

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

Tuesday, February 5, 2013

1. Roll Call

Mayor Daoust called the meeting to order at 6:31pm.

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

ABSENT: None.

STAFF: Erich Mueller, Finance Director (Acting City Manager); David Ross, City Attorney; Debbie Stickney, City Recorder; Rich Faith, Community Development Director; Elizabeth McCallum, Senior Planner; and Dick Bohlmann, Building Official.

GUESTS: See Attached.

2. Sandy River Floodplain RISK Map

Rich Faith, Community Development Director, stated FEMA is in the process of updating and re-evaluating our regulatory flood maps. These are the National Flood Insurance Rate Maps that all jurisdictions use in administering the National Flood Insurance Program. Over the years there has been a lot of contention and disagreement about the accuracy of these maps. FEMA has stepped forward to restudy the floodplain areas. There are a lot of different players involved in this project. Here tonight is: Jed Roberts, with the Department of Geology and Mineral Industries (DOGAMI) with the State of Oregon who is under contract with FEMA to do this work; and Christine Shirley who is the Floodplain Coordinator with the State's Department of Land Conservation and Development (DLCD). We also invited folks from the Oregon Department of Transportation (ODOT).

Jed Roberts, Flood Mapping Coordinator and Project Manager for the Lower Columbia-Sandy Watershed FEMA Risk Map Project, stated I am here to give you a status update on the project.

Jed Roberts showed the Council a PowerPoint Presentation (attached as Exhibit A to the minutes).

(Slide 4) Jeb Roberts stated DOGAMI will be providing Draft Flood Insurance Rate Maps (FIRMS) to city officials in the second quarter of this year. Draft is the key word; they are not the officially delivered preliminary maps that you will receive at the end of the year. The preliminary maps will start the clock ticking as far as an appeals process and when the maps will actually become effective. The draft FIRMS give city officials an opportunity to work with us to identify any problems early on so we won't have to deal with appeals later on.

Mayor Daoust asked is another name for the 1% annual chance discharge (term used on Slide 5) the 100-year flood?

Jed Roberts replied yes.

(Slide 12) Jed Roberts stated when we had our discovery phase we talked to the planners at the City and we determined that because there are riparian buffer zones around Beaver Creek, and there hasn't really been any significant development, that we didn't need to update the 1995 detailed study and that we could just use the lidar.

Mayor Daoust asked will you be using lidar on the Sandy River also?

Jed Roberts replied yes. (Mr. Roberts completed his PowerPoint presentation, reviewing slides 13-19.)

Mayor Daoust asked does the height of the vegetation affect the lidar mapping at all, or do you just negate the vegetation height?

Jed Roberts replied we worked with a bare earth version of the lidar data where all of the vegetation and man-made structures are stripped off.

Mayor Daoust asked Ms. Shirley if she had anything to add.

Christine Shirley, DLCD, stated Jed mentioned that you will be receiving a draft map, then a preliminary map, and then you will receive a map that you will have six months to adopt. When that six month adoption period starts you will have to adopt the map within six months by name and date, which means you will have to make some amendments to your flood ordinance. At that time it is also prudent to look at your flood hazard ordinance and decide if you want to make improvements, changes and/or clarifications. DLCD is available to help you review your flood ordinance, although yours is in pretty good shape since you recently (2009) adopted a map. Six months is not very much time to go through the adoption process. When you receive the preliminary maps that is when you should contact the DLCD to begin the process to get the maps adopted on time. You absolutely have to adopt them on time. ***If you miss that six month deadline in adopting the map by name and date you are removed from the National Flood Insurance Program instantly.*** You will be kept informed of the deadline. The DLCD is also available to assist you in learning how to use the maps. If there are any insurance questions that arise from the maps we can assist with that as well. There will very likely

be some insurance implications. When you adopted the modernized map in 2009 FEMA had a grandfathering program where you were able to keep the old zone if a building was shown as being in the flood zone when before it was shown as outside of the flood zone. That program is not available any longer. There will likely be some education that will need to take place if the flood zone boundaries change, which they are likely to do in the Sandy River. Hopefully people will be taken out of the flood zone and not put in it. When they do the re-delineation sometimes little pockets of area get included in the flood zone that were not previously in the flood zone. If you want to talk about mitigation strategies or revisit your hazardous mitigation plan, we are available for that as well. Any of the planning and map use issues that arise as a result of these new maps, the DLCD is your first point of contact for that.

The preliminary map will be mailed to the Mayor and will need to be distributed. We will also send out notices that you need to be watching for.

Mayor Daoust asked the 1985 study was the last study, so what did we do in 2009?

Christine Shirley replied FEMA went through a map modernization process where their main objective was to take the paper maps and turn them into a digital product. They did not do a lot of new studies. They merely took the existing paper maps and republished them in a GIS format. In some areas they re-delineated the flood zone and in other areas they didn't.

Elizabeth McCallum, Senior Planner stated very few areas changed, but it was only based upon the lidar and the topographic. It was not a new study.

Christine Shirley stated no new studies were done in this area for the 2009 map. The old base flood elevations (BFE) were re-delineated onto a new topographic base. There might have been changes like Jed mentioned where the flood zone got narrower or wider because the topographic base had change, but the BFE did not change. What did change was the datum. The datum is really the zero point where you start measuring elevation. So the datum went up which caused the elevations to go up about 3', but the water surface elevation didn't change. Think of it as the difference in Fahrenheit and Celsius. The reason you saw a different BFE on the 2009 maps was only because of the datum conversion.

Mayor Daoust asked but the water level stayed the same?

Christine Shirley replied yes.

Councilor Anderson asked when that datum went up what did it do to the people who had flood insurance? Did it raise their rates?

Christine Shirley replied not at all. Flood insurance is based on the difference between the lowest floor elevation and the water surface elevation. If the lowest floor elevation and the water surface elevation were measured on the same datum, the difference

would be the same. Nobody's rates should have changed. The only exception would be if someone was shown previously as being outside of the flood zone and the new map showed them in the flood zone they would then be subject to the mandatory purchase requirements of flood insurance and then their rates might go up because they are in a higher risk zone.

Mayor Daoust stated I think I understand; there was no study done but topography changed because it was mapped better.

Christine Shirley replied yes. That is a perfect summary. It was more detailed.

Councilor White stated that was a good review. I appreciate you being here tonight. There seems to be a discrepancy. When you modernized the maps according to folks like WB Wells, they indicate that there was a 1' increase in the BFE since that process occurred.

Christine Shirley replied there should not have been. Before I came to this meeting I verified that in the Troutdale area there should not be any difference. If there is a difference it is either a misunderstanding or an error. We can look into that and figure out what is going on.

Councilor White stated I did some investigation on this and was told initially that it was because there is a temporary 1' increase in the BFE due to the bridges that ODOT has placed. You explained to me that that shouldn't show up on the panel.

Christine Shirley replied you are right, that should not show up on the panel. They did that as a conditional letter of map revisions (LOMR) as part of the no-rise process.

Councilor White stated I think that is something that we are going to need a follow-up answer to because we are getting conflicting results from certified surveyors. If a person has a topo does that trump the lidar image since the lidar isn't as accurate?

Christine Shirley replied if a person has a surveyed site plan topographic map, it does trump the lidar. You can't just present the new lidar and have FEMA change the map. It depends on what your objective is. You would need to submit a LOMR.

Councilor White asked so you would have to go through that whole process?

Christine Shirley replied yes.

