

RESOLUTION NO. 2037

A RESOLUTION OF THE CITY OF WILSONVILLE OPPOSING THE 2007 LEGISLATURE'S PROPOSAL TO CAP PARK AND NEW SCHOOL SDCs.

WHEREAS, a sufficient supply of park and open space land is critical to maintaining and improving the high quality of life, livability, and standard of living enjoyed by the members of our community; and

WHEREAS, park and open spaces provide crucial opportunities for health-enhancing recreation for all ages, interaction with nature, and natural buffers between differing urban uses; and

WHEREAS, a well planned system of parks and open space not only has been proven to increase property values, but also are important factors in attracting new businesses and jobs to our community; and

WHEREAS, the City of Wilsonville has for many years worked in conjunction with the West Linn-Wilsonville School District to develop community/school park areas (ball fields at Boones Ferry Primary School, and Wood Middle School field improvements) using park SDCs for project construction; and

WHEREAS, as our community grows in population, it is crucial to increase the amount of park and open space land to maintain levels of service for both existing and new residents; and

WHEREAS, system development charges (SDCs) have been used in Oregon since 1989 as the most significant revenue source for local governments in acquiring new park land and constructing new park and recreation facilities; and

WHEREAS, all SDCs are based upon detailed park master plans for the future that have been adopted by local elected officials after public hearings to receive input from community residents; and

WHEREAS, the City of Wilsonville has identified two school/community park projects (Frog Pond Community School Park and a community park developed in association with a planned elementary school within Villebois) identified as eligible for Park SDC funding in the City's updated Parks and Recreation Master Plan; and

WHEREAS, all SDCs are further based upon local analyses of projected population growth, increases in the number of households, and localized costs for real estate and construction; and

WHEREAS, opportunities currently exist for those who wish to challenge not only the analysis upon which any SDC is based, but also any expenditure made from SDC revenues; and

WHEREAS, statutory changes are being discussed by the 2007 Legislature which would place a cap on the amount that could be charged by any local government for existing park SDCs and new school SDCs; and

WHEREAS, such a cap would seriously frustrate the ability of park providers to achieve the objectives of their adopted park master plans and maintain service levels as population growth occurs; and

WHEREAS, a cap on park SDCs would force park providers to seek additional general obligation bond measures as the main alternative to maintaining service levels, and in so doing, causing existing property owners to unfairly pay for burdens imposed by new development; and

WHEREAS, a combined cap on park and school SDCS will not only create significant problems in collection and distribution of funds when multiple districts overlap, but also cause potential conflicts between park providers and school districts in the allocation of such funds; so therefore

NOW THEREFORE THE CITY OF WILSONVILLE RESOLVES AS FOLLOWS:

1. The City Council hereby opposes any legislation that would limit the ability of local elected officials to adopt a park system development charge based on park master plans unique to their own particular area and which are tied to estimates of population growth, along with the actual costs of local real estate, labor, and construction materials; and

2. The City Council will communicate their opposition to such legislation to our elected Representatives and Senators, and urge them to vote against any bill that would limit the ability of local elected officials to adopt a park system development charge based on park master plans unique to their own particular area and which are tied to estimates of population growth, along with the actual costs of local real estate, labor, and construction materials.

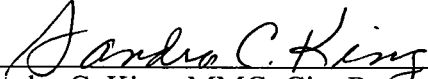
3. This resolution becomes effective upon adoption.

ADOPTED by the Wilsonville City Council at a special meeting thereof this 21st day of February, 2007, and filed with the Wilsonville City Recorder this date.



Alan Kirk, City Council President

ATTEST:



Sandra C. King, MMC, City Recorder

SUMMARY OF VOTES:

Mayor Charlotte Lehan - Excused

Council President Alan Kirk - Yes

Councilor Tim Knapp - Yes

Councilor Michelle Ripple - Yes

Councilor Celia Núñez - Yes

MEMORANDUM

To: City Council
Fr: Peggy Watters
Community Services Director
Re: Resolution No. 2037

February 14, 2007

The Oregon Recreation and Parks Association is requesting action of local agencies in opposition to the 2007 Legislature's proposal to cap park and new school SDCs. Although schools and parks are frequent partners, they by their nature serve the community in very different ways. Senate Bill 45 – seeks both combined school and park SDC charges and a cap on fees.

