

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

Tuesday, September 27, 2011

1. ROLL CALL, AGENDA UPDATE

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

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

ABSENT: None.

STAFF: Craig Ward, City Manager; David Ross, City Attorney; Debbie Stickney, City Recorder; Scott Anderson, Scott Anderson, Chief of Police; Joel Wendland, Lieutenant; Rich Faith, Community Development Director; Elizabeth McCallum, Senior Planner; and Amy Pepper, Civil Engineer.

GUESTS: See Attached

2. OATH OF OFFICE: Lieutenant Joel Wendland

Mayor Kight administered the Oath of Office.

Chief Scott Anderson stated we had two outside consultants, an Undersheriff from a large nearby county, and two Police Chiefs participate in our assessment process. We drafted a profile of what we were looking for in a Lieutenant which was: The ideal candidate will display leadership and managerial knowledge, skills and abilities that will help develop the Troutdale Police Department to be a national leader. The successful candidate will demonstrate the knowledge of our shared vision and identify his role in taking our department closer to that vision. The candidate will demonstrate how he has incorporated our values into the workplace, and identify the steps that he will take to ensure accountability for all members to maintain the highest level of performance and conduct. The ultimate success of our department rests largely with how well we develop our officers, sergeants, and our professional civilian staff. A major focus for the Lieutenant will be to mentor, coach and evaluate the Sergeants and be the example that all employees can look up to. Since I arrived here in December of 2008 I have continually reinforced the importance that all department personnel operate within the parameters of those expectations. The Lieutenant must ensure that this emphasis continues and that we don't allow our personnel to get complacent. The successful candidate will articulate how he expects to carry out this responsibility.

Lt. Wendland has demonstrated all of these qualities and more. He is honorable, trustworthy, dependable, loyal and a great partner.

3. CONSENT AGENDA:

3.1 ACCEPT MINUTES: September 13, 2011 Regular Meeting.

3.2 RESOLUTION: A resolution authorizing the Mayor to sign an IGA with Multnomah County for Maywood Park Building Services.

Mayor Kight read the consent agenda.

MOTION: Councilor White moved to adopt the consent agenda. Seconded by Councilor Anderson. Motion Passed Unanimously.

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

Robert Canfield, resident, stated I am here to speak to you about your work session subject, Ken Prickett's report. I have some concerns about this report and I hope you take them under advisement. First of all, after reading the report it is obvious to me that it is filled with inaccuracies. There were three different versions of this report and each one admitted errors in the previous report. What most concerns me is that to me this report is tainted by bias, at the very least the potential for bias. This report was requested by former Mayor Paul Thalhoffer, not anyone on the City Council. Mr. Thalhoffer is a political opponent of Mr. Kight. The second thing that really concerns me about the Prickett report is that he showed his bias, instead of being non-partisan, by saying "In conclusion it does seem strange to me that two of the most powerful officials of the City of Portland, Oregon dare not defy the zoning regulations of the City of Portland to build something they badly need while in Troutdale a similar city official believes he can do anything he wishes." To me it seems that Mr. Prickett came to a conclusion and then made the facts to fit his conclusion. This is far from the way that the City of Troutdale should be doing any investigation at all. I believe that you should dispense with the entire investigation. I would like to remind you that your job is not to be an investigative body, but to set policy. There are people out here that are having trouble finding a job. You have a downtown that is filled with vacancies. We have problems funding our roads. We can't afford, or find ways, to fix our parks systems. What happened to the idea that we are going to be the safest city in Oregon? What happened to the idea that we are going to have the most economically vibrant city and one with the best parks? Instead you are dragging this community through this continued political battle amongst yourselves. You have had people come to the meeting time after time, week after week, month after month, begging you to stop it. Do your jobs; quit the fighting. Find an outside source to investigate this because there are serious allegations that are being brought up. It is not fair to the Mayor or the city staff. It is not your job to investigate it; find an outside source to investigate it and in the meantime do your jobs and help the city become number one instead of fighting amongst yourselves.

John Wilson, resident, stated at the last meeting there was a motion passed regarding recognition of volunteers. During the meeting there wasn't an opportunity for public comment. I don't know if that means that it will need to be redone or what, maybe the City Attorney can tell me if there is any mandate to have public comment.

David Ross, City Attorney, replied I don't answer legal questions from citizens.