Councilor White stated that is a pretty expensive process; I've been through it myself.

Christine Shirley stated if your objective is to remove your home from being in the flood zone based on the new topographic datum, you can use a letter of map amendment (LOMA) process whereby if you can show that the outside edge of your foundation or attached deck and stairs are higher than the BFE, regardless of what the map looks

like, then the building can be removed from the special flood hazard area. That process is much less expensive and less time consuming.

Councilor Thomas asked is it just the building that is removed?

Christine Shirley replied generally it is just the building, but in some cases you can have a portion of the property removed.

Mayor Daoust asked if the individual property owner chooses to do a LOMA, does that all have to take place in this six month period?

Christine Shirley replied no. That can happen at any time.

Councilor White stated what we were all told at the town halls, was like you said that it was going from Fahrenheit to Celsius and it shouldn't have changed the BFE. Although I know that some people in our town did get picked up on flood insurance that previously didn't need it. I think we need a solid answer as to what happened there. Can you get back to us on that?

Christine Shirley replied yes. If you could provide me with information to show me where those areas are that would be helpful. We have seen some errors in the datum conversion.

Councilor White stated Councilor Allen and I were at the League of Oregon Cities Conference and we sat in on your presentation where you talked about the upcoming possible moratorium on building in the flood plain.

Christine Shirley asked because of the Endangered Species Act?

Councilor White replied yes. Do you have time to go over that tonight?

Christine Shirley replied first off I wouldn't call it a moratorium; that is kind of a strong term. The word moratorium came from some lawsuits brought up in the State of Washington and they were seeking a moratorium on floodplain development until the Endangered Species Act could be resolved. They did not prevail, so there is no moratorium on developing in the floodplain. Nonetheless, what is happening is that FEMA was sued by a variety of organizations because they did not consult with the Fish and Wildlife or National Marine Fisheries when they made the flood insurance rate map, or when they rolled out the FEMA program; they did not consult way back in 1973. As a result of practices that FEMA allows, these groups asserted that endangered species could be harmed. The lawsuits are causing FEMA to go back and consult with the services on the Endangered Species Act. As a result there will very likely be changes in how you permit and what activities can be allowed in the floodplain, in particular fill in the floodplain will probably become much more difficult unless you can prove that the fill will not cause loss of habitat or endangered species. That will be, I believe, one of the main protected areas.

Councilor White stated the balanced cut and fill.

Christine Shirley stated when you do a balanced cut and fill you would have to evaluate the affect of that activity on the endangered species habitat. Fill in the floodplain is difficult now and would become almost impossible after this lawsuit. Disturbing riparian vegetation may become something that you have to take a closer look at. If you already have a Goal 5 riparian protection zone, it might affect you less than if you don't. In our conversations with FEMA they want a wider riparian no disturbance zone than Goal 5 has. You may see more restrictions on how riparian zones are modified. All of that is still under discussion and I don't anticipate seeing any decision for at least nine months.

Councilor White stated it is real important that we get this right because of what we are facing with the Endangered Species Act, I get that. When the I-84 Bridge project first started and ODOT announced the flood insurance program we were told that based on their hydrology reports that they expected the floodplain to go down as much as 2½'. Since then they have had to widen a channel to the east because the bridge became longer than originally planned, and we also have another situation where a dam is being removed on the lower Sandy in the Delta that will allow water to go down two channels rather than just one and spill into a vast area away from Troutdale for a great flood storage and reserve. Will the extensive hydrology report that ODOT did, and those other factors, be taken into consideration for getting the BFE right?

Jed Roberts stated STARR, FEMA's subcontractors, are the ones that are doing the hydraulic model for the Sandy. I have got them connected with the folks that did the hydraulic study, the planning study, for the I-84 Bridge. They have the reports and they understand the implications of it and they have the plans for the new bridge, so that will be incorporated into the new model because it is planned and is going to happen. The removal of the dam on the other hand, as far as I know that is not a done deal. The way that FEMA dictates that the studies are done is that they must represent current conditions, so we couldn't incorporate that because it is not happening within the window of the project so far as I know.

Councilor White stated yet you were able to do it the opposite way with the hazard of the four bridges on the I-84 project. That caused a footnote to occur that raised it by a foot. So I am wondering why you couldn't calculate the difference because we know that dam is coming out and we need to get that formulated in to this program to get the correct answer on the BFE. Isn't there a way that you could do that?

Jed Roberts replied I would have to think that we would be able to look at that. STARR will be doing the work on that so we would need to have all of the information as soon as possible about that dam being removed and what it would mean for the model.

Mayor Daoust stated they would most likely have to contact the US Forest Service in Hood River (the office for the Columbia River Gorge National Scenic Area) because that

is Forest Service land right there. I don't know what their timeline is for opening up that channel; I know that it is on their work plan.

Christine Shirley stated the regulations state that six months after the project is completed the project proponent needs to initiate a LOMR. That is something that we can monitor and make sure that it happens if these changes can't be integrated into this map.

Councilor White stated I guess that is another item that we will need to have followed up on.

Jed Roberts replied yes. We need to know that it is going to happen.

Councilor White stated we have already been told that it is going to occur. They are already starting.

Jed Roberts stated we will just need documentation on that. Where we are in the project right now we should be able to sort it out. That small channel is not really conveying much. In fact it really doesn't change anything as far as the actual hydrology of the area. You have the same amount still passing through the city area here and it is getting it into the Columbia that way or down the main channel that it is currently going down.

Councilor White stated you asked for local input. I have lived on the river for 23 years now. When we do have flooding like what occurred in 1996 it was starting to go up the boat ramp at Lewis and Clark, it actually crossed the road there on Jordan Road. It is going to go fill in Lewis and Clark Park and that whole floodplain area by the railroad tracks. I think the same thing will occur on the Sandy Delta, it is designed for that; it is just that the dam is what is blocking it. ODOT has done the most extensive hydrology report ever done on the Sandy River. I am hoping to see some results similar to what they came up with, and beyond, now that we have this dam being removed and the excavation of the east bank to accommodate the longer bridge.

Christine Shirley stated I don't know if those changes can be integrated into the schedule for the new RISK map, but again within six months after the project is complete ODOT would need to do a LOMR to document those changes.

Ron Reisdorf, ODOT, stated I am the Project Manager for the Sandy River Bridge project. In 2009 we did a hydraulic study for the bridge replacement. We studied the condition when you get backwater from the Columbia, and the condition when you don't have backwater from the Columbia. Both conditions lowered the bridge backwater. It was lowered six-tenths of a foot when you have the backwater from the Columbia and 1.06' when you don't have backwater from the Columbia. That shows that the new bridges will be an improvement from what is currently there. Temporary conditions are not modeled by FEMA. As far as the 2½, I don't know where that came from. We went back through the recorded meetings and nobody could find anything to that affect.

Ray Mabey, ODOT, stated when we went down this path we hoped we would see a reduction due to the change of condition with the new bridge. We are really hoping that the timing of any FEMA evaluation would happen such that we could include those changes. Sounds like it is happening a little faster than we all anticipated. As Ron said those were the numbers, but I think we were facing a couple of other things at the time. It was all of the temporary piles and temporary works that we modeled. We were looking at conventional bridge construction techniques that had a lot of temporary piles in the water that could cause substantial backwater. I think in the revised construction technique proposed, and used by our contractor, there was a significant reduction in that backwater. That is my guess as to where that number came from.

