens. Does Troutdale have any plans for any of that kind of work to occur? Or are we just basically looking at keeping what we have in good shape? I think you are going to have a backlash; there is already frustration that I am hearing. The claim is that there isn't enough money to take care of our roads and then they are seeing a whole lane being taken out for use by bicycles, or putting in rain gardens that are extremely expensive to construct and maintain.

Steve Gaschler stated this is pavement preservation; taking care of what we have, not building rain gardens or bike lanes.

Councilor White asked your numbers are assuming that there is no growth that will occur in Troutdale; are you using our current revenue as a baseline?

Doug Gabbard replied the assumption is that the growth in Troutdale is not different from growth statewide.

Councilor White stated so you are using an average.

Mayor Daoust stated one of the questions from staff is about a public outreach and education campaign. Do you need to know how we feel about that tonight?

Steve Gaschler replied I need to know if that is something you are interested in considering, which I would highly recommend if we are going to take this to the voters. I am prepared to bring you a plan in about six weeks to have you look at and discuss. I just want your approval to put that together and bring it back to you for your review. The gas tax is not the only option. I think you would want to educate and present the problem to the public and not go out to them telling them you already have this figured out and here is the deal. I think we need to take the problem out to the public and educate them, show them the options and get feedback and then come back and let you make your decision.

Councilor Ripma stated if we are going to go out with the two options that I have heard which is a road fee or a gas tax, I am not ready to do that.

Councilor Anderson asked would you be okay with educating the public on the issue itself?

Councilor Ripma asked that our roads are deteriorating and we need more taxes?

Councilor Anderson replied no, our roads are deteriorating and funding could become problematic, what would you the public consider. The options could be to use the general fund, impose a gas tax, or other options. We don't have to decide the answer, but I do agree with going out and educating the public that this is a problem that is not going away.

Councilor Allen stated people seem to understand when I tell them that it is more expensive to not maintain them. Educating them is going to help them to understand this

before they have that initial reaction of I am not paying that. They need to know why this is happening.

Mayor Daoust stated what I heard Steve say is that he would come back to us with a public outreach and education campaign plan before he goes out to the public. Is that what I heard?

Steve Gaschler replied that is correct.

Mayor Daoust stated all we would be telling him to do is come back to us with an outreach plan so we can discuss it at a work session.

Councilor Allen stated I would support that.

Councilor Thomas stated that makes sense, but I wouldn't go out with specifics as far as we are going to do this, type of scenario.

Councilor Anderson stated I want to hear from the public. There may be a solution out there that we are not even considering.

Councilor Ripma stated when you report back to us please include some more facts about the gas taxes that have been imposed by other cities, and any other ideas besides a gas tax and street fee. If there are other ideas out there please share them.

Steve Gaschler replied I would be happy to, unfortunately I am not aware of any.

Councilor White stated I think a good public outreach might be that poorly cared for roads are dangerous and they are hard on your vehicle so you will be spending money on tires, alignments, and breaks. And property values; it says a lot about a city that has nice looking streets.

Mayor Daoust stated Tigard probably had the right approach by saying that pass-through traffic will carry most of the weight. We have the same approach. Frontage Road will carry most of our weight but it is the citizens of Troutdale that will be voting on it. If we are going to sell it to Troutdale residents I would think one of the main points would be that there will be a lot of other people that will be paying the gas tax that will pay for our road maintenance.

Councilor Wilson stated one of the things that Charlie Warren (former Public Works Director) said at one of the meetings was that 80% of the tax could be paid by people passing through Troutdale. Is there access to how he came up with that?

Steve Gaschler replied I will look. I haven't seen anything like that. I am not sure where he would have come up with that number.

3. Discussion: Future use of old Police Station site.

Erich Mueller, Finance Director, stated this work session topic is at the request of the Council. On June 17th the Council asked to have an appraisal conducted on the old police station site and for staff to schedule a work session to discuss the options for that site. Our existing variance approval from the Planning Commission (PC) is coming to its expiration and staff will need direction from the Council as to what steps to take.

Erich Mueller reviewed the options for the Council to consider, which are outlined in the staff report (copy included in the packet).

Steve Gaschler, Public Works Director, stated going back and looking through the minutes of the last meeting, the material that is on this site was referred to as gravel. It is not gravel, it is ground up asphalt. We have had the material there for a year and I have been really pleased with the way that it has performed. There has been very little dust, and it hasn't unraveled. We haven't had to do anything to it. We are not getting a lot of wear and tear on it. It has been my experience with that material that it performs very well and is almost like laid down asphalt; it is just broken up pieces of asphalt that kind of melds back together on its own.

Councilor Anderson stated I have tried to make a case in my own mind for selling this property to expand retail downtown, but I kept coming back to the fact that we don't have any place to park now and with urban renewal coming and everything else that may happen in downtown in the next few years we need to address our parking problem. I am glad we have $50,000 from the bond funds remaining. On item 4 on page 3 – Use as a long term parking lot, landscape slope bank, pave old building footprint and overlay old parking lot with lights $60,700. How solid is that number?

Steve Gaschler replied it is a planning estimate. I am in the ballpark.

Mayor Daoust stated the temporary variance that is in place right now until October 16th says at the end of it, "Troutdale shall either pave it or barricade it". How tied are we to that language? Reading that it looks like those are the only two alternatives.

Erich Mueller stated those were the findings and the final order issued by the PC. That was part of their conditions.

Mayor Daoust asked where did all of the other alternatives come from then?

Erich Mueller stated those are the two choices that are in the variance from the PC order. Barricading the gravel area is obvious. If you were going to choose to pave then the obvious question of the Council would be what is it going to cost us to pave and what areas would that include. Those bullet points are the costs for making improvements to those different areas under the assumption that you are attempting to comply with that first choice from the PC of paving the area.

Mayor Daoust asked do we have the option of selling the property?

Erich Mueller replied certainly.

Mayor Daoust stated that doesn't match with the language in the temporary variance.

Councilor Thomas stated the variance has to do with how the property is being used.

Ed Trompke stated there is a provision in the code that would allow an application to extend the variance. Selling it would be allowed.

Councilor Thomas asked doesn't the variance only apply to the ten parking spaces that are in the gravel?

Steve Gaschler replied that is my understanding.

Mayor Daoust asked could we sell it for $165,000 and require it to be a paved parking lot?

Ed Trompke replied you could try to put that condition on it but it limits the number of people who would buy it. There has to be some reasonable length of time after which the restraint on use expires.

Erich Mueller stated the $165,000 from the appraiser is based on the assumption that the County is going to continue to allow the access from Buxton, which is not a given. And secondly, their assumption for the $165,000 appraised value is based on the fact that the site would be developed. That value is based on somebody who would want to acquire the property and build something on it, not make it a parking lot. It might be possible to sell it to someone and require them to keep it as a parking lot, but I would not assume that you would get $165,000 in that scenario.

Mayor Daoust stated Bremik did express an interest in purchasing this property. When we talked previously it sounded like they would use it for parking.

Councilor Ripma stated well it makes sense that we just try to continue the current status-quo longer. Ask for another variance for another couple of years and not pave it, not spend any money on it, and not put up lights.

Councilor Wilson asked could we landscape the bank of it and make it look nicer.

Councilor Ripma stated I have no opinion on that. I didn't see that easement mentioned in the appraisal. That could seriously affect the ability to develop the property if they have to provide ingress/egress to the property.

Erich Mueller stated I do know that the appraisers took it into account.

Craig Ward stated it is on page 1 of the appraisal in what I will call a footnote under Extraordinary Assumptions and Hypothetical Conditions, Item #1.

Councilor Ripma stated my feeling is to keep it the way it is for now and direct staff to apply for another variance. That way it stays a parking lot if it turns out that Bremik needs it that would be a good thing for everybody if they bought it for that purpose. If it turns out it is not needed we can always sell it then.

Mayor Daoust stated I agree with Councilor Wilson, I would at least like to landscape the surroundings.

Councilor Allen stated I would agree with that also.

Councilor White stated with the potential Sheriff merger we may find that we need that space ourselves. I like the idea of holding it as a temporary parking area. I am okay with cleaning it up a little. It is very visible to our downtown businesses. It is getting a lot of use. I think we should really make an effort to do this anywhere we can within the City. If there is city owned property just sitting there, if we could somehow temporarily make it parking I would like to see us work towards that goal.

Councilor Allen stated landscaping for $3,500, if we are going to keep it around a couple more years it is probably worth it just because it sets the tone for the downtown area.

Councilor Thomas stated I have been a proponent of making this a parking lot for a long time. If you are going to use it for public parking it has to remain in public ownership. As soon as you sell it to a private person then you limit the ability for the public to park there. We already own the property. Doing the landscaping is great. I seem to recall there was some concern about the retaining wall along 2nd Street. There may be some other things with that property that may need to be addressed. It would be nice to get it restriped so you can actually see the parking spaces. I like the idea of keeping it as parking. What I would like to see at some point is a multi-level or a two-story parking structure there. How we pay for that is a different story. A two-story parking structure would allow you direct access off of 2nd Street so you wouldn't be taking up a lot of space with ramps. You may not need additional elevators because there would be ways for handicapped people to get out. I would like us to look at those types of things. I think if the parking lot was done right it could enhance Mayors Square.

Councilor Anderson stated the Sheriff's thing, yeah maybe, Bremik, yeah maybe, but it is heavily used. It is an investment in our City, it is an investment in our business community. People are already using it. I guess I don't understand why we would want to keep it as it is right now. I seem to recall it was a legal maneuver to get the PC to grant a variance and I am uncomfortable with the very idea of the City applying to the City's PC for a variance on City property and if the PC says no then it can be appealed back to us. I don't like that; I don't like the feel of that at all. I think the PC did the right thing by giving us a variance for a year and we have a parking lot. Councilor White has been talking about downtown parking for 3 years and it is being used and it is the right move. Lets go forward; lets just do it. We have the $50,000 in the bond fund. Lets just invest; pave it and make it a parking lot. Put lights up, stripe it, and landscape it.

Councilor Allen stated it's not a bad idea. Are there any thoughts as to why we wouldn't do that?

Councilor Ripma stated for one thing Steve said that the surface on there is working perfectly well.

Steve Gaschler stated it is performing very well as is. People are parking on it and it is not causing public works any issues with erosion, dust, or anything like that. The biggest thing is probably just aesthetics; it doesn't look pretty or finished. It looks like a vacant building site similar to the vacant building site on Halsey and 257th. If you wanted to buy some time I wouldn't be opposed, from a public works standpoint, of leaving it there but that is your decision. We are more than happy to pave it also.

Craig Ward stated when I drive by or walk through that lot I am not proud of that. I do not see that as a finished parking lot. It may meet some technical standard. The reason we took it to the PC in the first place is because we did not consider that to comply with City standards at the time. I think Steve is showing some flexibility in that regard that I am uncomfortable with. All over the world parking lots are considered interim uses, but they are still paved. I realize that investing money in it to turn it into a parking lot and establishing the public expectation that it will be a parking lot forever sort of go hand and glove. Existing Council decisions do not bind future Council actions. 10 years from now if we decide that the parking lot that we paved is now something that we can declare surplus and sell to a private party for economic development purposes, that Council can make that decision at that time and that is perfectly fair. To me we ought to either step up and pave that parking lot and allow it to be used as an interim use until we find a better use for it down the road, or admit that we are not going to pave it. I don't consider the surface on that lot something that I would be comfortable with if a private company said that they are going to just crush up some asphalt and put it down. It may meet a functional standard, but it doesn't meet a design standard that I think we should expect in our downtown.

Councilor Wilson stated we are probably going to end up needing to keep it for a long period of time because if the Discovery Block gets developed we are going to need the spaces that they are going to provide plus additional spaces. The more events that we have downtown, the more that lot is going to be used. I think it needs to be finished.

Councilor Ripma asked can we use the $50,000 that is leftover for that?

Mayor Daoust replied yes. How long do we have that $50,000?

Craig Ward replied I don't think there is a timeline. At some point it is more of a political decision. If we don't spend this money on this site than it will be spent on additional finishing components for the police facility.

Councilor Thomas stated we have been talking about parking issues for 12 years and it has always been a concern of the Chambers, especially the businesses downtown. One of the concerns I have right now is that on certain days of the week there is no place to

park. I think finishing that parking lot and at least making it aesthetically pleasing is the right thing to do. I think we need to move forward and get this done.

Councilor Ripma stated okay, you have convinced me. I am willing to go along with finishing it.

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

Claude Cruz stated from the perspective of the downtown business community we know we are always shoehorned and it's the same thing I hear echoed in here from multiple people tonight. I love the idea of having some committed space because parking is one of the two problems downtown, the other one being restrooms. This is a great opportunity rather than trying to maintain the status-quo. That is better than selling the property and having it be allocated to something else and potentially eating up even more of the precious parking spaces. I think committing that space and finishing it properly and making it less of an eyesore will really beautify the downtown area.

Diane White stated another potential idea for this site would be a small visitors' center with restrooms. It is highly visible from the main street and there would be parking.

Councilor Wilson stated I would like to move forward with paving the lot with lights and landscaping.

Mayor Daoust stated basically Option #4.

Councilor Wilson replied yes.

Councilor Anderson stated that is where I am at, Option #4.

Councilor Allen stated I would agree.

Mayor Daoust stated me to.

Councilor Ripma stated okay.

Councilor Allen stated I just want to ask about the conditional approval from the County, what the timeline is on that and would we make it.

Erich Mueller stated the County has given their road approval (Exhibit D), and that is based on its existing use.

Councilor Allen stated I was reading the portion that says (Exhibit D, Page 2, Conditions of Approval), "Within 90 days of the end of the appeal period, acquire a driveway permit for the second access off S. Buxton Road." Have we done that?

Councilor Wilson stated that is only if it changes what it is that can be taken away.

Councilor Ripma stated we are continuing the same use.

Councilor Allen stated so you think we have acquired the driveway permit.

Mayor Daoust stated that is what I was assuming.

Councilor Thomas stated I would assume that we want to continue using the variance in order to get through the construction process.

Councilor Wilson stated I think as long as they know we are working on it we are okay.

Councilor Thomas stated it says that on October 16th it expires and you better get a new permit or you are out of compliance.

Mayor Daoust stated I don't know about that. We are proceeding with the paving option.

Councilor Allen stated I was talking about the County's approval.

Ed Trompke stated it does expire on October 16th but if the City is proceeding to pave the lot and it is simply waiting to get the scheduling done and the work completed, the Planning Department can give a temporary extension during the process of paving.