John Wilson stated I think the idea of having volunteer recognition is great, but I think we missed the mark on how to do that. I have worked with volunteer groups since 1991. When I started volunteering with the city there was something at the end of the year that recognized all of the volunteers, not just those who stepped down. There was a dinner, then that turned into a dessert and eventually it faded away. I was sad that you had to go through public policy in order to recognize your volunteers.

John Wilson stated I believe that mailing the certificates to the volunteers is the wrong way to go about recognizing volunteers. He showed the Council an example of a framed certificate that he prepared for the Kiwanis Club members, which cost only \$7. I have ideas on how the city could finance this and if you call for a revote I would be happy to discuss this with you.

Mayor Kight asked Mr. Ross, since we didn't call for public comment, where does that leave us?

David Ross stated there is no requirement to have public comment on anything other than a public hearing.

Councilor Thomas stated I would like to have Mr. Wilson work with Craig Ward to look at options for implementing the program.

Mayor Kight stated I think Mr. Wilson made some good points.

Councilor Allen stated I would be interested in Mr. Wilson's proposal.

5. REPORT: Update from Oregon Department of Transportation on the Sandy River Bridge project.

Ron Reisdorf, ODOT, provided a handout to the Council (copy included in the packet). Mr. Reisdorf outlined the work that has been accomplished this year on the Sandy River Bridge project. As of September 13th the contractor celebrated 50,000 hours of safe working without an accident and they awarded \$2,500 to local schools to help with physical education programs.

Mr. Reisdorf outlined the work that will take place over the next year. Later this week or early next week we will be sending out postcards to property owners regarding renewing their flood insurance policies.

Councilor White stated we had an interesting flood event with all of the trees lining up on the bridge. You folks did an outstanding job of clearing that. Have you made any changes to that process?

Ron Reisdorf replied that was a 25 year event. The large amount of debris that went into the river was clear up stream by Zigzag and only about half of that material made it down here. We removed approximately 140 truckloads of logs out of the stream. The contractor has to have the eastbound work bridge out of the stream by November I believe.

Councilor White stated have we received an accurate number for the base flood elevation that is going to be lower once the new bridge is in place because there will be fewer pilings that are going to actually be in the river?

Ron Reisdorf replied I don't have that number. I know it is lower.

Councilor White stated I would be interested in getting that.

Ron Reisdorf stated I can see that the FEMA maps will need to be updated once the job is done because it will probably be lowered by a couple of feet.

Councilor White stated there has been some talk of possibly getting some art added to the bridge. Has that gone anywhere?

Ron Reisdorf replied on the east end there may be a place for some art. We do not have a resolution on that yet.

Mayor Kight stated Troutdale Elementary and Sweetbriar Elementary split the \$2,500 for their athletic program. Since Troutdale is at the west end of the Columbia Gorge hopefully this won't just be another bridge and it will have some architectural features to it. We have a local artist, Rip Caswell, who has met with some of your staff. We would like to see, if not his artwork, some kind of artwork as an entrance either coming into Troutdale or leaving Troutdale at the beginning of the bridge.

6. PUBLIC HEARING / ORDINANCE (Introduced 9/13/2011): An ordinance amending Troutdale Municipal Code Section 2.08.240, Council Expenses.

Mayor Kight read the ordinance title.

Councilor Daoust stated I think we have an amendment that we can agree on to clarify those expenses that would be reimbursed for the Mayor and Council. We have been through this at several meetings. The first reading on this ordinance took place two weeks ago and at that meeting we made a minor change to the ordinance. I think the language is clear and easy to understand so that we all know what expenses can be reimbursed.

Councilor Daoust read the proposed amended language: **2.08.240 – Council expenses**
- The following expenses shall be reimbursed for the mayor and councilors: 1) registration, lodging, meals, parking and mileage for attending the League of Oregon Cities Annual Conference; 2) the mayor shall be reimbursed for registration, lodging, meals, parking and mileage for attending the Oregon Mayor's Association (OMA) Annual Conference; 3) No other expenses shall be reimbursed unless pre-approved by the city council. The mayor and council shall follow the procedures for reimbursement of incurred expenses applicable to city employees. Expenses will only be reimbursed upon the approval of the finance director.

Councilor Daoust stated if we follow this ordinance I think it will make it easy for the Finance Director to approve expense reimbursements.