Ron Reisdorf stated I think that is probably where the 2½' came from. We pulled out two-thirds of the work bridge and a number of the pilings the first winter. As far as I know the widened channel where we removed that bank was in the model.

Mayor Daoust stated did you say it is going down 1' and six-tenths?

Ron Reisdorf replied no. Six-tenths for when you have a backwater condition from the Columbia like we had in 2011. The Columbia was high and it backwatered up through the bridge; it was like a pool out there. With that kind of condition our improved bridges would still lower the backwater condition for the bridges by six-tenths of a foot. If the Sandy has its own event without the Columbia backwatering through it, it would drop 1.06'. That is the hydraulic modeling done for the project, which is probably based from the 1985 FEMA studies. Now they have new more accurate ground points.

Jed Roberts stated we also have new channel cross sections in those areas so that will be an improvement. That model is under development right now by STARR and we are all anticipating seeing what that actually is going to be because it is a separate model. We will be using the information that was produced by ODOT to corroborate with what we see there, but there is new data that is being considered.

Mayor Daoust stated but I understood you to say that ODOT has to initiate a LOMR.

Christine Shirley stated if there as-built is different than what is in the FEMA model.

Mayor Daoust asked is it?

Christine Shirley replied we don't know yet because it hasn't been done yet.

Councilor White asked the excavation of the eastern bank was not in your original hydrology reports, is that correct?

Ron Reisdorf replied I believe it is. It was negotiated with eight government agencies to take that out. I think we took out another 50' or so and pulled the bank back. So before the project was going there was probably thirty different scenarios modeled out here and as the project developed this was one of the last things and I said by the way we

want to take another 50' out because our resource agencies are going to hammer us if we don't. So that is in the model already that was done for the bridge project.

Jed Roberts asked when was that removed?

Ron Reisdorf replied it is already gone.

Jed Roberts stated just for relationship to when the field survey was done, they actually went out and did a survey of the channel in early September of 2012. Had it been removed at that point?

Ron Reisdorf replied well the eastbound, the westbound is gone now.

Christine Shirley stated hopefully we will get a lot of this incorporated, but if the as-built differs in any way from the FEMA model, ODOT will have to follow-up with a LOMR and get that squared up so that the map is accurate.

Ron Reisdorf stated we have the bridges and the opening in the model that is on the plans, so I wouldn't think it would change.

Councilor Thomas stated you gave us a lot of information about Beaver Creek, but you left the Sandy River as kind of a big void. Based on that what I am thinking we really don't know what the new flood elevation is going to be yet.

Jed Roberts replied that is correct, we don't know yet.

Councilor Anderson asked because you haven't started yet?

Jed Roberts replied the model has been developed, but right now a separate set of eyes in addition to STARR is looking at it. They have seen the results but they can't share them until they have completed the independent review.

Councilor Anderson stated so it would stand to reason that we would want them to keep looking at it and to not start until after we get the bridge built.

Jed Roberts stated we can incorporate it.

Councilor Anderson stated or the dam could come out.

Jed Roberts stated that is something that we need to look at as far as a mapping issue. That is actually outside of the area of where they are doing the model. They are doing the model to just downstream of the bridge, and the dam is a little bit further down than that. We would need to look at that as a mapping issue because they are not actually down there doing any surveying in that area.

Councilor Thomas stated you would think if you were looking at the river you would look at it from the beginning to the end of the river in your analysis. Going to 300' or 400' short of the end of the river is a little bit concerning.

Jed Roberts stated they do the hydrologic analysis down to the end of the river which is how much water is pouring out. They only do detailed studies where there is development because that is where you need to know very precisely what the BFE is. If people do have issues with mapping of their house they actually have a BFE to compare to, whereas in other areas where they do approximate modeling there are no BFEs to compare to, those are the areas outside of the detailed studied areas. The Columbia River has its own study that needs to be incorporated as a backwater into this area. As far as whether or not that area is in the flood zone, I am sure it is in the flood zone. The question is, what is the effect upstream of removing that dam? That is a discharge question.

Councilor Thomas stated if you were to look at that area you do have development on the west side with the Troutdale Reynolds Industrial Park. Does having the dike there make a difference on how you look at that?

Jed Roberts replied yes. As far as I know that is an accredited levy out there. That means that the BFE is not higher than the levy and therefore it is not mapped behind the levy.

Councilor Anderson asked why can't we wait until the bridge is done? Ms. Shirley said that once the bridge is done ODOT will have to submit a LOMR.

Christine Shirley stated if there are any changes needed.

Councilor Anderson asked do you think, in your professional opinion, there will be?

Christine Shirley replied I don't think so.

Ron Reisdorf stated what is in the contract plan is what is being modeled.

Mayor Daoust stated the BFE going down 1.06' is already factored into FEMA's model. Is that what you are saying?

Ron Reisdorf replied again, that is based on the 1985 study because we didn't have their data. But they are using our bridge opening, channel size and the project in the new model.

Councilor White asked that is not counting the temporary 1' increase? You are excluding...

Ron Reisdorf interrupted and stated we don't count temporary.

Councilor White stated that is where we might have gotten the 2' confusion. I was at the meeting held at the Comfort Inn and I spoke at it and that was what we used to simmer the crowd down when that statement was made that the new bridge was going to lower the BFE by as much as 2½'. I even announced it on record at a council meeting shortly after that. I am really relieved to hear that it wasn't increased a foot and we are going to get verification of that. It looks like it is going to go down possibly over a foot and maybe even more once they calculate the dam removal. I am pretty happy with the results of this work session.

Ron Reisdorf stated once we found out how many pilings the contractor was going to use and we started putting that into our model it had a huge impact on the hundred year elevation so we went through like twenty-five "what ifs" - what if we took the work bridge out, what if we took two-thirds of the work bridge out. The consultant actually went through that many scenarios and I believe by taking two-thirds of the bridge out and cutting the number of pilings for the winter, that is probably the 2½' drop that someone was referring to. We also had to build a temporary wall on the west bank as a safety thing.

Mayor Daoust stated so it sounds like what is still coming down the tracks is this consultation that FEMA is having with the National Marine Fishery Service (NMFS) and when that gets all settled out and NMFS gets what they want for the endangered species and fish going up the Sandy River that there may be some impacts to landowners as far as what they can and can't do.

Christine Shirley replied that is correct.

Mayor Daoust stated and we just don't know what those are yet.

Christine Shirley replied we don't know yet. The DLCD has an Endangered Species Act group and we have invited local governments to participate in the discussions that FEMA and NMFS is having over this. Elizabeth McCallum has been to these meetings and I really encourage you to allow her to continue doing that because it is really important that NMFS hear from local government so that they don't come up with a program that can't be implemented.

Mayor Daoust asked so whatever NMFS comes up with would trump any city ordinances for stream-side protection?

Christine Shirley replied that is correct.

Councilor Thomas asked are they looking for any kind of property owner input also, or just from governments?

Christine Shirley replied the DLCD working group is open to anybody who wants to participate. However, it is not an official conduit into the FEMA NMFS negotiation. It is

our way to gather as much information as we can and pass it along for consideration. But NMFS and FEMA are under no obligation to look at that information.

Mayor Daoust asked is FEMA consulting with the US Fish and Wildlife Service also?

Christine Shirley replied they are not at this time.