Councilor Thomas stated the reason I am concerned about it is because I hear all the time that all of the rules apply to everybody but the city.

Craig Ward stated we would typically be pretty considerate of a developer who is approaching that timeline but gives us a clear indication and commitment to proceed with complying with the code. We would issue a temporary extension on that as long as we have the assurance from them. I don't think that we would be providing any consideration to ourselves that we would not provide to a private developer. In response to Councilor Allen's point, I think we do need to go back through the conditions and check to make sure that we have complied with all of those and inform the affected property owner of the conditions and our intent to honor those. Our code does not require lighting. $20,000 of that $60,000 is for lighting. Steve's estimate was for upgrading the lighting that is there to comply with the decorative lighting that we have downtown. We can stay within that $50,000 that we have from the bond measure if we don't upgrade the lighting. If we upgrade the lighting we will need to amend the budget and pull some money out of contingencies.

Councilor Wilson stated if we are doing it lets do it the right way and upgrade the lighting and make it new.

Councilor Anderson stated I am all for synergies and if we can match the downtown streets that is a strong message.

Mayor Daoust stated especially since it is a backdrop to Mayors Square.

Craig Ward stated I just want to make sure that was the Council's direction.

Mayor Daoust stated I hear agreement to that. We can talk about restrooms later because that location would actually be a good site for public restrooms. I know there is a concern about the maintenance of public restrooms. If we were going to put public restrooms anywhere in downtown this would be the location to put them.

Councilor Anderson stated we can't make a decision in a work session, we can only direct staff to come back with a resolution to do the parking lot. We certainly can ask them to give us the option of what public restrooms on the site would look like when they come back with the resolution for the parking lot.

Councilor Thomas stated I don't think we need a resolution for the parking lot.

Ed Trompke stated you can reach a consensus about how much to spend today, and then you do have to do it by resolution at a regular meeting.

Councilor Allen stated it does seem like a restroom would be cheaper to do before you pave it.

Councilor Thomas stated you are only paving part of it, you are not doing the whole thing.

Councilor Wilson stated I think we are doing the whole lot.

Councilor Anderson stated it is an investment in our downtown. We have a business community saying we want a parking lot, we need a restroom. We are investing in our city not only for today but for 2 or 3 years from now and that is where my head is at. What we see today is not what we are going to see in 2 or 3 years, we need to get ready. I think this is a strong statement to make. If a restroom is that desired, if the business community is telling us that a public restroom downtown is that desirable and we are talking about doing this, lets talk about doing that also. Lets just get it done.

Craig Ward stated a public restroom is a significant investment that could easily get to six figures. I heard an important caviat in Ms. White's proposal that it was associated with a visitors' center. I like that component because the supervision of a public restroom is serious business. You really want somebody to be there to watch it and to be paying attention to what is going on. A restroom in an isolated, I don't mean that it is isolated in a sense that Mayors Square is far away from other uses, but we don't have any city staff monitoring what is going on at that site. A visitors' center and a restroom associated with that is a great complimentary set of uses, but it is not just about building a bathroom it is about building a visitors' center and that comes with a variety of issues. The permitting, budgeting, and cooperation with the Chamber for running the visitors' center is a very complex proposal to make. I would really caution you about making a decision about locating a stand-alone public restroom at Mayors Square. If you want us to go down that path and evaluate the options for that we will be happy to do that. I just want you to be aware that what I heard Ms. White saying, and what seemed to emerge in your conversation, were somewhat different things. Parking lots are interim uses everywhere

around the world in cities. Just because we invest money in a parking lot does not mean that we can't come back later and build a visitors' center there with public restrooms, but we are probably years away, certainly many months from making a decision about building a visitors' center and public restrooms there. If you want to go down that path my recommendation would be to have us go ahead and prepare a resolution or a motion to authorize us to develop a parking lot concept there and then if you want to come back and put it on your goals for next year or this year to consider options for a visitors' center/public restroom at Mayors Square that is great.

Councilor Allen stated I would concede if there are ideas about doing a visitors' center talked about sometime in the future.

Councilor Anderson stated I fine with that.

Councilor Thomas stated that makes sense to me.

Mayor Daoust stated part of me just wants to build a restroom in downtown and get it over with. Take up four parking spots and build a restroom similar to what is in Columbia Park because we don't have anything downtown. What draws me back from that is that there are other options, not just the parking lot by Mayors Square. I think what the Council is saying is lets just do the parking lot.

Councilor Wilson stated with the upgraded lights.

4. Adjourn:

Meeting adjourned at 9:50pm.

DRAFT

Doug Daoust, Mayor

Dated:_____

ATTEST:

Debbie Stickney, City Recorder

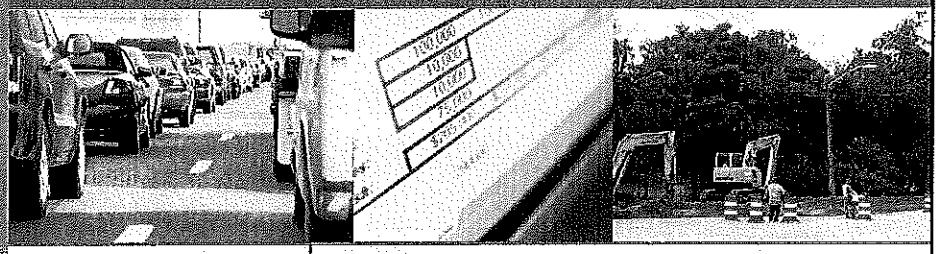
CITY OF TROUTDALE

CITY COUNCIL – Regular Meeting & Work Session

Tuesday, September 9, 2014

PLEASE SIGN IN

Name – Please Print	Address	Phone #
Frank Windust	Corbett	503-5132
Eric Apalategui	Oregonian	5034226047
[illegible]	Troutdale	5038674268
Doug McCourt	[illegible] Wynne LLP	503-705-6031
David Becker	2049 [illegible] 257	503-914-7539
Robert S [illegible] Jr	27205 [illegible] Rd	503-665-2756
Claude Cruz	Troutdale	503 799-9667
Diane Castillo White	Troutdale	503-888-1405



City of Troutdale, Oregon

Street Fund Revenue Analysis

City Council Work Session

Presented by
Doug Gabbard

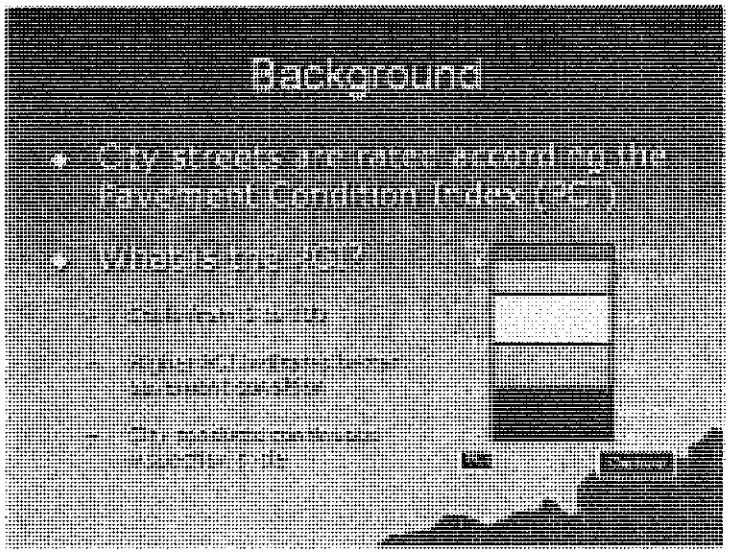
September 9, 2014

FCS GROUP
4380 SW Macadam Avenue, Suite 220, Portland, OR 97239 ■ 503-841-6543

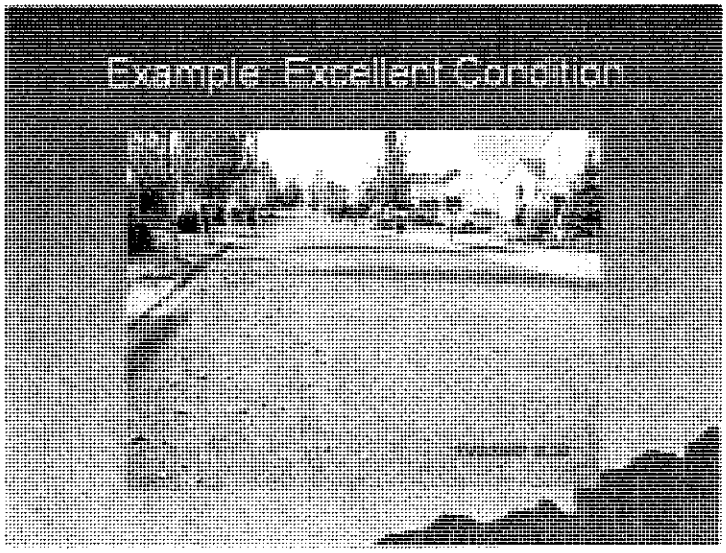
Presentation Outline

1. Street Fund
   - Needs
   - Current revenue
2. Potential Local Gas Tax
   - Legal authority and limitations
   - What other cities are doing
   - Projected fuel sales in Troutdale
   - Problem 1: initial uncertainty
   - Problem 2: declining volume
3. Financial Plan
   - Proposed tax rate
   - Projections

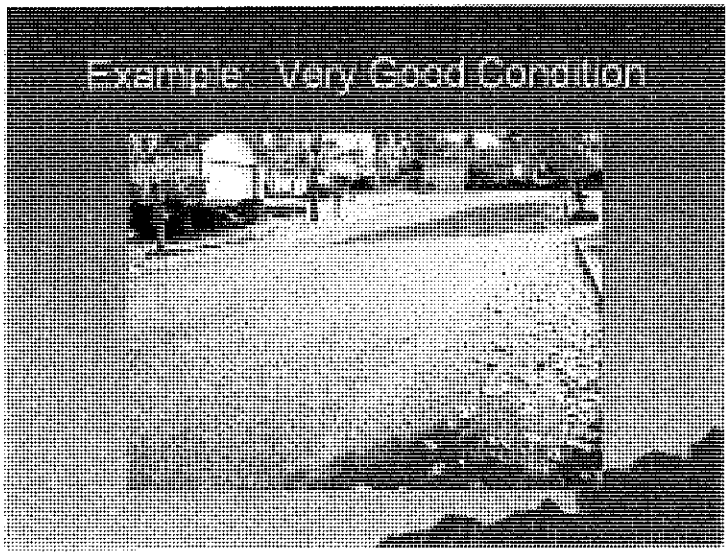
Street Fund: Needs



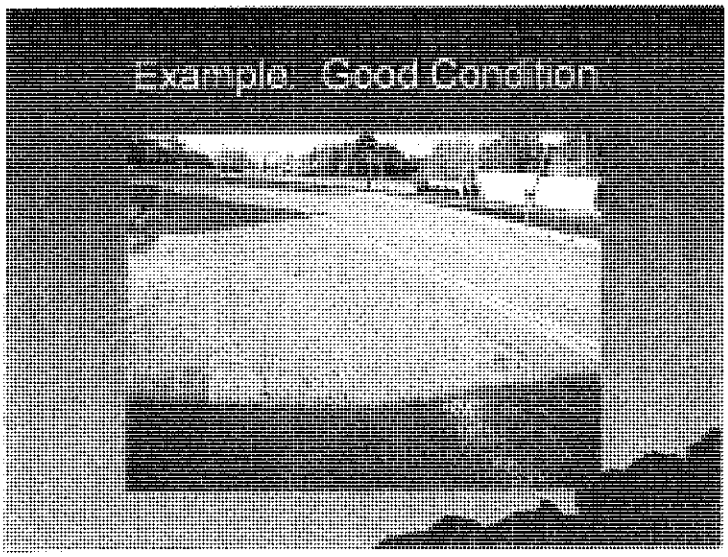
Street Fund: Needs



Street Fund: Needs



Street Fund: Needs



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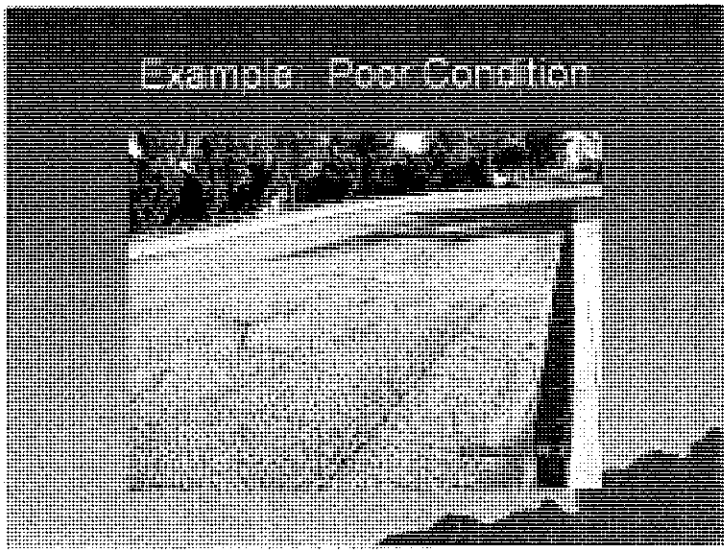

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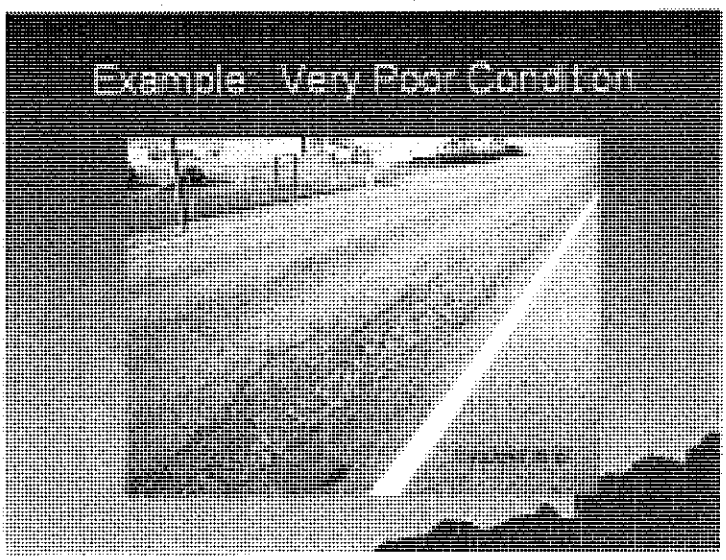