Wilsonville is especially rich in the quality of park lands and will continue to seek park and open space development to meet the demands of future growth. Quality products will depend on sustainable funding. Park development is by its very nature different from the development of school property. The general public utilizes the services of the school district only during distinct segments of their lives – either as a student or as a parent of a school age child. Parks and open space on the other hand is an amenity that is available to the general public at any time during their residency. With this in mind, there is ample research to support the value of parks and recreation to a community such as:

Parks and Recreation services positively economic impact the community by:

- Increasing property values, and property taxes of residents in close proximity to parks and recreation services
- Increasing tourism and retail sales, brought in by sports tournaments and other special events
- Attracting retirees, who have a high level of discretionary income
- Attracting new businesses, increasing the tax base, and encouraging employees to move to town due to a high quality of “Lifestyle amenities.”

David Compton, The Proximity Principle

The update of the Parks and Recreation, Bicycle and Pedestrian and Transit master plans positions the City of Wilsonville to develop its parks and recreation services with the specific demographics of this unique community in mind. Resolution No. 2037 will voice the Council's opposition to legislation that would limit SDC charges across the board, rather than maintaining SDC rates based on the master plans of each unique community.

Wilsonville's policy has been that SDC's would ensure equitable cost sharing of parks and open space....this bill would severely limit the ability to develop growth opportunities for the future. We are currently conducting a study of SDC rates in Wilsonville. The results of this study will indicate the unique demographic qualities of this community related to public facility values.

Your adoption of this resolution will be communicated to the Oregon Recreation and Parks Association and Western Advocates Incorporated. These organizations continue to work diligently for the benefit of parks and recreation throughout the state.

Respectfully,
Peggy Watters
Community Services Director

SB 45

Parks/Schools System Development Charges: Authorizes a schools system development charge (SDC) as a component of a parks and recreation SDC. Caps the level of parks/recreation/schools SDCs at an unspecified amount. Requires that school facilities funded with SDC fees be adjacent to a park or recreation facility and be made available for public use. (By the Senate Commission on Educational Excellence)

74th OREGON LEGISLATIVE ASSEMBLY--2007 Regular Session

NOTE: Matter within { + braces and plus signs + } in an amended section is new. Matter within { - braces and minus signs - } is existing law to be omitted. New sections are within { + braces and plus signs + } .

LC 1285

Senate Bill 45

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Commission on Educational Excellence)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure as introduced.

Authorizes system development charges to fund capital improvements for schools that are made available for public recreation uses. Limits amount of system development charges that local government may collect for parks and recreation and schools.

A BILL FOR AN ACT

Relating to system development charges; amending ORS 223.299, 223.304, 223.307 and 223.309.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 223.299 is amended to read:

223.299. As used in ORS 223.297 to 223.314:

(1)(a) 'Capital improvement' means facilities or assets used for the following:

(A) Water supply, treatment and distribution;

(B) Waste water collection, transmission, treatment and disposal;

(C) Drainage and flood control;

(D) Transportation; or

(E) Parks and recreation { + and schools + }.

(b) 'Capital improvement' does not include costs of the operation or routine maintenance of capital improvements.

(2) 'Improvement fee' means a fee for costs associated with capital improvements to be constructed.

(3) 'Reimbursement fee' means a fee for costs associated with capital improvements already constructed, or under construction when the fee is established, for which the local government determines that capacity exists.

(4)(a) 'System development charge' means a reimbursement fee, an improvement fee or a combination thereof assessed or collected at the time of increased usage of a capital improvement or issuance of a development permit, building permit or connection to the capital improvement. 'System development charge' includes that portion of a sewer or water system connection charge that is

greater than the amount necessary to reimburse the local government for its average cost of inspecting and installing connections with water and sewer facilities.