Councilor White stated I provided some photos to the Council tonight of our most recent flood event (included in the packet). I feel like Troutdale did pretty good considering we had a dam that formed on those four bridges. The photo is of my personal residence from the Troutdale Bridge and you can see that we didn't get anywhere near the 100-year flood mark. So I am relieved to hear that it looks like it is going to go down quite a bit. It is just kind of a common sense thing; if we survived that to me anything besides an eruption of Mt. Hood couldn't have been worse than that. I thank ODOT for their foresight to get the town insured and to have the equipment staged ahead of time to pull those logs off of there. It was really a great effort on their part.

Mayor Daoust asked is there anyone here tonight that would like to comment?

Diane Castillo-White asked will the new flood maps distinguish between the 100-year and the 500-year floodplain?

Jed Roberts replied in areas where we are doing the detailed studies, such as the Sandy River, yes those two different flood events will be mapped separately.

Diane Castillo-White asked how about on Beaver Creek for flood insurance purposes because some things that are in the 500-year floodplain are undistinguishable, it is just dots. The 100-year kind of looks like it is meshed in with the 500-year.

Jed Roberts stated we do re-delineation in that situation where we just introduced the lidar and we will be doing that for both the 500-year and the 100-year event. So to the extent that the new elevation does show that they are different, that will be reflected on the maps.

Diane Castillo-White asked does the topographical data fluctuate during different seasons throughout the year?

Jed Roberts replied not to the extent that any of the floodplain maps would change based on that.

Diane Castillo-White stated you are talking about the separate modeling and you are talking about field surveying. The Sandy River in front of our home, in the winter it can be as deep as 15' and at the summer it can be 2'. It is quite a large area. You keep saying that you have most of the data, except for the separate modeling. You mentioned a little bit of field surveying along the highway 84 bridge and you are talking early September, which to me is reflective of late summer when we are not dredging

anymore, and then we removed a dam upriver so there is quite a bit of sediment that keeps making its way down. I am concerned if you are taking into account anything that is seasonal and the separate model for all of the field surveying.

Jed Roberts stated there are some challenges there obviously when you are trying to get out and capture data. When can you do that? For the field survey, actually the best time to do that for a river like the Sandy is in the summer when the water is low so you can actually get out in it with reasonable safety and measure the channel bed.

Diane Castillo-White stated for the channel it could be a variation of as much as 13'.

Jed Roberts stated it is the Sandy River so there is a lot going on; it is a very dynamic river. It is extremely challenging to map from this prospective because we can really only take into consideration current conditions. That is an issue with the guidelines and specifications that we need to follow that FEMA laid out.

Diane Castillo-White asked who is requiring this new separate modeling? How did this come to be introduced, besides this accurate lidar that you have and the other ways you have already in place to determine hydrology and the BFE. Why this new separate modeling?

Jed Roberts asked the new separate modeling?

Diane Castillo-White replied of the field surveying.

Jed Roberts asked separate from?

Diane Castillo-White replied separate from what was currently done to determine the BFE.

Jed Roberts replied that is currently what is done.

Christine Shirley stated it has always been done that way.

Diane Castillo-White asked in 2009 was the floodplain changed at all on the Beaver Creek or the Sandy River in Troutdale?

Jed Roberts replied I do not know because we didn't work on that project for FEMA.

Christine Shirley asked do you mean was the extent of the floodplain changed, or was the BFE changed?

Diane Castillo-White replied BFE.

Christine Shirley replied the BFEs were not changed in 2009. The extent of the flood zone may have been modified because of the use of better topographic data, and the

datum changed, but that didn't change the water surface elevation it just changed the numbers tied to that water surface elevation.

Mayor Daoust stated the three follow-up items that I've noted are: 1) Provide documentation to the City rectifying that a 1' rise did not occur in 2009 due to the datum conversion; 2) check with the Forest Service on the channel that they are planning on opening to the east; and 3) ODOT doing a LOMR if the as-built differs from the FEMA model. Those are the three follow-up items I had. This has been extremely helpful.

Councilor White stated there was an article in the Gresham Outlook newspaper about the levies not being accredited or certified. Do you have any comments on that?

Christine Shirley replied I haven't read the article so I don't know what issues were brought up but there are a couple of things going on. First of all FEMA is requiring that levies be certified by the Corp before they will consider them effective for mapping. There is a process that the cities would have to go through. They have to get the levy certified by the Corp and then they have to go through an accreditation process with FEMA before the levy can be shown as providing protection from the 100-year flood. The second thing is that FEMA is in the process of changing their levy mapping policy. They went through a public comment period about eighteen months ago and they have been going through revisions for a very long time now. I can't honestly tell you when the new levy mapping policy will be put into place.

Jed Roberts stated that levy policy might not be applicable to this situation depending on if the levy is accredited or not; it is really only for non-accredited levies.

Mayor Daoust called for a break at 7:46pm and reconvened at 7:59pm.

3. Dangerous Buildings and Structures

David Ross, City Attorney, stated Exhibits B and C of my staff report are drafts and should not be considered in any way to be the final product. Chapter 15 of our current code has a provision for unsafe buildings. It defines an unsafe building and states that unsafe buildings are declared to be public nuisances and shall be abated as set forth in Chapter 8.28, nuisances. Our current nuisance ordinance is not really written to abate dangerous buildings; it is written to abate abandoned vehicles, junk, solid waste, etc. I don't think it actually contemplates doing what would be required to abate an unsafe building. In Exhibit B I incorporated the unsafe building provisions into our current nuisance code, as apparently was contemplated in Chapter 15 of our code. Because it is a different kind of nuisance it requires different kinds of notice and hearing provisions. That is one option but it would require a little more fine tuning. It was suggested that we take a look at the City of Sandy's ordinance (Exhibit A of the staff report). While there is much in Sandy's ordinance that would lend itself to us, there are also several aspects of it that probably would not fit. That is how we ended up with Exhibit C, which is a draft of an entirely separate chapter dealing with just the topic of Unsafe Building Abatement. Code enforcement is very expensive because the ultimate hammer is that we go out and do the work and put a lien on the property to try and recover cost. What we have

tried to do with Exhibit C is build in some other kinds of potential enforcement techniques and by that I am talking about injunctive relief or a fine of up to \$1,000 per day to try to spur the property owner to take care of the problem rather than having the City take care of it and trying to recover the cost later.

Councilor Thomas stated I would prefer to eliminate Exhibit B as an option and concentrate on Exhibit C. What I like about Exhibit C is it is all contained one chapter and it was easy to follow and figure out.

Councilor Anderson asked Dick, can you tell us what you think about Exhibit A and C?

Dick Bohlmann, Building Official, replied I think Exhibit C is less complex than Exhibit A. It appears to be very workable and functional and will do the job that we need it to do.

Councilor Anderson asked would you endorse Exhibit C as the Building Official?

Dick Bohlmann replied yes I would.

Councilor Wilson stated to the person we are trying to work with, Exhibit C is clearer to understand what we are trying to enforce than Exhibit B is. Having a separate chapter would work out better.

Councilor Ripma stated I have always thought that this is busy-body legislation. The City can't afford to get into this. I just think it requires judgment of city officials who are busy with other things. Everything can be challenged in court. Troutdale is not Detroit and it won't become Detroit if we just keep encouraging development and economic growth. To go at it this way with an approach of looking over everyone's shoulder and telling them their property is derelict, you have never heard me say a word in favor of this idea. I think we ought to drop the idea.

Mayor Daoust stated I don't think it is meant to look over everyone's shoulder.