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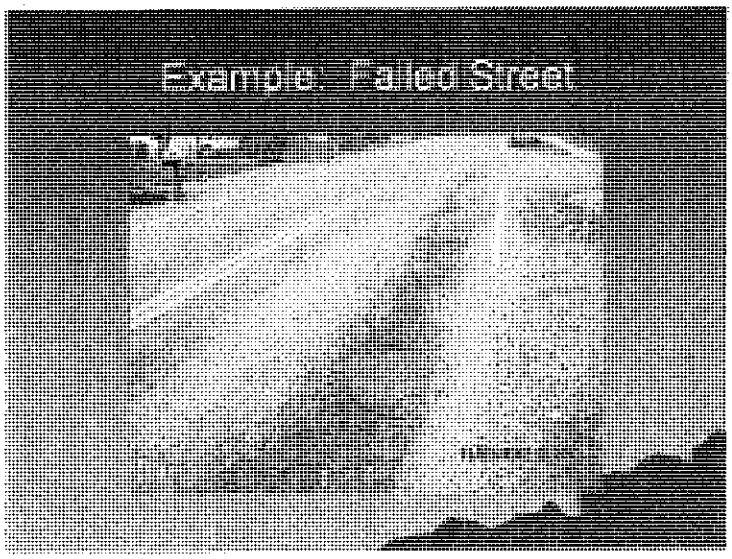

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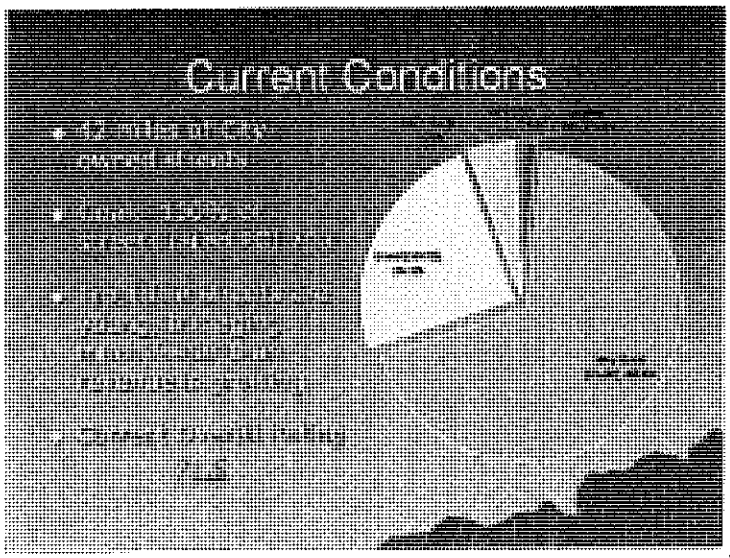

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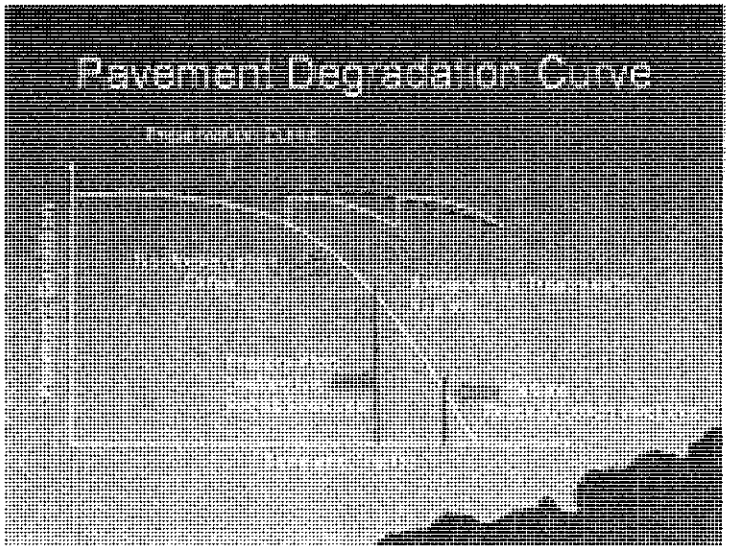

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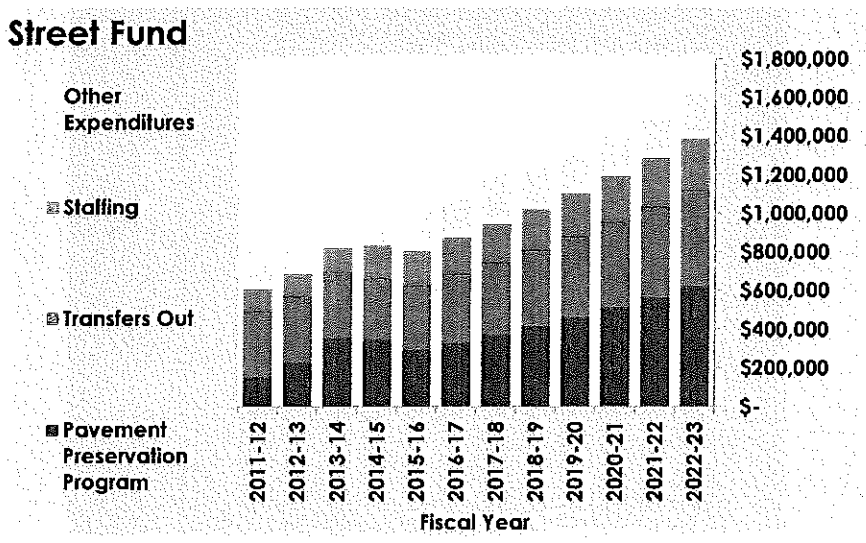
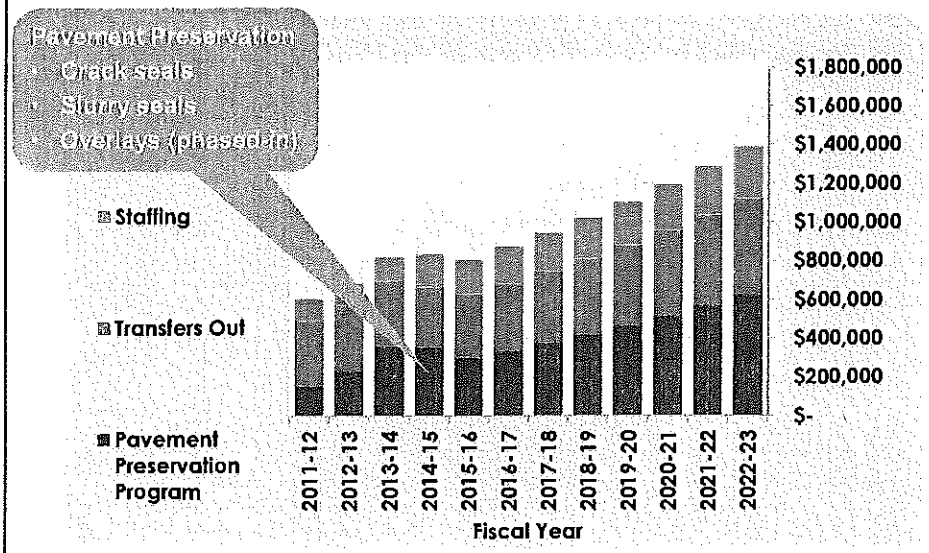
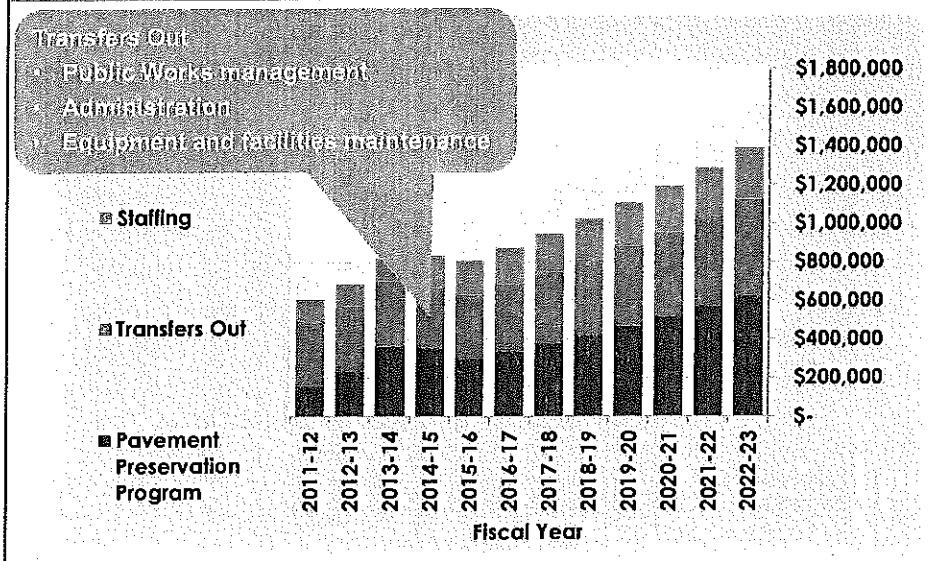


Street Fund: Needs

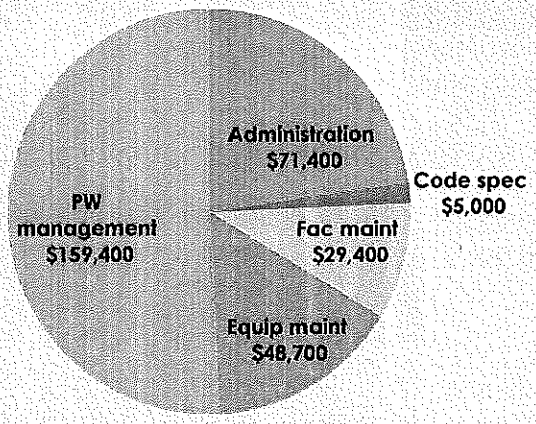


Street Fund: Needs



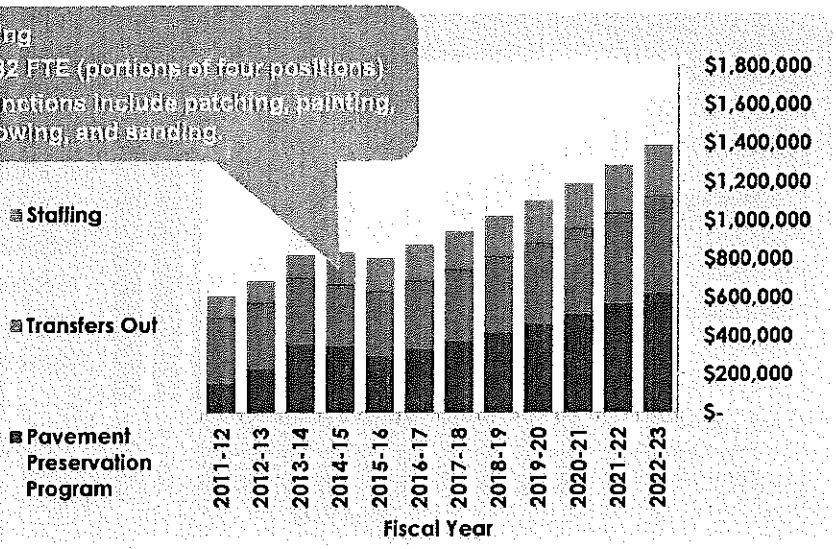
Street Fund: Needs

Transfers Out in Fiscal Year 2014-15

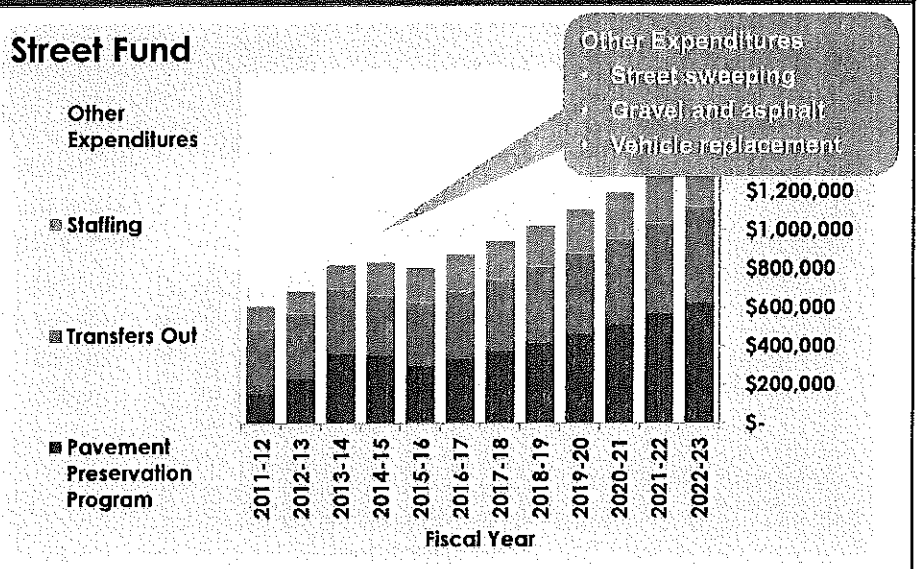


Street Fund: Needs

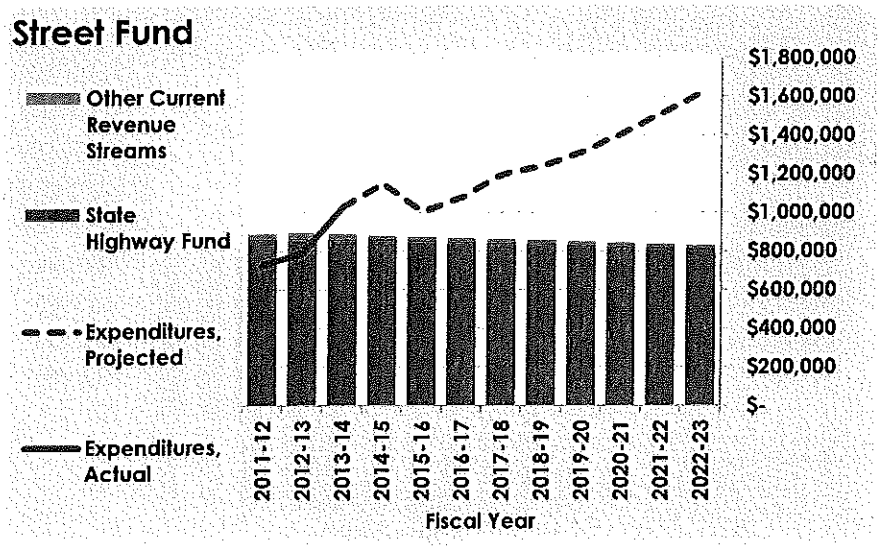
Staffing
- 1.82 FTE (portions of four positions)
- Functions include patching, painting, plowing, and sanding.