(b) 'System development charge' does not include any fees assessed or collected as part of a local improvement district or a charge in lieu of a local improvement district assessment, or the cost of complying with requirements or conditions imposed upon a land use decision, expedited land division or limited land use decision.

SECTION 2. ORS 223.304 is amended to read:

223.304. (1)(a) Reimbursement fees must be established or modified by ordinance or resolution setting forth a methodology that is, when applicable, based on:

- (A) Ratemaking principles employed to finance publicly owned capital improvements;
- (B) Prior contributions by existing users;
- (C) Gifts or grants from federal or state government or private persons;
- (D) The value of unused capacity available to future system users or the cost of the existing facilities; and
- (E) Other relevant factors identified by the local government imposing the fee.

(b) The methodology for establishing or modifying a reimbursement fee must:

(A) Promote the objective of future system users contributing no more than an equitable share to the cost of existing facilities.

(B) Be available for public inspection.

(2) Improvement fees must:

(a) Be established or modified by ordinance or resolution setting forth a methodology that is available for public inspection and demonstrates consideration of:

(A) The projected cost of the capital improvements identified in the plan and list adopted pursuant to ORS 223.309 that are needed to increase the capacity of the systems to which the fee is related; and

(B) The need for increased capacity in the system to which the fee is related that will be required to serve the demands placed on the system by future users.

(b) Be calculated to obtain the cost of capital improvements for the projected need for available system capacity for future users.

(3) A local government may establish and impose a system development charge that is a combination of a reimbursement fee and an improvement fee, if the methodology demonstrates that the charge is not based on providing the same system capacity.

(4) The ordinance or resolution that establishes or modifies an improvement fee shall also provide for a credit against such fee for the construction of a qualified public improvement. A 'qualified public improvement' means a capital improvement that is required as a condition of development approval, identified in the plan and list adopted pursuant to ORS 223.309 and either:

(a) Not located on or contiguous to property that is the subject of development approval; or

(b) Located in whole or in part on or contiguous to property that is the subject of development approval and required to be built larger or with greater capacity than is necessary for the particular development project to which the improvement fee is related.

(5)(a) The credit provided for in subsection (4) of this section is only for the improvement fee charged for the type of improvement being constructed, and credit for qualified public improvements under subsection (4)(b) of this section may be

granted only for the cost of that portion of such improvement that exceeds the local government's minimum standard facility size or capacity needed to serve the particular development project or property. The applicant shall have the burden of demonstrating that a particular improvement qualifies for credit under subsection (4)(b) of this section.

(b) A local government may deny the credit provided for in subsection (4) of this section if the local government demonstrates:

(A) That the application does not meet the requirements of subsection (4) of this section; or

(B) By reference to the list adopted pursuant to ORS 223.309, that the improvement for which credit is sought was not included in the plan and list adopted pursuant to ORS 223.309.

(c) When the construction of a qualified public improvement gives rise to a credit amount greater than the improvement fee that would otherwise be levied against the project receiving development approval, the excess credit may be applied against improvement fees that accrue in subsequent phases of the original development project. This subsection does not prohibit a local government from providing a greater credit, or from establishing a system providing for the transferability of credits, or from providing a credit for a capital improvement not identified in the plan and list adopted pursuant to ORS 223.309, or from providing a share of the cost of such improvement by other means, if a local government so chooses.

(d) Credits must be used in the time specified in the ordinance but not later than 10 years from the date the credit is given.

{ + (6) If a local government establishes system development charges for capital improvements for parks and recreation and schools:

(a) A reimbursement fee may not exceed ____, but the methodology may provide for annual adjustments as described in subsection (9)(b) of this section; and

(b) An improvement fee may not exceed ____, but the methodology may provide for annual adjustments as described in subsection (9)(b) of this section. + }

{ - (6) - } { + (7) + } Any local government that proposes to establish or modify a system development charge shall maintain a list of persons who have made a written request for notification prior to adoption or amendment of a methodology for any system development charge.