Councilor Ripma stated but it will. There are potential derelict or substandard structures all over the place that are perfectly fine that someday when their value increases will be replaced. To have the City go in and try to determine which ones don't meet a set of standards and have our officials going at it, I just see trouble. I know it isn't the intent to look over people's shoulders; I know that is certainly not your intent or any of the Council's intent, but I am afraid that is the way it would end up coming off. We have trouble enforcing our codes now and this will only make it worse, or more expensive.

Councilor Thomas asked how is that different than enforcing a standard nuisance like a car parked in the road? Essentially we are looking at the same type of issues, it just happens to be a building.

Councilor Ripma replied a car in the street can become a nuisance, I am not denying that, but it is a lot simpler to deal with than real property. It is a matter of scale.

Mayor Daoust stated the intent is to focus on specific dangerous properties and there are not that many of them. I think the end result will be focused on just a few specific properties in the city. It won't be like a nuisance ordinance; we could go that way I suppose if we went with Exhibit B. If we chose not to go that way it would be a separate chapter just dealing with unsafe buildings.

Councilor Ripma stated Exhibit B or C doesn't matter from the point of view I am taking. If the idea is that it is only going to be enforced selectively, that alone is a reason for arguing about and challenging it. If it is a legislative ordinance it is supposed to be enforced evenly. I just see trouble with it, and the expense is my real worry. This would be an expense for a negative thing that isn't leading towards growth and improvement. In my opinion it could take years to resolve something and in the meantime any property that is subject to it would be perhaps tied up in some way that makes them less marketable; I don't know that for sure but it is a concern. You have to look at the upside and the downside and see where it comes out. Will this in the end make a better Troutdale? I don't think it would. I am very concerned.

Mayor Daoust stated I think it would make it a better city because we are dealing with public health to begin with, and dangerous buildings that present possible health hazards to the public. That is the whole umbrella that it is under; for public health and safety and to get rid of dangerous buildings.

Councilor Thomas stated we have to have some way to enforce things and keep the city from becoming full of dangerous buildings. What we currently have doesn't have a lot of teeth in it. By adding this new chapter, if that is the way we go, then we have the teeth and the ability to move forward, enforce things and cause things to happen in order to keep those derelict buildings from showing up all over the city. At this point we have a number of buildings that are sitting vacant and if they were being maintained they probably wouldn't fall under this category. There have been a couple of house fires in the last six months and what I have noticed is that those owners have gone through and repaired those houses. This would give us something to deal with those types of things that happen. Our current code doesn't really fit that situation very well at all.

Mayor Daoust stated this enforcement falls on the Building Official or the City Manager, not the Code Enforcement Officer.

Councilor Ripma stated but they are people with other things to do. We would either have to hire more or hire them for longer hours. There are costs associated with this; is it worth it in the end. If citing someone for a dangerous building would make them take action without too much argument about it, it might work the way you are talking. There is every economic incentive, when you have a derelict building, to tear it down or fix it and try to sell it because you are paying taxes on it and that is the incentive that usually makes most reasonable people fix up the building and move on. If they are not doing that, you are talking about somebody who doesn't have the normal economic incentives so they are going to fight you tooth and nail. That is what is going to happen. It is a two-

edged sword. Just citing them with a \$1,000/day fine if they don't fix it up, they have ample opportunities for challenging that and they probably won't pay it in the end. I am glad we are having this debate. I would ask the Council to think about this very seriously before going forward.

Councilor Allen stated Exhibit C (draft Chapter 8.30 - Unsafe Building Abatement), Section 8.30.050 says, "No structures shall be left unoccupied and unsecured, partially constructed, abandoned, maintained in a condition that is unfit for human habitation", and it goes on. The banks own some of the unoccupied houses and some of them are in pretty bad shape. What I would like to actually get down to is what makes a building unsafe to the public, and not deal with eyesores or if it is uninhabited, but only address buildings that are truly unsafe. I don't think we can enforce people to stay living in a building, but if that structure should get to the point where it becomes a health condition or a risk of injury or death to a passerby, then we do need to regulate that. At what point is a building considered unsafe?

David Ross stated that is defined in 8.30.020.

Councilor Allen stated when I read this it just seems like we are going beyond unsafe structures.

Mayor Daoust stated I could bring up examples. On the Marino block roof tiles were flying off of the roof and the air conditioning units were almost falling off. That is a safety hazard on the building.

Councilor Ripma asked wasn't something done?

Dick Bohlmann replied it took over a year of certified letters and calls to get the air conditioners taken care of. The certified letter was rejected that was sent regarding the roof, but a letter sent by Code Enforcement was finally accepted.

Councilor Ripma asked if we had this ordinance are you sure that it would take less time?

Dick Bohlmann replied probably not in that situation unless you just took it to court. I don't have any intention of ever wanting to be a building cop. I think there are situations where this is pretty critical.

Councilor Ripma asked why would this be handled quicker? If they refused service ...

Dick Bohlmann interrupted and stated I don't know if it would be to tell you the truth.

Councilor Ripma stated that is my point. Under our current law the problem took a year to resolve. I submit there is no evidence that this ordinance would be any quicker.

Mayor Daoust stated there are just different enforcement actions in this ordinance that we do not have now. I would think that it would make it quicker. We don't have a \$1,000/day fine that we can impose on a landowner.

Councilor Thomas stated having the Building Official enforce things such as building structures makes more sense to me than having the Code Enforcement Officer doing it. I have a couple of questions on the definition under item number 3 (Section 8.30.020.C.3, of Exhibit C) where you talk about the 33% and the 50%, I am a little concerned about how we quantify those percentages to determine what that is. Does that require a structural engineer in order to say that 33% of the building is haywire or whatever? Those might be some of the things we may want to clean up. I went back and looked at the International Property Maintenance Code and there was a section that talked about roofing and roofing components that have defects that admit rain through roofs, or roofs without inadequate drainage that causes deterioration. Some of that should also be added to the definitions on how we determine a building to be structurally unsound. If you have water leaking into the building the exterior may look fine but the interior of the building will deteriorate.

David Ross stated that is addressed in 8.30.020.C.5, where it talks about the exterior or interior bearing walls or other vertical structural members list, lean or buckle. I also want to point out that our current nuisance code does have a fine of not more than \$1,000/day.

Councilor Allen stated I have seen some homes that don't have a straight angle or 90° anywhere and that has to do with the competency of the contractor.

Councilor Anderson stated what I like about Exhibit C is that it puts the onus of enforcement on the City Manager or the Building Official. I also like the fact that it was drafted by the City Manager, Building Official and City Attorney so I think they have covered everything. Councilor Ripma, your plea as always was heard and resonates. Sandy probably didn't think they needed it either, but I drove through that little town a week ago and it is beautiful. Here is hoping that we don't ever have to go to the mat on this. But they have it, they felt a need to have it and they have a nice little town that is thriving and developing which is what we want for our city. I think Exhibit C, as written, covers all the basis that need to be covered and I really like the fact that it is up to the City Manager or the Building Official to enforce it; they are the experts. The Building Official enforcing unsafe buildings makes sense; it is logical. I would really like to take Exhibit C and move it forward in ordinance form as soon as possible.

Councilor Ripma stated it wasn't a plea, it was a warning. I haven't researched which cities have these and which don't, but I am sure I could point out many cities in Oregon that are very pretty like Sandy that don't have ordinances like this. But for a very few properties Troutdale would look just fine.

Councilor Anderson stated and we want to prevent this from happening going forward. I am looking at it as being responsible. Regardless of what is happening today we want to prevent it from happening going forward. That is what we are supposed to be doing.