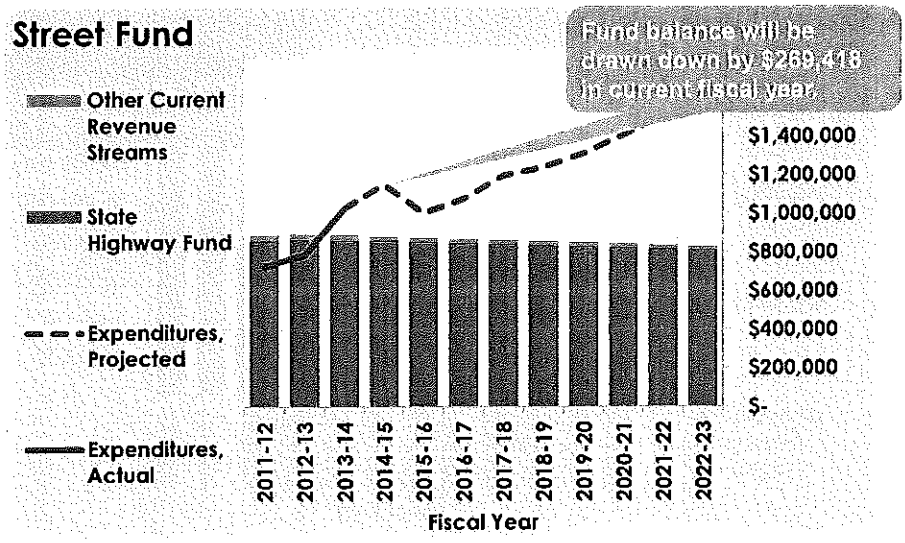
Street Fund: Needs



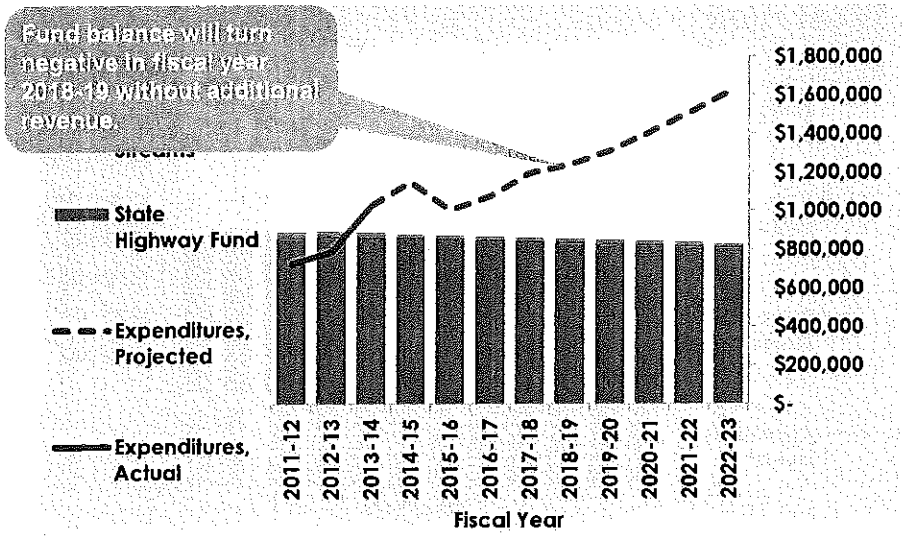
Street Fund: Current Revenue



Street Fund: Current Revenue



Street Fund: Current Revenue



Local Gas Tax: Law

ORS 319.950

"A city, county or other local government may enact or amend any charter provision, ordinance, resolution or other provision taxing fuel for motor vehicles after submitting the proposed tax to the electors of the local government for their approval."

Oregon Constitution, Article IX, Section 3a

Taxes on motor vehicle fuel must "be used exclusively for the construction, reconstruction, improvement, repair, maintenance, operation and use of public highways, roads, streets and roadside rest areas in this state."

Local Gas Tax: Other Cities

Cities with a Local Gas Tax	Gallons Sold in 2012-13	Population on July 1, 2012	Gallons Sold per Capita	Current Number of Dealers	Current Tax Rate per Gallon
Astoria	6,598,960	9,555	691	12	$0.03
Canby	8,391,087	15,865	529	17	$0.03
Coburg	1,125,432	1,045	1,077	10	$0.03
Coquille	3,181,358	3,870	822	9	$0.03
Cottage Grove	11,568,077	9,770	1,184	18	$0.03
Eugene	59,480,556	158,335	376	36	$0.05
Hood River	9,146,002	7,375	1,240	9	$0.03
Milwaukie	11,689,464	20,435	572	19	$0.02
Newport	8,312,416	10,150	819	11	Seasonal
Springfield	37,101,862	59,840	620	27	$0.03
Tigard	24,261,498	48,695	498	24	$0.03
Veneta	2,457,062	4,610	533	7	$0.03
Warrenton	9,167,003	5,090	1,801	10	$0.03
Woodburn	11,289,895	24,090	469	27	$0.01

Source: ODOT, Fuels Tax Group; Portland State University, Population Research Center. **Note:** Coburg does not tax diesel. All other cities do.

Local Gas Tax: Estimated Volume

Cities with a Local Gas Tax	Gallons Sold in 2012-13	Population on July 1, 2012	Gallons Sold per Capita	Current Number of Dealers	Current Tax Rate per Gallon
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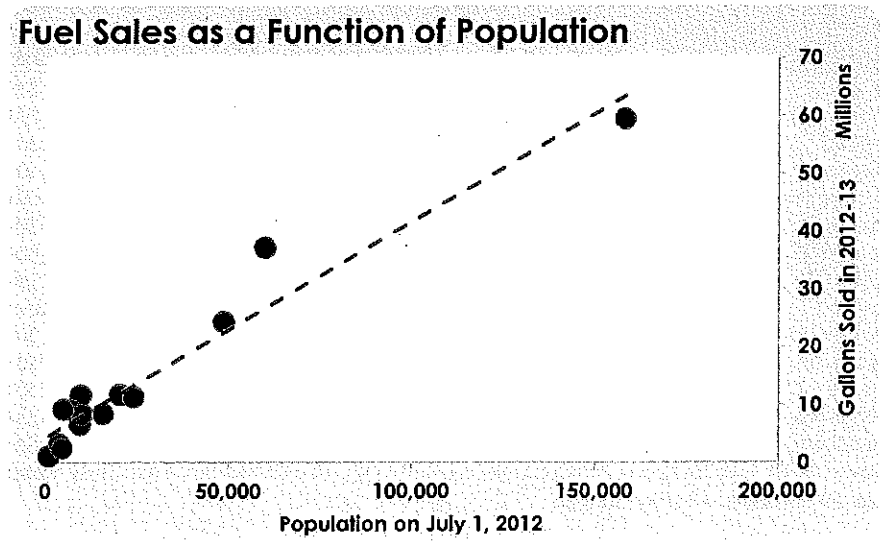
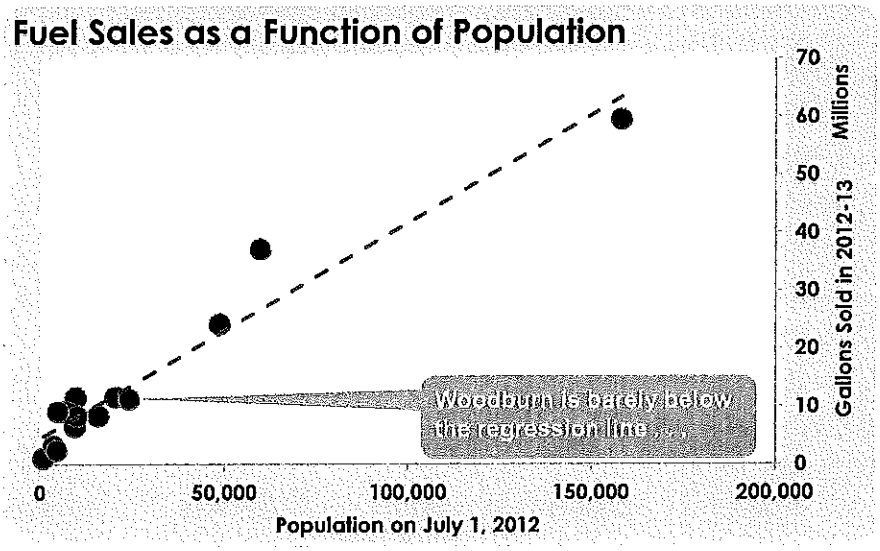
Warrenton	9,167,003	5,090	1,801	10	$0.03
Woodburn	11,289,895	24,090	469	27	$0.01
Troutdale (estimated)	**10,443,160**	**16,005**	**652**		

Source: ODOT, Fuels Tax Group; Portland State University, Population Research Center. **Note:** Coburg does not tax diesel. All other cities do.

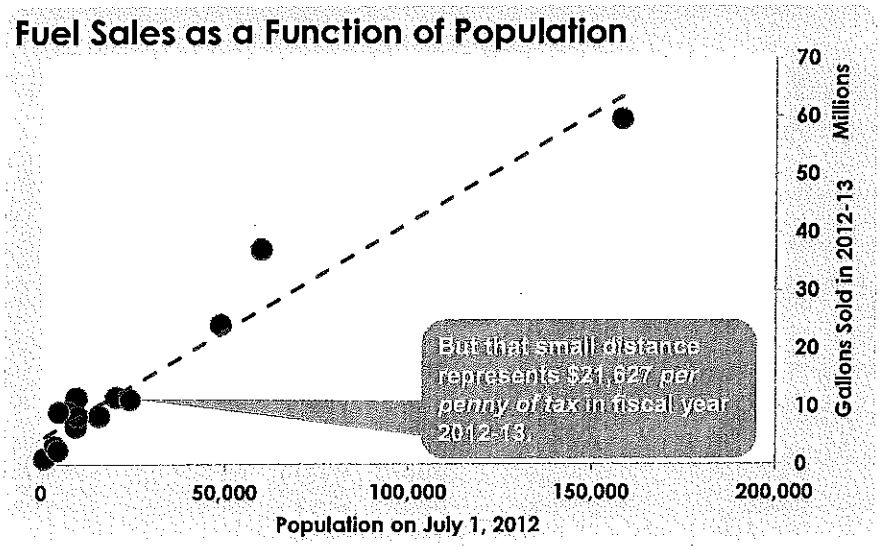
Local Gas Tax: Initial Uncertainty



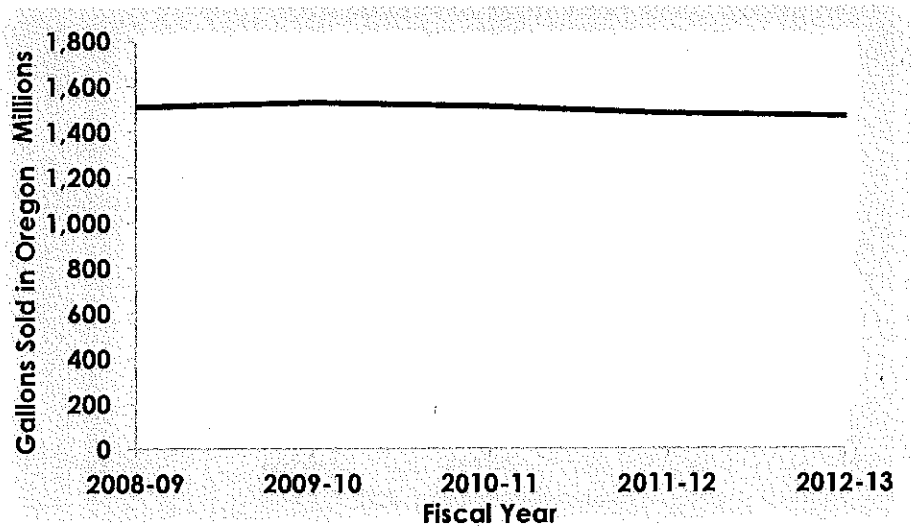
Local Gas Tax: Initial Uncertainty



Local Gas Tax: Initial Uncertainty



Local Gas Tax: Declining Volume



Financial Plan: Tax Rate

Local Gas Tax Revenue Calculator	
Tax Rate per Gallon	
‹ ›	$0.04
Gallons Sold in 2012-13	
‹ ›	10,443,000
Baseline assumption	10,443,000
Annual Change in Gallons Sold	
‹ ›	-0.74%
Baseline assumption	-0.74%
ODOT Fee in 2015-16	
‹ ›	$5,000
Baseline assumption	$5,000
Annual Change in ODOT Fee	
‹ ›	3.00%
Baseline assumption	3.00%

	Gallons Sold	Tax per Gallon	Gross Revenue	ODOT Fee	Net Revenue
2012-13	10,443,000				
2013-14	10,365,722				
2014-15	10,289,015				
2015-16	10,212,877	$ 0.04	$ 408,515	$ 5,000	$ 400,515
2016-17	10,137,301	$ 0.04	$ 405,492	$ 5,150	$ 400,342
2017-18	10,062,285	$ 0.04	$ 402,491	$ 5,305	$ 397,187
2018-19	9,987,825	$ 0.04	$ 399,513	$ 5,464	$ 394,049
2019-20	9,913,915	$ 0.04	$ 396,557	$ 5,628	$ 390,929
2020-21	9,840,552	$ 0.04	$ 393,622	$ 5,796	$ 387,826
2021-22	9,767,732	$ 0.04	$ 390,709	$ 5,970	$ 384,739
2022-23	9,695,450	$ 0.04	$ 387,818	$ 6,149	$ 381,669
2023-24	9,623,704	$ 0.04	$ 384,948	$ 6,334	$ 378,614
2024-25	9,552,489	$ 0.04	$ 382,100	$ 6,524	$ 375,576
2025-26	9,481,800	$ 0.04	$ 379,272	$ 6,720	$ 372,552
2026-27	9,411,635	$ 0.04	$ 376,465	$ 6,921	$ 369,544
2027-28	9,341,989	$ 0.04	$ 373,680	$ 7,129	$ 366,551
2028-29	9,272,858	$ 0.04	$ 370,914	$ 7,343	$ 363,572
2029-30	9,204,239	$ 0.04	$ 368,170	$ 7,563	$ 360,607
2030-31	9,136,128	$ 0.04	$ 365,445	$ 7,790	$ 357,655
2031-32	9,068,520	$ 0.04	$ 362,741	$ 8,024	$ 354,717
2032-33	9,001,413	$ 0.04	$ 360,057	$ 8,264	$ 351,792
2033-34	8,934,803	$ 0.04	$ 357,392	$ 8,512	$ 348,880
2034-35	8,868,685	$ 0.04	$ 354,747	$ 8,768	$ 345,980
2035-36	8,803,057	$ 0.04	$ 352,122	$ 9,031	$ 343,092