{ - (7)(a) - } { + (8)(a) + } Written notice must be mailed to persons on the list at least 90 days prior to the first hearing to establish or modify a system development charge, and the methodology supporting the system development charge must be available at least 60 days prior to the first hearing. The failure of a person on the list to receive a notice that was mailed does not invalidate the action of the local government. The local government may periodically delete names from the list, but at least 30 days prior to removing a name from the list shall notify the person whose name is to be deleted that a new written request for notification is required if the person wishes to remain on the notification list.

(b) Legal action intended to contest the methodology used for calculating a system development charge may not be filed after 60 days following adoption or modification of the system development charge ordinance or resolution by the local government. A person shall request judicial review of the methodology used for calculating a system development charge only as provided in ORS 34.010 to 34.100.

{ - (8) - } { + (9) + } A change in the amount of a reimbursement fee or an improvement fee is not a modification of

the system development charge methodology if the change in amount is based on:

(a) A change in the cost of materials, labor or real property applied to projects or project capacity as set forth on the list adopted pursuant to ORS 223.309; or

(b) The periodic application of one or more specific cost indexes or other periodic data sources. A specific cost index or periodic data source must be:

(A) A relevant measurement of the average change in prices or costs over an identified time period for materials, labor, real property or a combination of the three;

(B) Published by a recognized organization or agency that produces the index or data source for reasons that are independent of the system development charge methodology; and

(C) Incorporated as part of the established methodology or identified and adopted in a separate ordinance, resolution or order.

SECTION 3. ORS 223.307 is amended to read:

223.307. (1) Reimbursement fees may be spent only on capital improvements associated with the systems for which the fees are assessed including expenditures relating to repayment of indebtedness.

(2) Improvement fees may be spent only on capacity increasing capital improvements, including expenditures relating to repayment of debt for such improvements. An increase in system capacity may be established if a capital improvement increases the level of performance or service provided by existing facilities or provides new facilities. The portion of the improvements funded by improvement fees must be related to the need for increased capacity to provide service for future users.

(3) System development charges may not be expended for costs associated with the construction of administrative office facilities that are more than an incidental part of other capital improvements or for the expenses of the operation or maintenance of the facilities constructed with system development charge revenues.

(4) Any capital improvement being funded wholly or in part with system development charge revenues must be included in the plan and list adopted by a local government pursuant to ORS 223.309.

{ + (5) When a local government establishes system development charges for parks and recreation and schools that are based on a need for school facilities and assets, the school facilities and assets must be:

(a) Adjacent to parks and recreation facilities or assets; and

(b) Made available for public recreation uses. + }

{ - (5) - } { + (6) + } Notwithstanding subsections (1) and (2) of this section, system development charge revenues may be expended on the costs of complying with the provisions of ORS 223.297 to 223.314, including the costs of developing system development charge methodologies and providing an annual accounting of system development charge expenditures.

SECTION 4. ORS 223.309 is amended to read:

223.309. (1) Prior to the establishment of a system development charge by ordinance or resolution, a local government shall prepare a capital improvement plan, public facilities plan, master plan or comparable plan that includes a list of the capital improvements that the local government intends to fund, in whole or in part, with revenues from an improvement fee and the estimated cost, timing and percentage of costs eligible to be funded with revenues from the improvement fee for each improvement.

(2) A local government that has prepared a plan and the list

described in subsection (1) of this section may modify the plan and list at any time. If a system development charge will be increased by a proposed modification of the list to include a capacity increasing capital improvement, as described in ORS 223.307 (2):

(a) The local government shall provide, at least 30 days prior to the adoption of the modification, notice of the proposed modification to the persons who have requested written notice under ORS 223.304 { - (6) - } { + (7) + }.

(b) The local government shall hold a public hearing if the local government receives a written request for a hearing on the proposed modification within seven days of the date the proposed modification is scheduled for adoption.

(c) Notwithstanding ORS 294.160, a public hearing is not required if the local government does not receive a written request for a hearing.

(d) The decision of a local government to increase the system development charge by modifying the list may be judicially reviewed only as provided in ORS 34.010 to 34.100.