Councilor Ripma stated just realize every time the Building Official or City Manager who is suppose to be enforcing this sees a building that meets one of the definitions in here they will have to take action.

Councilor Anderson replied sure.

Councilor Ripma stated they can't just come to the Council and ask do you want me to go after this guy or that guy; that isn't the way it works.

Councilor White stated our current code works that way; it is complaint driven so that they don't have to go after everything. It is not up to them to find it, they just respond to a complaint.

Councilor Thomas stated at the same time if they see something they still have to enforce it.

Councilor White stated I don't think they do. We can make this complaint driven.

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

Neil Handy stated I can understand what Councilor Ripma is trying to say but there is one thing that you have to remember, we are not just abating buildings we are sending a message to landowners, property owners, and landlords that they should be responsible citizens, owners and landlords as far as how they take care of their property. That mess of Marino's has languished there for eleven years. There is water running through the roofs, there are rats, and chunks of roof flying off. It affects the value of other property. Maybe it doesn't bother Councilor Ripma when visitors from other parts of Multnomah County, Oregon, Washington, or visitors from around the country come to Troutdale, but it bothers me. If this is what it takes to get going in the right direction as far as getting that cleaned up then adopt Exhibit A, B or C, it really doesn't make any difference. If it is a landowner that allows that to happen you are going to be in for a fight anyway, but the fight will be well worth it in the end. It is the right thing to do; it is the best thing to do for the City.

Frank Windust stated I have had the honor of having to tear down a couple of houses. I had a house on Beaver Creek that was built in the late 20's and it was boarded up when I bought it. The City sent me a letter and said to tear it down and if you don't we will do it and charge you for it. I tore it down and it didn't bother me because I wanted to clean up the property. We just had to tear down the McGinnis house. I represent the owners of that property; they have it for sale. They were contacted by the City and they hired someone and tore it down. Another house built in the 20's or 30's that was located

above City Hall burned down many years ago and it wasn't worth fixing. It sat there for awhile and the City notified us to either clean it up or we will do it and lien your property so we cleaned it up.

Diane Costillo-White stated I agree with Councilor Allen. I see a need for Exhibit C but I have concerns about some of the definitions for unsafe buildings. So for instance if somebody starts building a new structure and they run out of money, or something happens, they should be permitted to build a fence around it or do something to prohibit unsafe conditions because it isn't rotting, or falling apart and doesn't have rats living in it. We need a little bit of flexibility for those situations. 8.30.170 – Hardship Waivers of Enforcement Action says that a hardship waiver can be issued only in the instances where the Building Official finds the owner to be over 65 or classified as very low income and that the waiver shall not exceed three years. Three years sounds good, but what if the person has a middle income and they have a wall that is falling apart and it isn't within their economic means at the present time and they are unable to secure some type of loan, or they do have a hardship where they can't afford the repair. Maybe we should have more flexibility in just the exclusion of those 65 years and older or low income.

Mayor Daoust asked are you recommending that the hardship waiver to not have an age limit?

Diane Costillo-White replied yes, and to not necessarily just be for those with low income. You could have a middle income and be strapped. If you could show your finances to prove that you qualify for it and allow more time to do the repair.

Mayor Daoust asked are you just talking about remodeling?

Diane Costillo-White replied not just remodeling. If they have a wall failure or some rotting going on, they may not necessarily be classified as low income or over 65, but maybe they are financially strapped.

David Ross stated our current nuisance code only requires a fence around the property to prevent it from being an attractive nuisance from children, which is why the current nuisance code has proven to be less than effective.

Councilor Ripma stated although it sounds like it is affective when you have a law abiding citizen who is interested in doing the right thing. If a bank owned property gets a letter from the City to either fix it up or tear it down, at least in a couple of examples they tear it down.

Councilor Anderson stated I live across the street from a bank owned property that was foreclosed on and it had been empty for two weeks and all of a sudden here comes the maintenance crews. I get it. There are certain times that this happens, but I think it is far more infrequent than it is frequent. I also think that when it becomes an issue we need to have something with some teeth to prevent it from going on for a year. I don't want to

live across the street from an empty house with rodents for a year and not have any recourse.

Councilor Thomas stated there is an appeals process built-in that can take a lot of that into consideration.

Councilor Ripma stated you are saying there is no recourse, there is recourse now.

Councilor Anderson stated I know that. I think if we have something where the Building Official is enforcing it, that is what I like about Exhibit C. We are always reasonable people.

Councilor Ripma stated I am not worried that we are not going to be reasonable, we will be reasonable. It is the other guy; the property owner who isn't repairing or tearing it down.

Neil Handy stated this is for the property owner that isn't reasonable.

Councilor Ripma stated yes, at a great cost to the City. It feels good to pass a law prohibiting bad activities, so we will do that. But we are broke and this will not bring in any money. It will not pay for itself. Neil, you mentioned that I might not care if there are derelict buildings around, I do care as much as you do. I am trying to draw a reasonable line. I guess I am just saying that I don't think this is the way to go. I think we have remedies. Maybe it isn't working right now. Some of the properties we might be thinking about could be bought and the repair or replacement could happen this year. We don't know. Valuable property generally doesn't sit derelict; it is very odd when that happens.

Councilor Allen stated I think reasonable is fairly subjective. I would rather stick to engineering standards for safe and unsafe. When I read through these six points on how we determine an unsafe building (in Exhibit C, on page 2), there are really only a few of them that I question and one that I would add. It says a building is unsafe whenever the Building Official determines one of these six points. I bring into question #1 which reads, "Any door, aisle, passageway, stairway or other means of exit is not in conformance with the building code effective at the time of construction". I think that is more of a requirement for occupancy and not necessarily for determining if an empty building is safe or not. If a building doesn't meet this requirement is it unsafe to the public? If nobody is occupying it, no.

Dick Bohlmann stated this alludes to one that is occupied.

Councilor Allen stated but not all derelict buildings are occupied, in fact probably most of them aren't.

Mayor Daoust asked are you suggesting that we delete #1?

Councilor Allen stated yes, that is my thought. #5 reads, "Exterior or interior bearing walls or other vertical structural members list, lean or buckle to the extent that a plumb line passing through the center of gravity does not fall within the middle one-third of the base of the vertical component". That is really kind of leaning towards construction. I would want to eliminate that because not all buildings are necessarily built with vertical walls. I understand what the intent was, but it is assuming of a particular structural type.

Mayor Daoust stated well it is either that or that the exterior walls are leaning out towards the sidewalk perhaps.

Councilor Allen stated and some buildings are designed to be that way. Whether the wall is straight or not is...

Councilor Thomas interrupted and stated I would think that the Building Official would know if the building was designed to have that type of a ...

Councilor Allen interrupted and stated that is taken care of in these earlier ones where it talks about having structural strength deficiencies. Deal with it on the structural strength deficiencies and not based on whether it is vertical or not. #6 reads, "Any building or structure used or intended to be used for dwelling purposes because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or sanitation facility, is determined to be unsanitary, unfit for human habitation or to be in such condition as would likely cause injury, sickness or disease." That becomes a very subjective statement so I would tend to want to leave that one out as well.

I would like to add one regarding hazardous substance that exposes the public to risk. Some buildings do have hazardous materials that were used in the construction and when they are derelict those materials may become free and airborne and are a risk to innocent people nearby. I think that should be added.

David Ross stated we have an existing ordinance now, TMC 15.04.050 that encapsulates some of these. Regarding #1, a door, passageway, aisle, that is building code. I don't know if we can eliminate that and be consistent with Oregon law.