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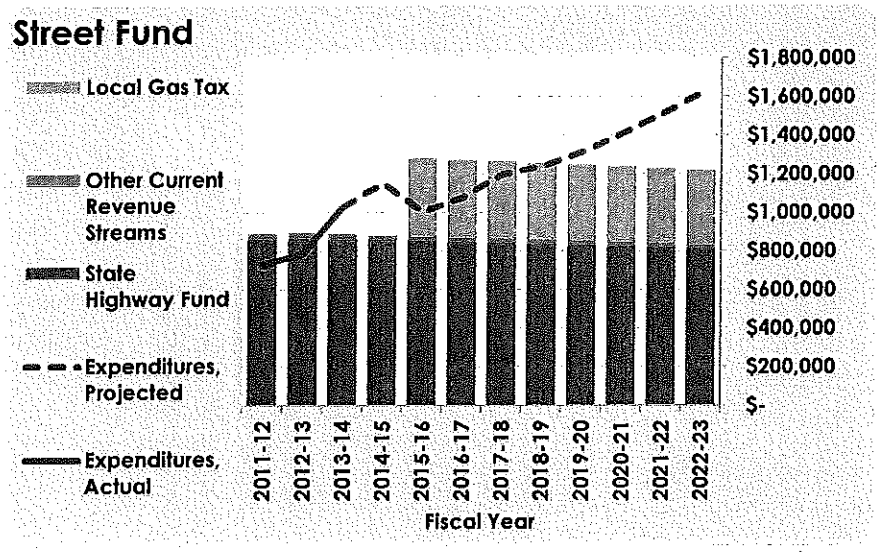
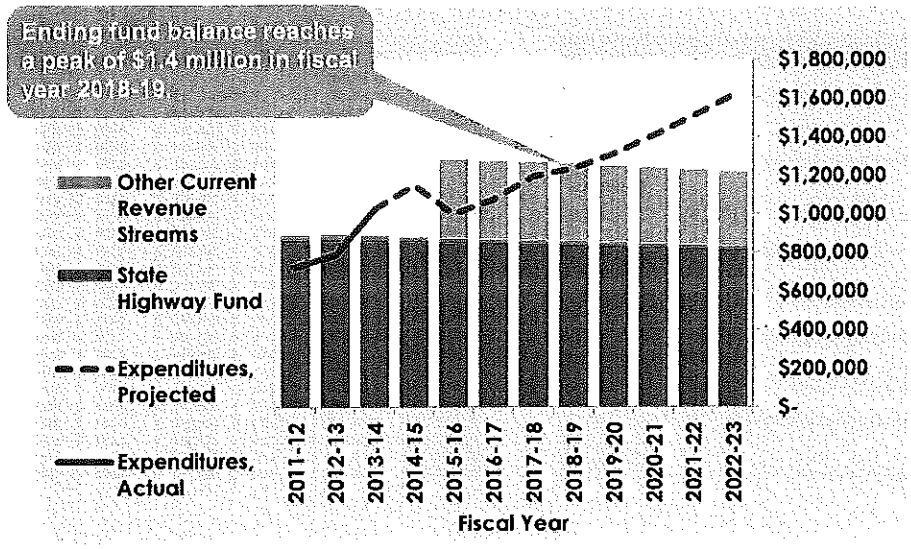
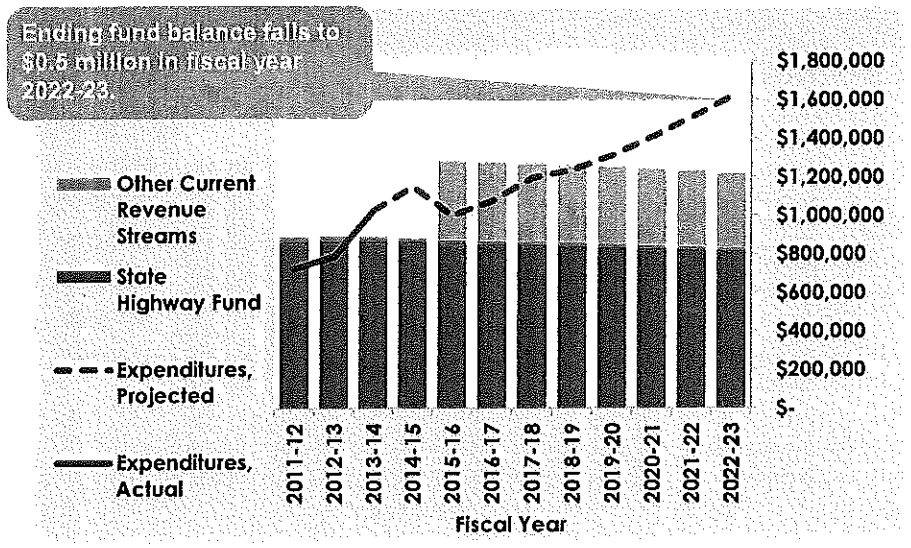
Financial Plan: Projections



Financial Plan: Projections



Financial Plan: Projections



Takeaways

Assuming our revenue estimates are accurate . . .

A local gas tax of four cents per gallon will keep the Street Fund solvent through fiscal year 2023.

But . . .

Actual revenues can only be estimated from other cities and will vary from projections.

Absent changes in external funding, the City will eventually need to raise the tax. At that time, another election will be required.

Questions and Discussion

DRAFT

MINUTES
Troutdale City Council – Regular Meeting
Troutdale City Hall – Council Chambers
219 E. Historic Columbia River Hwy.
Troutdale, OR 97060-2078

Tuesday, September 23, 2014

1. ROLL CALL, AGENDA UPDATE

Mayor Daoust called the meeting to order at 7:00pm.

PRESENT: Mayor Daoust, Councilor Ripma, Councilor Anderson, Councilor Thomas (via phone), Councilor White, Councilor Allen, and Councilor Wilson.

ABSENT: None.

STAFF: Erich Mueller, Finance Director and Acting City Manager; Debbie Stickney, City Recorder; and Shelby Rihala, City Attorney.

GUESTS: See Attached.

Mayor Daoust read a statement into the record recognizing Junki and Linda Yoshida's donation of $1 million to Mt. Hood Community College (attached as Exhibit A).

2. CONSENT AGENDA:

- **2.1 ACCEPT MINUTES:** August 26, 2014 Joint City Council / Urban Renewal Agency Regular Mtg.
- **2.2 RESOLUTION:** A resolution approving an Intergovernmental Agreement between Metro Regional Government and the City of Troutdale for funding of the Year Twenty-Five Annual Waste Reduction Program.
- **2.3 RESOLUTION:** A resolution approving improvements to the old police station site.
- **2.4 RESOLUTION:** A resolution providing advance authorization of economic development travel expenses of the Mayor.

MOTION: Councilor Anderson moved to approve the Consent Agenda. Seconded by Councilor White. Motion Passed Unanimously.

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

None.

4. PUBLIC HEARING / ORDINANCE (Introduced 9/9/2014): An ordinance relating to the Troutdale Riverfront Renewal Plan and establishing a procedure for transfer of the former Sewer Treatment Plant property.

Mayor Daoust read the ordinance title.

Erich Mueller, Finance Director, stated there were no issues raised at the September 9, 2014 meeting that needed to be investigated and further documented. Tonight is the second public hearing. Following the hearing the Council can consider taking action on this ordinance.

In May of this year the City entered into an Exclusive Negotiating Agreement (ENA) with Eastwinds Development, LLC which resulted in the Valuation Formula and Select Deal Terms for the sale of the City's former sewer treatment plant property located in the Urban Renewal Area, which the Council approved on August 26, 2014. That was one step of many in this process. This is just the next step which would move the ownership of the property from the City to the Urban Renewal Agency (URA). There will be many more steps along the way before the property will potentially be transferred to an outside party, Eastwinds Development, LLC.

The appraisal process is ongoing, as well as the other matters that were addressed in the Term Sheet that was approved. If the Council approves the ordinance tonight it will still require another 30 days before it becomes effective. There are a number of provisions/conditions that also need to be satisfied before the property would actually be conveyed from the City to the URA.

The draft Special Warranty Deed is included in the packet. It provides the assurance that the property would be developed in a manner that is consistent with the goals and requirements of the Plan.

At some point later this fall, as we make our way through this process, we will start another ordinance process for the potential sale of the property, which would have two additional public hearings. This continues to be an open, upfront and transparent process as the City moves forward.

Councilor Allen asked in Section 7 of the ordinance, can you give me an idea of what funds we plan on disbursing?

Erich Mueller replied what I anticipate in this particular circumstance is primarily those costs associated with completing the survey work with the engineers on the easements, any costs associated with the title insurance policy, the appraisal costs, and any additional fees associated with obtaining the No Further Action (NFA).

Councilor Allen asked so no development at this time?

Erich Mueller replied I don't anticipate there being any costs associated with actual development. It is simply going to be the costs associated with accomplishing the transfer from the City's ownership to the URA's ownership.

Mayor Daoust opened the Public Hearing at 7:11pm and asked, is there anyone here that would like to speak to us on this ordinance?

No testimony received.

Mayor Daoust closed the Public Hearing at 7:11pm.

MOTION: Councilor Wilson moved to adopt an ordinance relating to the Troutdale Riverfront Renewal Plan and establishing a procedure for transfer of the former Sewer Treatment Plant property. Seconded by Councilor Anderson.

VOTE: Councilor Allen – Yes; Councilor Wilson - Yes; Councilor Ripma - Yes; Councilor Anderson - Yes; Councilor Thomas – Yes; Mayor Daoust – Yes; Councilor White - Yes.

Motion Passed 7-0.

Erich Mueller stated Doug MacCourt is here this evening and would like to provide an update on where we are in the process of moving forward on the URA.

Doug MacCourt, Ater Wynne, stated we have received the draft closure report from our consultant, AMEC Environmental. This is the document that goes to DEQ with a request that they approve the site and determine that there is no further action in terms of environmental issues on the property. We are reviewing it now and I expect that it would get to DEQ by the end of the week. DEQ has estimated that they will try to get a decision out by the end of October.

We have had some press interest in the animal waste removal from the Eastwinds site. I received a call from KATU. They interviewed Matt Wand, general counsel for Eastwinds, on-site yesterday. I also had a short interview. They asked very general questions about what was happening and who was getting notified.

Eastwinds has indicated that they believe that they will now be starting the excavation on October 6th rather than the end of September. That is probably a good move since the weather will start to get a little moister, which will help with the odor reduction.

We are in the process of preparing the draft Purchase and Sale Agreement (PSA). We have had some good initial discussions with Eastwinds legal counsel on that. We are on schedule with those negotiations.

Councilor White asked when will we be brought up to speed on the appraisal?

Doug MacCourt replied I met the appraiser on-site last Wednesday. We expect to receive the appraisal within the next week. They are also preparing an estimate for the demolition costs. Eastwinds will also be having an estimate prepared for the demolition costs. The Term Sheet says we will select the lowest estimate.

5. PUBLIC HEARING / ORDINANCE (Introduction): An ordinance adopting a new chapter of the Troutdale Municipal Code, Chapter 3.35, "Marijuana Tax".

Mayor Daoust read the ordinance title.

Shelby Rihala, City Attorney, stated Measure 91 on the November ballot is a measure legalizing recreational marijuana. It contains in it a section that preempts local governments from taxing marijuana and gives that sole authority to the state. It also contains a provision repealing any provision of a local ordinance or charter which conflicts with the preemption clause. Several local governments are approaching this by implementing a sales tax prior to the possible passage of Measure 91 in the hopes that they would be able to grandfather in a sales tax on marijuana in the event that the measure passes.

Before you is a draft ordinance for your consideration. This is principally based off Ashland's ordinance. Ashland was the first city to pass such a tax. Several other governments have since passed their own ordinances.

The taxing rates are proposed at 5% for medical marijuana and 10% for recreational marijuana. Those are completely discretionary and open to Council's consideration. It is a sales tax and is based on gross revenues.

Mayor Daoust stated this ordinance, if we pass it at our next meeting, would have an effective date of November 14, 2014 which is after the November election date. I am assuming that it is still timely as far as the effective date.

Shelby Rihala replied there are a couple of different thoughts on that. The first is that a taxing ordinance cannot be passed by emergency, you need the full 30-days in order to implement a taxing ordinance. Council could have a first reading tonight and a second reading at your next regularly scheduled meeting, and then the tax would be effective on November 14th. The consensus among city attorneys is that as long as the ordinance is effective prior to the effective date of the ballot measure, which is 30 days after the November 4th election, so December 4th, so long as the local ordinance is effective prior to December 4th that it is sufficient. There are some that say it should be passed prior to the vote. I have seen no legal briefing to explain that other than it would be one less thing to challenge. It is expected that this will get a legal challenge because of the strong preemption clause in it. I cannot guarantee that it would withstand that. The expectation would be that it would be one less facet of the ordinance to challenge if it was effective prior to the day of the vote. There are some councils such as West Linn that are holding special sessions. It is really being approached differently depending on the jurisdiction.

Councilor Anderson asked if this passes it would be regulated by OLCC, correct?

Shelby Rihala replied correct.

Councilor Anderson asked currently do any cities that are considering something levy a city sales tax on alcohol or anything else administered by the OLCC, or is that part of state shared revenues?

Shelby Rihala replied that is part of state shared revenues. The liquor tax statute mirrors the preemption clause in this proposed marijuana statute in terms of preemption. So local governments are preempted from taxing liquor using the same language that the marijuana tax proposes.

Councilor Anderson asked in a sense aren't we targeting marijuana? Isn't that we are doing, targeting a substance? That is my feeling of what we are doing. I can see where this is going to be challenged because of the ambiguity. With the adoption of this ordinance are we in essence signing on to be plaintiffs and incurring legal expense to fight that challenge? Would we be better off by just sitting back and taking no action and watching whatever happens and save some legal fees?

Shelby Rihala replied there are a couple of ways to look at that. First, Council always has the authority to repeal an ordinance. So if it was legally challenged, instead of fighting it you could simply repeal the ordinance and the challenge would be mute. As I understand it the City of Gresham has adopted a zero percent tax. The reason that some cities are pursuing this, even with a very low tax, is simply in the hopes of preserving their local ability to tax marijuana.

Councilor Anderson stated which in theory I am inclined to agree with. However, I can't get by that we are targeting one area here. That is what I am struggling with. I am glad we are having the discussion, but that is the one thing that I can't get by. I am rather dismayed that there is not many members of the public here tonight because this is a hot button issue and it is a big decision for us.

Councilor Allen stated I know it is not directly taxed by the city but don't we also target alcohol and tobacco.

Councilor Anderson replied not directly though. They are part of the state shared revenues. We don't target it directly because we can't, but with this one we are trying to go through a loophole that appears to target one substance because we can because it is ambiguous.

Shelby Rihala stated to the question of state shared revenues on this, the way the measure is proposed is that it would not be the same kind of revenue sharing like liquor tax, which is based on population. The formula that the measure proposes is 10% to cities and 10% to counties of the total state taxes. The revenues would be distributed based on

how many wholesale, retail type facilities are in the city itself. There is a potential that Troutdale could get zero dollars.

Councilor Allen asked are we likely to have increased expenses due to the sale of marijuana?

Mayor Daoust replied I will try to answer that. One of my main concerns with recreational marijuana possibly being approved is the cost of enforcement. The law enforcement folks cannot say for certain what it will cost if the measure passes, but they are united that it will cost time and money that they don't have. Since there is no test for marijuana impairment for vehicle driving as there is for alcohol impairment, patrol deputies need to be specially trained to identify those that are impaired. The cost of training all patrol deputies will be costly in our already strapped law enforcement budget. There is no property limits. Measure 91 will allow each household to possess a half pound of usable dry marijuana, an ounce of concentrated THC, a pound of edibles, a six pack of tinctures and four plants of any size and maturity. An apartment complex with fifteen units could have 7½ pounds of marijuana plus 60 fully mature plants if people take advantage of this. We can't say for sure what the increased costs would be, but I am positive there will be; I don't see how there can't be. Marijuana is a Schedule 1 drug according to the Drug Enforcement Administration meaning it has a high abuse potential. The impact of legalization has too many unanswered questions and could have too many unintended consequences. I feel, as Mayor, we just need to be prepared to pay our enforcement bills and this is one way to do it. It may be challenged, but we better get our foot in the door if we are going to do it. We have to do this now because we won't have a chance later.

Councilor Wilson stated you mentioned having a special session. If we had a special session could we get a jump on the vote to get this passed?

Shelby Rihala replied yes. You could get a jump on the vote, you couldn't get a jump on the 30-day implementation. You would have to count backwards 30 days from November 4th for your special meeting to have the required 30 days before it is effective because it is a taxing measure.

Councilor Wilson stated so we are almost out of time.

Councilor Anderson stated we could have a meeting on September 30th.

Councilor White stated I think this is a worthy tool to have in the tool box. If there is public outcry we will hear from them. The people I have talked to in Troutdale feel the opposite; they feel like marijuana is a gateway drug. We want to be known for the Gateway to the Gorge. I think there are better places to test this idea out then here in Troutdale. I am in favor of Councilor Wilson's suggestion and making this a little more airtight. I am ready to approve this myself.

Councilor Allen stated as a young man I took care of a terminally ill fellow that used marijuana in his last days. I saw its value for medical purposes. What concerns me here

the most is also what I have experienced when we have demand increasing and supply not there you get criminal elements that fill that gap and that tends to contribute to social problems, in which we may need to beef up our police staffing.

Councilor Wilson stated so you are saying that we will need the tax to help take care of that.

Councilor Allen replied yes.

Erich Mueller stated with the deadline, having the tax in place does give the Council flexibility to raise it, lower it, or repeal it. The other aspect is that taxing in general tends to have an economic impact on business decisions. From a context standpoint, not having it could make a particular jurisdiction more attractive as an operating location because it would have a lower cost of operation for a business. To some degree I believe there are some concerns on the part of cities that they don't necessarily want to become attractive as a location if the neighboring jurisdictions are more costly. I had not included Gresham in my staff report. I am not sure if they are ultimately going to adopt a zero percent tax or put something above that in place. Fairview is also in the process of considering this. I contacted Mr. Peterson at Wood Village and based on their charter they are unable to accomplish it in this timeframe.

Mayor Daoust opened the Public Hearing at 7:35pm and asked is there anyone here that would like to speak to us on this agenda item?

Paul Wilcox, resident, stated I would be interested in hearing from the Councilors what the intent of this ordinance is. If the purpose is to enhance income to the city then it would appear that the more marijuana retailers the better. If, however, it is intended as a deterrent to retailers locating in Troutdale due to the added tax burden, those retailers will choose to locate in adjacent nearby communities that do not levy the tax. I suspect the latter, which is fine but just be open and honest about your opposition. In the Oregonian I saw that Forest Grove proposed 5% tax for medical and 10% tax on recreational and they dropped the 5% tax on medical. I would like to quote a couple sections from the initiative itself, "Section 58 – Marijuana laws supersede and repeal inconsistent charters and ordinances. Sections 3 to 70 of this Act, designed to operate uniformly throughout the state, shall be paramount and superior to and shall fully replace and supersede any and all municipal charter enactments or local ordinances inconsistent with it. Such charters and ordinances hereby are repealed." In my reading, this pretty much shoots down your whole tax idea. There is actually an option for an outright prohibition if that is what you are after. "Section 60, Petition and election for local option. The governing body of a city or a county, when a petition is filed as provided in this section, shall order an election on the question whether the operation of licensed premises shall be prohibited in the city or county." If that is what you want then let the voters decide just like Wood Village citizens decided on the casino. The idea of targeting marijuana as a specific product, if you want to put a gross receipts tax on something how about alcohol and tobacco? You have law enforcement issues with those products also.

Mayor Daoust closed the public hearing at 7:40pm.

Councilor Allen stated I wanted to point out that my concern when supply doesn't meet demand is not the substance so much as it is the criminal elements that may use violence to control territory. That would be my concern and need for increased policing. If supply were to match demand then I would obviously be less concerned.

Mayor Daoust stated if we really wanted this to be a strong deterrent we would have a 50% tax rate. There is no limit on the tax rate we set. The 5% on medical and 10% on recreational is not an outrageous amount, it is a reasonable amount that doesn't paint a target on us. It seems to be what the other cities are looking at. I will be open and honest, I don't care if it is a deterrent. In fact I want it to be a deterrent. I don't want to be the city that is attractive to the sales of marijuana. I do not want that. You can call it a deterrent all you want and I would agree one-hundred percent. We currently have a one-year moratorium on dealing with medical marijuana facilities which we still need to address. That is a different issues, but we still need to address the zoning, etc.

Councilor Ripma stated I agree with Mayor Daoust on my motivation for supporting this. I also think it is a longshot that it will be upheld. I agree that the way the initiative is worded in a couple of places makes it unlikely that this will fly, but you never know and it is now or never if we want to go forward with it. We are not completely alone doing this, other cities are considering it. I think it is worth a try. I also share the concern that there will be a cost associated with the legalization and this might help to defray some of the costs. We can't tax tobacco and alcohol; that is not an option for us. But we can do this and it is now or never. I am glad it is being brought forward. I would also favor having a special meeting next Tuesday to complete the adoption of the ordinance just to remove one possible impediment to it being upheld.

Councilor Wilson stated I would agree with having a special session.

Councilor Thomas stated that makes sense to me.

Council consensus was to call a special meeting on Tuesday, September 30, 2014 to hold the second public hearing and consider the adoption of this ordinance.

6. STAFF COMMUNICATIONS

None.

7. COUNCIL COMMUNICATIONS

Councilor Wilson stated I was going through the draft IGA for the Metro Enhancement Fee and I would like to have a provision added to the IGA that states that no funds from this IGA can be withheld from the City of Troutdale if Metro finds us out of compliance in another area.

Mayor Daoust asked what meeting is that scheduled for?

Erich Mueller stated I am not sure that Metro is ready to bring that forward to us. It is planned to come to us once they get their adoption accomplished.

Mayor Daoust asked Mr. Mueller to make note of what Councilor Wilson brought up. We will be discussing this issue probably in November.

Councilor Ripma welcomed Shelby Rihala. I served with Shelby on the Oregon Hanford Clean-up Board for about 5 years.

Councilor Thomas stated it was a great idea to acknowledge Yoshida's donation to Mt. Hood Community College. I also want to thank the Mayor for his willingness to travel to help the Urban Renewal District.

Mayor Daoust updated the Council on the following:

- The Town Hall meeting last Tuesday was very successful. There were a lot of good constructive comments made.
- The League of Oregon Cities Conference is in Eugene this coming weekend.
- On Saturday, October 4th there will be a ribbon cutting at 10am at the taekwondo business in the Cherry Park shopping center.
- October 9th East Metro Economic Alliance is holding a candidates forum for the Troutdale candidates for city council. It will be held at Fairview City Hall at 11:30am.
- Also on October 9th the Trauma Intervention Program Dinner Auction is being held at the Marriot Waterfront in downtown Portland.

8. ADJOURNMENT:

MOTION: Councilor Anderson moved to adjourn. Seconded by Councilor White. Motion passed unanimously.

Meeting adjourned at 7:52pm.

Doug Daoust, Mayor

Dated:

DRAFT

ATTEST:

Debbie Stickney, City Recorder

CITY OF TROUTDALE
CITY COUNCIL – Regular Meeting
Tuesday, September 23, 2014

PLEASE SIGN IN

Name – Please Print	Address	Phone #
Robert S. Strebin Jr	2720 S Tdale Rd	503-665-2756
[illegible] Monarty	TROUTDALE	503 862-4268
David Becker	Troutdale	503-914-7539
PAUL W/LCOX	TROUTDALE	

Exhibit A

September 23, 2014 Council Minutes

The City Council of Troutdale Recognizes Yoshida's $1 million gift to MHCC

The City Council of Troutdale, Oregon recognizes and applauds the $1 million gift that Junki and Linda Yoshida donated to Mt. Hood Community College on September 17th, 2014, as a remarkably generous gift to the campus and the community.

The Yoshida's gift marks the largest individual gift made to the MHCC Foundation in its history, and was accepted by MHCC President Dr. Debra Derr and an auditorium full of people.

The City Council also recognizes the Yoshidas, who call Troutdale their home, as long-time supporters of East Multnomah County, community colleges and college education. They know the importance of MHCC and the role it plays in the economic vitality of our community. Their gift to the college is a great investment in the future of education and the success of the students.

In the past, Junki and Linda Yoshida have served on the MHCC Foundation board of directors, and have been honoured with the Patron Saint and Community Partnership awards.

The Troutdale City Council is proud to celebrate with the Mt. Hood Community College family, for the students who now have new opportunities, and for all the students who may receive scholarships, thanks to this generous gift.

Doug Daoust

Mayor of Troutdale

September 23, 2014

DRAFT

MINUTES
Troutdale City Council – Special Meeting
Troutdale City Hall – Council Chambers
219 E. Historic Columbia River Hwy.
Troutdale, OR 97060-2078

Tuesday, September 30, 2014

1. ROLL CALL, AGENDA UPDATE

Mayor Daoust called the meeting to order at 7:01pm.

PRESENT: Mayor Daoust, Councilor Ripma, Councilor Anderson, Councilor Thomas, Councilor Allen, Councilor Wilson and Councilor White (7:17pm).

ABSENT: None.

STAFF: Craig Ward, City Manager; Debbie Stickney, City Recorder; Shelby Rihala, City Attorney; and Erich Mueller, Finance Director.

GUESTS: See Attached.

Mayor Daoust stated for your information I have a copy of a report from the Oregon High Intensity Drug Trafficking Area (HIDTA) which is a threat assessment report that focuses on Multnomah County and the surrounding counties. This report talks about heroin use, marijuana use, cocaine, controlled prescription drugs, and methamphetamines. It shows the trends on what is happening with treatment admissions for heroin and marijuana use, which counties have treatment admissions and how many drug impaired driving arrests there have been in Oregon from 2008 to 2013.

2. PUBLIC HEARING / ORDINANCE (Introduced 9/23/2014): An ordinance adopting a new chapter of the Troutdale Municipal Code, Chapter 3.35, "Marijuana Tax".

Mayor Daoust read the ordinance title.

Shelby Rihala, City Attorney, stated this ordinance is proposing a 5% sales tax on gross receipts on the sale of medical marijuana and 10% gross receipts tax on the sale of recreational marijuana. This is in anticipation of Measure 91 on the November ballot. If that measure passes it contains a preemption clause. The goal or hope of many cities is that by adopting this tax prior to the potential passage of the measure that we would be able to grandfather in the tax if the measure is passed. This ordinance is similar to what has been adopted in several other cities and is an attempt to preserve your ability to tax this product.

Councilor Anderson stated Section 42 of Measure 91 says, "State has exclusive right to tax marijuana. No county or city of this state shall impose any fee or tax, including occupation taxes, privilege taxes and inspection fees, in connection with the purchase, sale, production, processing, transportation, and delivery of marijuana items." If this Council passes this tax tonight, are we putting ourselves at risk for a lawsuit, and will this tax, by the very language I just read, be overturned?

Shelby Rihala replied it is possible to both of those questions. The preemption language has not been tested and it will have to be tested someplace if the measure passes. It could be tested through litigation, it could also be ratified or modified by the State Legislature. There are several cities who believe that even if the measure passes the legislature may act to grandfather in that language or to allow an exception for cities that already have it in. I answer with a probably because I can't guarantee either way, but it is possible.

Councilor Anderson asked in your professional legal opinion is this Council taking an unnecessary risk in terms of the dollars that could potentially be spent in a legal challenge that we would have to pay?

Shelby Rihala replied I certainly don't think it is an unnecessary risk. As we discussed last week, if the City was legally challenged you could simply repeal the ordinance and there would be no legal challenge.

Mayor Daoust stated it is pretty clear that if Measure 91 passes the timing is such that no city could have the right to tax, so the window is open right now for those cities that choose to do so. Whoever is going to challenge this wouldn't just challenge Troutdale, they would challenge all of the cities that are imposing a local tax. The risk is there but it seems low if we can just repeal it and remove ourselves from the threat.