Dick Bohlmann stated that has to do with an occupied building not an unoccupied building. An example is if the exit was blocked, or the door was screwed shut.

Councilor Allen stated that goes for all buildings regardless of whether they are derelict or not. That should remain and we should enforce it. I thought what we were talking about here is derelict buildings.

David Ross replied unsafe buildings.

Dick Bohlmann stated they don't necessarily have to be unoccupied.

Councilor Thomas stated #1 is talking about ability to escape from a fire or an emergency and if they have blocked the door and it should not have been...(inaudible, multiple conversations).

David Ross stated this is not a property maintenance code. This is an unsafe structure code. This is, in the opinion of the Building Official, if the structure is unsafe. This is written differently than a property maintenance code and it is geared to get at different things.

Councilor Allen asked is there a way to make a distinction between occupied and unoccupied?

Councilor Thomas replied if you are talking about unsafe buildings it is the same thing.

Councilor Allen asked would we be as concerned about #1 with an unoccupied building as we would with an occupied building?

Councilor Thomas replied absolutely.

Dick Bohlmann stated if it is unoccupied I think there is language to the affect that it would be boarded up or unable to be entered. The building has to be secured if it is unoccupied.

David Ross stated secured and posted.

Councilor Allen stated that would work for me.

Councilor Thomas stated when I look at #5, if that could be incorporated into the architectural structure, including in the buildings, I think that would be okay.

Dick Bohlmann stated #5 alludes to a structure that is normally vertical and not built on an angle or a bias, or something of that nature.

Councilor Thomas stated something that has shifted for some reason.

Dick Bohlmann replied exactly.

Councilor Thomas stated I personally like #6 because it kind of gives a definition of the kinds of things we are looking for to make sure that the building is safe to be occupied.

Mayor Daoust stated hazardous materials would have to be dealt with if in fact it got to the point of demolition. I think that is what Councilor Allen was saying. If it were to be demolished it may release hazardous materials. That would have to be dealt with.

Dick Bohlmann stated that is a requirement for any building that is demolished in the State of Oregon.

Councilor Thomas asked doesn't that fall under the demolition permit requirements?

David Ross replied yes. This requires you to pull the permit within 30 days before the demolition and to pull the permit within 60 days for other things.

Councilor Allen stated I see #6 as being highly subjective. It should be written differently. I see a lot of buildings that start to decay from the moment they are constructed. We live in a very wet climate. Whether I want to start going after people for that...

Councilor Anderson stated we are not the Gestapo; we have never been and we will not be the Gestapo. I get it.

Councilor Allen stated you are saying that we have never been unreasonable. I kind of question that.

Councilor Anderson stated we are not going to pass this and then all of a sudden start issuing citations everywhere.

Councilor Allen stated somebody is going to be the victim of a citation that probably shouldn't have been issued. That is a matter of opinion, right.

Councilor Thomas stated there is an appeal process that should take care of that.

Erich Mueller stated the Building Official and the City Manager are the folks that are accountable for enforcement. In #6 all of those various aspects get down to the phrase, "*is determined to be*" and it is going to have to be the judgment of the Building Official who has the structural expertise, and the City Manager. His reasonableness is something that I believe this Council has some degree of influence over. I believe there is a safeguard in terms of #6 being used willy-nilly up and down the street.

I am concerned about the elimination of #1 and #6 if we have a scenario of a rental property that is occupied by someone who is not the property owner and there is a problem that falls under either #1 or #6 but it is an occupied building. We could have someone that is in jeopardy, but we are only going to deal with unoccupied or abandoned buildings. I think we want to be careful not to exclude potentially occupied buildings with this.

David Ross stated as well as buildings that are occupied illegally by squatters.

Mayor Daoust stated anytime we try to nail down the criteria in #6 more narrowly, or more specifically, I don't know that you can get there if we try to define what decay was or define what inadequate maintenance is. I think you get into more trouble than just stating it and leaving it to the Building Official to determine that level of decay.

Erich Mueller stated I think it is useful to point out that it can have decay and dilapidation but it has to be determined to be unsanitary, unfit for habitation. Like was said, new construction starts to decay right away. It is the degree to which it progresses before it qualifies for a citation under #6.

Councilor Allen stated so #6 would apply if the building is occupied. Can we state that?

Erich Mueller replied or unoccupied.

Councilor Thomas stated it is really about public safety and what the status of the building is that is important. Whether it is a safe building; that is really what we are talking about. Whether it is occupied or not you can still have issues with the building if you have some of the conditions. It may not be safe to enter the building because of these.

Councilor Allen stated in that case you board it up and post a sign.

Councilor Thomas stated even if you secure the building you still have situations where that building needs to be dealt with.

Councilor Allen stated structural unsoundness is defined in some of the previous items, #'s 2, 3 & 4.

Councilor Thomas stated I think we need to leave all six of these in.

Councilor Anderson and Mayor Daoust both agreed that all six are needed.

Councilor Allen asked is there a way to write this so that someone doesn't get over zealous and start marking 10, 20 or 30 places in Troutdale that are being fined and have to go through a process?

Councilor Thomas replied I don't know that you can write an ordinance to look for those kinds of exceptions. At that point you are talking about somebody who just has a ax to grind. I would think at that point the City Manager would say we have a lot of issues coming up, what is going on. I think there are some checks and balances built into the system that would stop that from happening, plus there is an appeals process. It is not as if we came in and said this is it there is absolutely no way to work out this issue.

Mayor Daoust stated one of the key statements is on page 3 - 8.30.050 - Unsafe Buildings Prohibited which narrows it down for me to what we are actually talking about here and what this ordinance would be focused in on. It reads, "No structure shall be left unoccupied and unsecured, partially constructed, abandoned, maintained in a condition that is unfit for human habitation, or maintained in a condition that is an imminent danger, or which constitutes a fire hazard, or a hazard to safety, health or public welfare by reason or inadequate maintenance, dilapidation, obsolescence, fire hazard, disaster,

damage or abandonment." That is what this is all about. Those types of buildings are what should be focused on.

Councilor Allen stated take the first point, no structure shall be left unoccupied and unsecured, partially constructed, abandoned, maintained in a condition that is unfit for human habitation. That portion describes every building under construction.

Mayor Daoust replied no.

Councilor Allen stated I think that it does.

Councilor Wilson stated it is for unsafe buildings, not buildings that are being constructed. Obviously if you are building it someone can't move into until it is completed. This is for a structure that has already been completed and is falling apart.

Dick Bohlmann stated statutorily the building permit would take precedence.

Erich Mueller stated presumably they will not have been issued a Certificate of Occupancy until construction has been completed to a level satisfactory to the Building Official.

Councilor Anderson stated I would like to recommend that we move forward by bringing Exhibit C in ordinance form to the Council for consideration at the earliest possible time.

Council and staff discussed the timing of bringing the ordinance forward.

Councilor Ripma stated if you have a derelict vacant lot, an eyesore, is there anything in this ordinance that will deal with that issue in any useful way? I say there isn't. The best you are going to get is a tear down of a building to have another vacant lot. I urge you to think of the financial impact and for that reason I would appreciate some sort of assessment of the financial impact of this on the City so that we know what we are getting into. Is that doable? I don't want to be unreasonable; I realize there is some speculation in it but that has been part of my argument. It is probably the most important reason why I am against this. I'm worried that it will be costly.