Councilor Anderson stated, Section 58 reads, "Marijuana laws supersede and repeal inconsistent charters and ordinances. Sections 3 to 70 of this Act, designed to operate uniformly throughout the state, shall be paramount and superior to and shall fully replace and supersede any and all municipal charter enactments or local ordinances inconsistent with it. Such charters and ordinances hereby are repealed." With the passage of this it negates whatever we do tonight by my reading, but I am not a lawyer. What is your take on that Shelby?

Shelby Rihala replied in the preemption analysis the court decisions typically focus on whether it is it in direct conflict with the state action, or is there language expressly stating that the local provision is to be repealed. Several cities have taken the position, and I agree, that the language is not in direct conflict and you can have a local sales tax and a state sales tax. There is no direct conflict; they can operate jointly together. The other question then is, is there expressed language. Several cities have also taken the position that the language, while it does appear to be expressed, it could also be that "shall" refers to future enactments in terms of Section 42. So the state "shall" have authority, no city "shall" pass. One argument is that that is only referring to future and that would preserve

the cities who have already enacted one; it would grandfather in those. In terms of a preemption analysis the second question is can a ballot measure even do that in terms of repealing a home rule city's enactments. Ordinances are a little wishy-washy; repealing a charter provision is a pretty substantial grant of authority that most city attorneys say that the legislature can't do.

Councilor Anderson stated this isn't a charter amendment, this is an ordinance so it is in the wishy-washy area.

Shelby Rihala replied correct. But in terms of does the legislature or the voters have the ability to do this, it is going to be a question of home rule authority.

Councilor Thomas asked how can a ballot measure override existing state and local laws? I don't know of anything in the past where that has happened. In some cases if you have multiple things on a ballot measure sometimes the whole ballot measure ends up getting tossed out because they are supposed to be specific to one issue. It may be the case here where it is specific to the one issue. That part doesn't concern me as much as getting things in place before a ballot measure goes into effect. I also understand that cities have the right, if they want to, to impose a sales tax. Doesn't that kind of fall into that scenario where we have the authority to impose a tax if we want to?

Shelby Rihala replied yes. Cities have the ability to tax. There is a wide variety of case law in terms of the fact that cities have this ability.

Mayor Daoust stated this does fall into the home rule authority. If we were to pass an ordinance that said we will not allow recreational marijuana use or sales within our city that might conflict with what people are voting on. That may be what they are referring to here, because the State of Oregon is going to tax, local cities can tax. That is not necessarily opposite.

Shelby Rihala replied exactly. The state hasn't occupied the field of regulation such that cities have no room to be there; the two can operate jointly. In terms of preemption language, it is a home rule question because it is not clear where that boundary is going to be.

Mayor Daoust stated there is a lot of uncertainties with all of this. The whole marijuana arena has so many uncertainties coming in the future that it really is hard to predict how things are going to turn out. Whether it would do us any good to tax or not tax, it is kind of a question in my mind of taking advantage of an open window that is given to us right now. Maybe it will do some good for the city.

Councilor Anderson stated I get that Mayor. I just can't get there debating the merits of Measure 91. The merits in front of us are whether we want to tax the substance prior to the vote of the people. Shelby, can you explain how the state shared revenues work with this?

Shelby Rihala replied the way the ballot measure is proposed is that 40% would go to the common school fund, 15% to Oregon State Police, 20% to addictions services, 10% to cities and 10% to counties. For the first year of operation the cities and counties portion goes on a per capita distribution, after that it is based on the number of retail, wholesale and grow operation facilities in the city.

Councilor Anderson stated at our last meeting Mayor Daoust and Councilor Allen pointed out, in my estimation correctly so, that the cost of enforcement will go up if Measure 91 passes. Hypothetically, if the citizens of Troutdale wanted to procure marijuana in 2017 and we pass this tax and Wood Village does not have a tax, the citizens of Troutdale would go to Wood Village to get their marijuana drive back through Troutdale where our officers have to enforce any DWI's and we wouldn't have the revenue to support the extra enforcement. Would I be accurate?

Shelby Rihala replied that is a policy question, but it makes sense.

Councilor Thomas stated looking at it the other way it doesn't seem like we would get a lot of revenue from the state at 10% to help with the enforcement. Either way enforcement costs will go up.

Shelby Rihala stated if Troutdale has no facilities then you will get no revenue under the state policy. The timing of this is based on the presumption that Measure 91 will pass. If Measure 91 doesn't pass this ordinance will still apply to medical marijuana, which the State Legislature has expressly said that cities have to allow. That will be a discussion at the next legislative session in terms of the kinds of restrictions, and can cities outright ban them. But in terms of the taxing that hasn't been addressed by the legislature at all. If Measure 91 fails, this still sets you up for taxing medical marijuana and should the legislature wish to impose a tax next legislative session on medical marijuana we would also preserve our authority right now to be grandfathered in should that happen.

Councilor Thomas stated we still have the issue with the medical marijuana that we tabled for a year and this might resolve some of that issue at the same time.

Mayor Daoust stated we learned some interesting things at the League of Oregon Cities (LOC) Conference last weekend. We learned that the State of Washington has what you could call a 75% tax rate. They raise 25% at the producer level, another 25% at the wholesale level, and a third 25% tax at the retail level. That is what I understood is happening in Washington, and they are still receiving applications for medical marijuana facilities and retail locations. It is an ambitious market. There have been a lot of projections on the millions of dollars that are going to come into the cities and states because of that. Colorado's tax rate is 25%. They have a wholesale tax rate of 15% and they add another 10% at retail. However much tax revenue marijuana generates, you could say that it is money that would have otherwise ended up in the black market. So what we are trying to do is capture some of that money that would be in the black market. That is one way to look at this. It is true that other cities are talking about a 5% to 10% tax rate. Most of the cities are in that ballpark. I understand that Fairview will be looking

at a 100% tax rate. If we are allowed to change the tax rates later there could be some leveling between cities with consideration as to what is going on in all of East Multnomah County to try and not pressure the market into certain locations. If we have a lower rate than Fairview we may need to talk amongst the cities and try to level out the playing field a little more so that one city doesn't get more pressure than the others in terms of who locates in our city. In talking with most of the Mayors in the Portland Metro area they are focusing around the 5% to 10% just like we are.

Shelby Rihala stated to the question of can we raise the tax in the future, that is also going to be an uncertainty as of right now. If it is grandfathered in and either a court or the legislature affirms our ability to implement the tax but says that it is grandfathered in, it would be very unlikely that we could raise the tax, but it would make sense that we could lower it. At this point raising the tax seems less likely than lowering it.

Councilor Allen stated this last week has been full of discussion and I appreciate those that have shared constructive viewpoints with me. There are strong opinions on both sides. I have gleaned the following from those discussions. Upon legalization I expect usage to rise approximately 20%. Due to a number of factors and the lack of good data nobody really knows. I also expect to see an increase in abuse. There are social and health issues similar to other altering substances when taken in excess or in combination with performing physical tasks. This will no doubt have a negative impact on our city regardless of whether or not this tax is approved. Measure 91 has a shared revenue taxing aspect and some already have concerns of it being too high. This matters because if you tax too high then the hopeful impact of reducing illegal sales is dampened. This hopeful impact is also reduced if demand increases faster than supply. Whereas legal sales are likely to attract more customers, illegal sales are more likely to attract violence and free samples, or more problematic drugs. It is uncommon to see theft connected with marijuana, whereas theft is commonly linked to other types of illegal drugs. When it comes to a city tax, I see increased overhead for the city and we will need to create a mechanism to collect the tax. I wish the problem of substance abuse didn't exist. The fact is that it does and I think the city tax may have more down side than up.

Councilor Wilson stated marijuana is already out in the black market, you can't make it any deeper than it already is. I think this will be a mechanism that will cause less because you can't drive it any more than it is already driven. This is a gateway drug and it is going to be a problem for the city. We are going to need a way to address it and a tax on it will help to address that issue for training and other things that our police force may need. I don't see it going any further in the black than it already is because you are legalizing it at this point.

Councilor Ripma stated whether the legalization is going to cause more or less usage, even that is speculation. Marijuana has been illegal my whole life and that hasn't stopped anybody from using it. The idea that it might cause this or that is speculation. You are entitled to your opinion. If what you meant by causing more problems, if you mean legalization I can't deny it, I can't prove it or argue against it. But if you mean taxing, putting a sales tax on it, I say we would be doing wrong by our citizens if we don't pass it

now while we can. We can always repeal it if it's a problem but we probably couldn't enact it later. That is why I am supporting it. I am glad the Mayor brought it forward quickly and we are having this special session. I can't prove or disprove that it is going to be good or bad or bring in revenue or not, but we have a window and I think we wouldn't be doing right by the citizens if we didn't try. If we don't pass it tonight we won't be able to later.

Councilor Anderson stated I appreciate that Councilor Ripma but we aren't going to know the answer to this until probably November 12th. What if the citizens of Troutdale vote to legalize marijuana only to find out that two weeks prior the Troutdale City Council decided to put a preemptive tax on it, what are we going to tell people? You say we owe it to the citizens, what if they vote to legalize it? We don't know.

Councilor Ripma stated I actually have no guess as to whether the people here would vote for it or not. Whether we impose the tax is still independent of that. Just because they want it legalized doesn't mean they are against having this modest tax, in my opinion. It will help revenue if there in fact is any revenue derived from it. If it turns out we don't need the money we can always repeal it. Everyone is flying kind of blind on this. I see no harm in imposing the tax on the chance that it will help.

Councilor Anderson stated in the world of the free market if you place a tax on something in one city and there is no tax in another city, the vendors of the product are going to go where they can get the best deal and make the maximum profit. That is what this is; this is capitalism. If we have a 5% or 10% tax and Wood Village has 0% and Fairview has 100%, where are the marijuana sellers going to go? Probably Wood Village where they are on record saying that they want to make this part of their economic development. Again, it comes back to what I said earlier and what Mayor Daoust and Councilor Allen pointed out, there is no denying that the cost of enforcement is going to go up. As Councilor White pointed out there has been a 45% increase in DWI's in Seattle. It costs more money to enforce and if we pass a tax we are not going to get the revenues. We will get them for a year or two, but we are not going to get them in year three and beyond. We need to pause and think about that and not debate the merits of Measure 91, we will have time to do that on the 20th of October when the ballots go out all the way up to the 4th of November; that will be the time and place for that discussion. Are we taking an unnecessary risk by putting a tax on it? Are we opening ourselves up for a potential lawsuit? And, if we do impose a tax we are putting ourselves at a disadvantage on enforcement that everyone says will cost more money. No matter how we feel about the issue itself, that is not the question here, the question is what do we do with it if it passes? Lets take our activists hats off and put our business hats on and think about this from a business perspective.

Mayor Daoust stated I am thinking of it from a business perspective. I have to respectively disagree with some of your assumptions. I don't think locations of where potential sellers could be will be directly related to a 5% to 10% sales tax. They are going to go wherever they are needed to go. If we have sites in Troutdale where we allow them, I don't think a 10% tax is going to keep them out when you look at the millions of dollars they are going to make selling marijuana. As much as we think a 5% to 10% tax may be restrictive, I

really don't think it will be when it comes to locating sellers. One thing I do know is that the people in this city are more concerned about public safety and law enforcement then they are about whether we put a 10% sales tax on marijuana. If we, as a Council, said we will let this go and we will not collect our own taxes which most of would go towards public safety, I would agree with Councilor Ripma, I think even if our citizens do vote to approve recreational use of marijuana it is not related to the fact that we can tax what they buy. I don't think the two are related; it is two completely different arguments and two separate issues. I don't see the down side there. I don't see the connection that you are making. You are making the connection that if people want recreational marijuana they don't want us to tax it; I don't see that as an argument that our citizens would make. I think our citizens would make the argument, those that want to pass it, let us have our marijuana but protect us also; give our police some more funds to do their job. I don't think they are exclusive of one another.

Councilor Allen stated your statement makes a lot of sense to me when we are talking retail locations. Ms. Rihala, what would be the combined tax of the state and local tax if we pass this?

Shelby Rihala replied I actually can't answer that because the state tax is at a per ounce rate as opposed to gross revenues. The tax is $35 an ounce on leaves, and it is taxed differently for flowers, and differently for oils. But $35 an ounce is the highest tax rate.

Councilor Allen stated what I am thinking about is at what point is the tax high enough that instead of going to retail locations you just go to the same person you are seeing today? You are more likely to be able to control what else is sold at a retail location, whereas the person you are seeing today maybe that is all they sell and maybe not.

Councilor Wilson stated Washington set a 75% tax and the people are still lining up to open up retail stores. Obviously that is not a deterrent, so if the amount is 45% I don't see how that is going to be a deterrent.

Councilor Ripma stated this is all speculation. The reason I am favoring going forward with this is because it preserves our options. We can debate this after we find out how it works. If we don't pass this now we won't be able to. The down side risk is small. If we find ourselves faced with lawsuits we can repeal it. But we can't do it if we don't pass this, and we have to pass it tonight if we are going to do it. It is the way to preserves our options, and then consider all of the ramifications that you are bringing up as possibilities; I can see that they are possibilities. But we won't have the chance if we don't act.

Councilor Allen stated so you are saying if it doesn't go well we rescind it.

Councilor Ripma replied exactly. Or if it turns out to be worse; it could turn out that retail space causes more problems, users and growers don't, and we still get revenue. There are all kinds of scenarios that wash the opposite way of what you were speculating Councilor Anderson, but we won't have the chance to adjust to what the circumstance ends up being if we don't act.

Councilor Anderson stated I get what you are saying Councilor Ripma. And Mayor your argument was very articulate and passionate and I too commend you for bringing this forward because we need to have the discussion. We have a limited window, I understand that. I am listening to what everyone is saying.

Mayor Daoust opened the Public Hearing at 7:40pm.

Diane White, resident, stated I attended two sessions at the LOC Conference pertaining to marijuana. One was on the potential legality in the State of Oregon and the other one was the State of Washington and where they are at. The City of Kirkland, Washington adopted dispensaries as it was written and thought they would be fine. As time progressed, and they were trying to figure out location dispensaries and ramifications of adoption itself, they were finding that it was basically a moving target. They are having to continuously adjust without seeing the whole ramification from the whole picture. I am recommending that you do impose a tax because Washington is going to be dealing with that learning curve for quite a while and I think we are too. Hearing all of the lawyers talk at the LOC Conference, they have no clue what is going to happen or how it will all settle and how it will work out. I do like the idea of the Mayor partnering with our sister cities and imposing a tax. We could even allocate 5% to public safety and 5% to public health. When gambling became legal we began to see all the repercussions of people that have gambling issues and how it affects their family. We are going to see a lot of that here. We are not going to be able evaluate the consequences of legalized marijuana; we just don't have that data and we are not going to know. If we do impose a tax we can designate a portion to public safety and public health for things that we can foresee at this time. Like was said it can be rescinded later if it is a burden, hardship, or has intended consequences that we can't foresee at this time. Just knowing that we have no clue what is ahead of us, I recommend that we adopt the tax and we can always rescind it.

Paul Wilcox, resident, stated at the first reading of the ordinance last week, the Mayor and at least a couple of Councilors seemed to indicate that the main purpose of the tax is to discourage marijuana retailers, both recreational and medical, from locating in Troutdale. If the idea is to send a strong, unequivocal message that marijuana outlets are not welcome in Troutdale, perhaps the tax rate should have been much higher, such as 50% or even 100%. However, the 10% and 5% rates may be sufficient since nearby Wood Village will not be levying a similar tax, shifting sales one mile west. The argument was also presented that the tax was needed to fund the possibility of additional workload on local law enforcement. The deficiency here is that nowhere in the ordinance is it stated that the funds collected are specifically earmarked to support local law enforcement, address mental health issues, or any other negative impact of local retailers. In other words, taxes collected will end up in the general fund. Of course Section 42 of Measure 91 specifically prohibits cities and counties taxing marijuana sales, so any local ordinances passed prior to the vote would undoubtedly be challenged in court in the event that the measure passes, particularly in light of the fact that revenue-sharing with the cities and counties is an integral part of Measure 91 itself. Section 44 of Measure 91 spells out how the state collected taxes will be distributed. On the law enforcement front, 15%

is allocated to the state police, 10% to city law enforcement, and 10% to county law enforcement according to the relative population initially. My reading of paragraph B seems to indicate that in July 2017 half of the city and county allocation will be dependent upon the actual number of retailers in each city and county. This would result in a reduction of state shared revenues if a city did not have any licensed retailers.

Marianne Daoust, resident, stated over the past ten years I have had quite an opportunity to become involved in research on topics related to addiction, addiction centers and insurance provider issues with kids and teens going into treatment. I also sit with parents in a group in East Multnomah County called Parents of Addicted Children Together (PACT). In that group we share a lot of information and we welcome people in the community who are having challenges with family members or children who have become addicted. The reason that Mayor Daoust has the High Intensity Drug Trafficking Area Report is because I handed it to him before he came to the meeting tonight. There is plenty of information to show that drug use does increase and has increased especially when they went from medical locations to what are now full-blown recreational legalization. There are all kinds of issues that they are starting to track in the State of Colorado. I feel there are so many unanswered questions with this issue and I can't help but think that we are rushing into this. I feel like we are being reactive tonight. I understand there is legal pressure to decide whether you should tax or not, but I think there are so many issues that are going to be unresolved. I would like to ask the attorney, what about the feds? Marijuana is illegal, so what do you know about what could happen and what kind of risk is there to the city to move forward?

Shelby Rihala replied right now the Federal Administration is taking the position through memos and policy guidance that they are not going to take any enforcement action against any state that has legalized recreational or medical marijuana. This is subject to change with the administration; it is what we are going off of now but it could change in the future. In terms of the risk to the City, I see very little in terms of the federal enforcement. One of the speculations is that if the feds decided to go after cities it would be through the form of grants, specifically cop grants, law enforcement type grants. If there was a city that was seen as supporting marijuana use or encouraging it they might withhold grant money from them. I think that is hypothetical and far in the future in terms of where this administration is right now. The consensus among city attorneys is that there is very little risk of that. Again it is something that you could change in the future if the feds took a position that a tax was encouraging the use.

Marianne Daoust stated I think the reason that you are saying there is no risk at the feds is because it is highly unlikely that they have the resources to enforce this. From what I understand that is part of the problem they are having in Washington; people are not coming out of the woodwork to enforce this because they don't have the resources. All of these retail shops and everything else will fall on the local economies. There is plenty of data in this report to highlight the increased substance abuse, addiction, and treatment centers that are basically lining people up specific to marijuana. This is an important report because it showcases all drugs. I find it premature to be having this conversation. I think we have a lot more work to do as a community before we just act as though we are legally

required to do something or not. I know that we can make money off of it and I know that the cities will make money off of this, but I don't necessarily ethically think it is the right thing to do. It is only because there are so many issues, including youth access. We have a community full of drug policies. Mt. Hood Community College has a drug policy, they also have a no smoking policy. The Metro region has policies that require high density housing in certain areas, so there is also the additional problems of planning with high density locations and how people are living in these dense areas and where are they going to smoke? In their backyards and homes. If you are 21 and older and you are not a parent, you probably will be a parent. The access to children will increase, I believe. Most of the parents in East Multnomah County who are in these groups will tell you that marijuana is a gateway drug; it is everywhere. So are so many other drugs. I encourage people to take a look at this report. It highlights not just marijuana but everything else that police on the frontline are dealing with, and the parents. It is a serious matter and I think you need a task force; a committee of people that can analyze and look at this. I think it is too soon. I know you feel like you have to do this tonight. I wish we had more time and I wish things were different. I wish we were talking about something that was pro public health and safety; an initiative that I can feel really good about. I don't feel good about any of this and I doubt any of you do either. I think we need to do a little more homework. I would ask each of you to take a look at this report and see what your police are dealing with on a daily basis. You think you are going to make money? The cost of addiction services is very high. We have people in the community that don't have health insurance. Even with health insurance addiction services are very high. State budgets are already being drained by these services. I want you to be aware that it is not a simple discussion about taxes tonight. It goes very deep into your community. There are good people out there affected by drug trafficking. It affects our schools. I wish you could take more time before you decide on this. I wonder if you could do nothing and what would happen.

Councilor Allen asked does this report show a raise in all drug use or just in marijuana use?

Marianne Daoust replied this is a very comprehensive report. What I made a copy of was just the marijuana section.

Mayor Daoust stated what it does show is a raise in heroin use.

Marianne Daoust stated there are arguments being made that the criminal justice system can't house people or they don't have enough space. The criminal justice system doesn't have space because, I believe, the increase in other drug use. There are so many drugs out there that we are not going to lock people up for marijuana. Please read this. There is plenty of evidence to show the effects of drugs on our community.

Mayor Daoust closed the Public Hearing at 7:56pm.

Councilor White stated my main reason for taking a very serious look at this issue is the fact that we have the state's largest high school within our boundaries. I really think Troutdale should do anything in its power to keep marijuana out of the hands of those

kids. They are our biggest risk group. Several of the cities are going with the stance that they were going to follow their oath of office which says they would not violate state or federal law and they would not allow marijuana to be sold within their city. We have to ask ourselves tonight if that is something we want to look at doing. Is this tax simply a deterrent? If that is your reason for voting for this maybe we take it a step further and say Troutdale is a bedroom community with two big schools, Mt. Hood Community College and Reynolds High School, and maybe we just make a statement to the world that says we don't want it in our town. I am okay with that. As far as working with the three cities, I know that Fairview is pursuing a 100% tax. Wood Village unfortunately has a charter problem and they are not able to impose a tax at all, so they have chosen to go the opposite direction and embrace the revenue stream. I say we keep it out of Troutdale. I think it will degrade our city. It will lower our property values and I think we should set the example and keep it out of our city limits.

Councilor Thomas asked is Gresham looking at this?

Mayor Daoust stated they do have a sales tax ordinance but they are setting it at 0% for now.

Councilor Ripma stated the tax is not to make money, at least that is not why I am voting for it. It is not to promote marijuana. I am sure that there are a lot of good reasons to keep it illegal and not pass Measure 91, but we are the City Council for Troutdale and we need to try to thread this line and do what is best for the City. We are not voting for this tax to promote marijuana or to make money. Those of us who favor it have our reasons but mine is to preserve an option. It would be nice if we could have focus groups and discussions, but either we act now or we will lose our ability to have that flexibility to decide whether it is a good thing or not. That is not our doing, it is not artificially imposed, it is just a creature of state law and the way this initiative is written and the way the system works. We are not doing right by the citizens if we don't pay attention to that. Act when we can and preserve our options, preserve our home rule rights, and for that I am afraid it means passing this. I don't think any of us are happy about it, but it is the right thing to do.

Mayor Daoust stated addressing what Councilor White brought up, we will actually have a much more affective way later when we deal with the moratorium we have in place right now. As a Council we will most likely decide before May 2015 what we want to do as far as any restrictions on outlet stores that sell marijuana. That is when we can decide to nail it down and if we so chose to say that we don't want it in our city, that will be the time that we do that. This is just a 10% sales tax. We have a lot more work in front of us to deal with this marijuana issue than just tonight. We have to deal with a much bigger issue before May of what we want to do with locations and how many locations we have in the City. That is when we will address it.

Councilor Thomas stated I was under the impression that under the moratorium we couldn't actually stop them from locating in Troutdale. Personally I am not in favor of marijuana, but when I look at this we need a way to help recover our costs. We can say

it is all dedicated to police, but considering that most of our general fund is used to support fire and public safety, that is pretty much where it goes. How do we take care of the additional resource needs that will be needed to direct people to the resources that Ms. Daoust was talking about? That is all police and staff time and right now we only have a couple of School Resources Officers mostly funded by the school district but we help offset some of that. Those are people that we are going to need to have in the schools and other areas to help funnel these people to organizations that can help them. The City isn't set up to take care of them. The only real viable option that we have in the City is to direct them to the County and other resources that are available, but that takes resources on our end to put that stuff together so that we have the people there when they encounter the situations to try and help. Nobody is going to get help if they don't want it.

Councilor Anderson stated to the argument that we don't want it in our town. As individuals we can say that, as a governing body we can't, it's not our place. If we say something like that we stand a very high chance of being litigated against and losing. Who can say that though are the property owners in the private sector. They can determine who they want in their buildings; they do now and they will always have the ability to do so. Secondly, and this is very important to point out because we are talking about the broader issue then Measure 91, polls have shown support of this measure eroding especially in the last month. It is a steady erosion of support for this issue. We all know about off-year elections and voter turnout in off-year elections and who turns out and who doesn't. Let's keep that in mind, I certainly am.

Councilor Allen stated I can attest to what Councilor White said, as this becomes more prevalent it becomes more accessible to children. In my own family my daughter was given a medical marijuana cookie and it was a multi-dose cookie and she ended up in the emergency room. It does have an effect.

Mayor Daoust stated we can determine our use of the tax funds. I saw an example at the LOC meeting where the City of Beaverton took on a drunk driving program that they fund. If we feel it is important in Troutdale that we do something at the high school level to prevent as much as we can, or have some kind of a program ourselves, maybe we can think about stuff like that if we have our own local tax.

MOTION: Councilor Wilson moved to pass an ordinance adopting a new chapter of the Troutdale Municipal Code, Chapter 3.35, Marijuana Tax. Seconded by Councilor Ripma.

Councilor White asked would you consider a friendly amendment? One of the things I learned is that in Washington by taxing medical marijuana at a lower rate they were creating a market. It is very easy to get a medical marijuana card. People are buying the medical marijuana and then reselling it. My amendment would be to make both the medical marijuana and the non-medical marijuana taxed at 10%.

Councilor Wilson stated I think right now we need to be in-line with the other cities. I would not accept the friendly amendment.

Councilor Thomas stated you can make a formal amendment.

MOTION TO AMEND: **Councilor White moved to amend the motion adopting a new chapter of the Troutdale Municipal Code, Chapter 3.35, Marijuana Tax, amended to have the tax on medical marijuana be equal to the tax on non-medical marijuana. Seconded by Councilor Thomas.**

VOTE ON MOTION TO AMEND:
Councilor Wilson - No; Councilor Ripma - No; Councilor Anderson - No; Councilor Thomas – No; Mayor Daoust – Yes; Councilor White – Yes; Councilor Allen – Yes.

Motion Failed 3-4.

VOTE ON MAIN MOTION (without the amendment):
Councilor Wilson - Yes; Councilor Ripma - Yes; Councilor Anderson - No; Councilor Thomas – Yes; Mayor Daoust – Yes; Councilor White – Yes; Councilor Allen – Yes.

Motion Passed 6-1.

3. ADJOURNMENT:

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

Meeting adjourned at 8:11pm.

Doug Daoust, Mayor

Dated:

DRAFT

ATTEST:

Debbie Stickney, City Recorder

CITY OF TROUTDALE
CITY COUNCIL – Special Meeting
Tuesday, September 30, 2014

PLEASE SIGN IN

Name – Please Print	Address	Phone #
PAUL WILCOX	TROUTDALE	
Diane Castillo White	1275 E Historic Columbia	503-888-1405

PROCLAMATION

The Springwater Area

DRAFT

WHEREAS *Troutdale's parks, green spaces, natural areas, water ways, flora and fauna are vitally important to sustaining the way of life in the City of Troutdale. Individual health and wellbeing, community livability and economic vitality are all connected to these vital resources; and*

WHEREAS *Troutdale's healthy natural infrastructure is important to our ability to fight chronic disease, and to improve the mental and emotional health of our residents; and*

WHEREAS *The rich natural resources contained in our parks, green spaces, natural areas and water ways support the economic prosperity of the City of Troutdale through increased property values, increased tourism, and the attraction and retention of businesses that support our local economy; and*

WHEREAS *The citizens of the City of Troutdale rely on parks, green spaces and natural areas for water and air quality, erosion and flood control and to provide green zones to buffer development and protect habitat for wildlife; and*

WHEREAS *These significant natural resources should be protected and sustained through partnerships and collaborative efforts that increase ecosystem health, improve access and utilize resources wisely; and*

WHEREAS *The City of Troutdale recognizes the designation of the "Springwater Area" as an environmentally contiguous system that supports these commitments while building toward a higher level of regional stewardship and protection; and*

WHEREAS *The "Springwater"' designation will assist community volunteers in their efforts to enhance community involvement in ecosystem health, stewardship of natural areas and support greater access to parks, trails and natural areas now and into the future.*

NOW THEREFORE, *I, Doug Daoust Mayor of the City of Troutdale, Oregon, hereby recognize the "**Springwater Area**" and its regional environmental designation in support of volunteer efforts to protect our way of life through the stewardship of natural resources and in so doing, support citizen health and wellbeing, healthy outdoor activities and the growth of our local economy.*

DRAFT

Doug Daoust, Mayor
Dated this 14th Day of October, 2014