Mayor Daoust asked costly in what terms? We already have a Building Official.

Councilor Ripma asked with nothing to do?

Mayor Daoust stated their salary is covered for the entire year so they would choose which things to do. The financial impact is what? Are you talking about litigation?

Councilor Ripma replied I am talking about litigation. You are the owner of a house that has a surface on it that hasn't been maintained and the neighbor complains and somehow the thing gets into litigation or the City sends a letter and they don't chose to

tear it down, they fight. I don't know if there is a way to assess the cost. If you want to just say that there is going to be no cost to the City, I'll accept that.

Erich Mueller replied I would like to be able to say that. However, I would not be able to say that truthfully. I think I understand what you are getting at and that may be something else that Mr. Ross and I can work on as part of bringing this forward and include it in the staff report. There are soft costs in terms of what productivity time will potentially be spent on this. There are potential costs. I think the biggest potential cost, particularly given some of the properties that I believe some of you have in mind, are going to be the costs that the City will undertake to actually do the abatement even if at some future date a lien that was placed on the property was satisfied. Nevertheless those costs would have to be incurred in the interim. We can attempt to address some parameters to that so at least you would have some idea of what you may be faced with.

Councilor Allen asked how would this be any different than our code enforcement in the sense that during good times we have a full-time code enforcement officer and when times are tight we have a part-time one and when times are bad we don't have one at all. How much money you have as a city is how much time you have, and usually that determines how aggressively you enforce your ordinances.

Councilor Ripma stated that could be part of the staff report; an analysis of any additional costs associated with having this versus our current ordinance.

Mayor Daoust stated I think it is going to be rather difficult to come up with. We don't know what the litigation costs would be. We don't know in the future, if we did this and incurred some extra staff time, what the benefits would be. What if doing this caused that property to sell and there was a lien on the property, and in the future we would be getting property taxes from that property that we would never get if it just sat there for another five years. You've got not only the financial impact, but there could possibly be some benefits in the future. So how do you do that? I don't want to look at a piece of paper that says it is going to cost the city \$50,000 to implement this ordinance. I don't want to see that because I don't know that it is the truth. It just biases us to see a price tag placed on implementing an ordinance when we really don't know what the long-term price tag will be.

Erich Mueller stated I would agree that the concerns that you have raised are valid and in particular when we are talking about it in the abstract. What I was anticipating doing was attempting to create some illustrations of some hypothetical examples to provide you with something to consider. The judgments and analysis are certainly going to be subject to whether the Council thinks it is valid or not, and whether that informs your decision you will have to weigh. But I agree with you there is no way to just say this ordinance is going to cost us precisely this amount for each fiscal year. It all boils down to the assumptions made in the analysis.

Councilor Thomas asked how is that different than any other ordinance that gets put into place? I don't know that there is a lot of value trying to put those numbers together.

Councilor Ripma stated every staff report shows a financial impact.

Councilor Thomas stated but that is usually dealing with things that are fixed.

Councilor Ripma stated I do request that we let Mr. Mueller provide a couple of examples because the public ought to know.

Councilor Allen stated I admire Mr. Mueller's skills, but I think we are spending time coming up with a number that will prove to be wrong.

Erich Mueller stated I can guarantee you that it will be wrong.

Councilor White stated I think an alternative to having staff spend time on a tough task, and that would also answer Councilor Allen's concern of how do we know this won't get abused, is to just implement it and monitor it closely.

Mayor Daoust stated that is another way to handle it.

Erich Mueller stated getting back to the issue of making sure it doesn't get abused, which is valid, I would point to page 6, Section 8.30.120 item A talks about any person receiving a notice under this chapter may request a hearing by writing the building official within fourteen days of the date of the notice. The building official is immediately required to schedule a hearing. There is a process to voice disagreement with the assessment or notice and that has to be brought forward to the hearings officer. This isn't something that can be done in isolation where a staff member can just go crazy issuing citations.

Councilor Anderson asked can we please move forward with a consensus if we want to bring this forward?

Councilor Ripma stated I would be interested in knowing if this will deal with the problem of a derelict vacant lot. I would like the staff report to include an analysis, unless they have an answer now.

Dick Bohlmann asked isn't a derelict vacant lot addressed already in the nuisance code?

David Ross replied this is not intended to deal with a vacant lot; this is intended to deal with an unsafe structure.

Councilor Ripma stated realize that we are going through all of this and it is not even going to fix one of the big problems that we are trying to fix.

Mayor Daoust stated it may.

Councilor Ripma stated it won't. They just said no.

Mayor Daoust stated he misunderstood the question. He thought you were asking about a vacant lot.

Dick Bohlmann stated I did understand that to be a derelict vacant lot.

Mayor Daoust stated that is different than a building.

Councilor Ripma stated that is my question, a vacant lot.

David Ross stated a vacant lot is different from a collapsed structure. A vacant lot to me means a neighborhood lot.

Councilor Anderson asked can we please move forward with a consensus on Exhibit C being brought forward in ordinance form at the soonest possible time?

Councilor Ripma asked and you are not going to include a financial analysis?

Councilor Anderson replied no.

Councilor Ripma stated I object to not including that. Some are saying there is no cost, that they have nothing else to do.

Mayor Daoust stated we can monitor the costs.

Councilor Ripma stated monitoring the cost isn't the same as saying to the public that we are going to adopt this and it will have a \$20,000, \$50,000 or some sort of impact but we think it is worth it. That is a valid position to take. But to say we are not going to analyze it I think is wrong.

Mayor Daoust stated I wasn't saying there wasn't going to be any costs. I was saying that some of the costs that you are looking for are going to be covered anyway because the building official's salary is covered. The litigation costs are difficult to come up with. What is totally left out of your picture is all of the benefits that could come from enforcing this ordinance.

Councilor Ripma stated which is very speculative. There could be the exact benefits that you are talking about without passing this ordinance.

Mayor Daoust stated if we had an example of fining somebody \$1,000 per day and they actually paid it, is that one of the scenarios you want him to come up with?

Councilor Ripma replied no, I want to know if the conclusion is that it will bring in enough money to cover the costs that makes a big difference to me.

Mayor Daoust stated I know what Councilor Ripma is looking for. Usually the staff reports will show what the financial impacts are to the city. That is not unreasonable to ask for.

Erich Mueller stated I will have something for you to evaluate and you can determine whether or not it is useful in making your decision.

Mayor Daoust stated that takes care of Councilor Ripma's request.

Councilor White stated if we are going to do something I would probably want to monitor it closely. My only concern with the language is that we have some non-conforming uses and say they were to be damaged. In other ordinances we have worked hard at protecting their footprint. If the house was built a long time ago and now it is encroaching on the riparian zone and the house is damaged that they would still get to use that same footprint to rebuild. That would be my only concern going forward.

Councilor Allen stated I do want to take care of unsafe conditions. My only words of caution are in the language I don't want to inadvertently target 10%, 20% of the homes in Troutdale. I would rather the language go after exactly what we want to go after and that is unsafe structures and no more.

Mayor Daoust stated I take that as a consensus.

Councilor Allen stated we can work more on the language when it is brought forward.

Councilor Wilson stated I am ready to move forward.

Mayor Daoust stated we have consensus.

4. Adjourn:

Meeting adjourned at 9:18pm.

Doug Daoust, Mayor
Approved March 12, 2013

ATTEST:
Debbie Stickney, City Recorder

Copies of the attached exhibits can be found in the February 5, 2013 Meeting Packet in the microfilm.