Council had no questions.

Mayor Kight opened the Public Hearing at 7:34pm and asked is there anyone here that would like to speak to us on this issue?

No testimony received.

Mayor Kight closed the Public Hearing at 7:34pm.

MOTION: Councilor Anderson moved to adopt an ordinance amending Troutdale Municipal Code Section 2.08.240, Council Expenses. Seconded by Councilor Allen.

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

Motion Passed 7 – 0.

7. PUBLIC HEARING / ORDINANCE (Introduced 6/14/2011): An ordinance adopting a new Chapter 8.36 of the Troutdale Municipal Code relating to business recycling requirements.

Mayor Kight read the ordinance title.

Amy Pepper, Civil Engineer, stated this ordinance was first introduced at the June 14th City Council meeting. The staff report presented at that time, and at previous work sessions, provided a more detailed explanation of the rationale for the proposed ordinance. At the June 14th meeting Council had some questions about the ordinance and suggested some revisions. In response to Council's concerns staff proposed some changes to the ordinance presented at that meeting and discussed those changes with the Economic Development Subcommittee at their August 23, 2011 meeting. One additional change was proposed that was found to be acceptable by Metro staff and

was included in the proposed changes that are shown in the staff report. The Economic Development Subcommittee recommended approval of the amended ordinance provided that staff presented an implementation strategy. If Council elects to adopt the proposed recycling ordinance tonight implementation strategies will be included in the City's Annual Waste Reduction Plan. The Annual Waste Reduction Plan is the primary means in which the City and Metro plan for waste reduction and recycling programs, projects and activities. This will be the 22nd year that the City and Metro have partnered in this effort. Metro's requirement for this years implementation of the business recycling portion of the Plan is for the City to develop an outreach strategy that focuses on assisting government facilities in compliance with the business recycling requirements, and focus second on new businesses, medium-sized and large businesses (those employing more than 50 employees). There are approximately 50 medium and larger sized businesses in Troutdale all of which subscribe to some kind of recycling with Waste Management. Given that general framework, if the ordinance passes tonight, I am proposing to implement the program as follows:

Fall/Winter 2011:

- Coordinate with Waste Management and PSU's Recycle at Work staff for outreach strategies; begin outreach and technical assistance for early compliance.
- Incorporate outreach strategy into the City's Annual Waste Reduction Plan (requires an Intergovernmental Agreement with Metro and Council approval).
- Send notice to businesses about the adoption of the Business Recycling Requirements ordinance, including information about how to comply and how to receive technical assistance.

Spring 2012:

- Continue outreach and technical assistance, focusing on government facilities, and large to medium sized businesses.

Amy Pepper stated given the minimal funding provided by Metro, focusing on government facilities (schools, the city facilities, post office, etc.), medium and large sized businesses would probably be all that we could do.

Councilor Daoust stated so far the Metro funding has been withheld because we haven't adopted this yet.

Amy Pepper replied correct. Metro Council had proposed additional funding for four years for the Recycle at Work program. That goes away after this year. That is \$1,700. The Recycle at Work funding, the \$4,000, would continue on if we were to adopt this.

Councilor Daoust asked so that \$4,000 of Metro funding would help you work with PSU and Waste Management on the technical assistance and outreach?

Amy Pepper replied yes.

Councilor Allen asked what is the expected cost to a typical business?

Amy Pepper replied it is free technical assistance. There are no expected costs.

Councilor Allen asked and compliance and containers and so forth?

Amy Pepper replied those are provided by Waste Management. The office boxes are provided by Metro for free to businesses as long as the City has passed this ordinance.

Councilor Allen stated I was concerned about expenses to businesses in this current climate.

Amy Pepper stated right now if a business were to request a box, Metro would likely deny their request. They are available for purchase. So currently there is a cost if they want more recycling containers (paper boxes) that are placed inside the businesses.

Councilor Allen asked would that be expected to change?

Amy Pepper replied yes, if the City adopts this ordinance.

Councilor White asked do we have an estimate on the cost for city staff to implement this program?

Amy Pepper replied there would be some costs but I don't have an estimate of how much of my time it would take to implement this program.

Councilor White stated the focus is on medium and large businesses with fifty or more employees. But aren't we still going to require this of all businesses in Troutdale?

Amy Pepper replied yes, but given the limited resources we can't require everybody to come into compliance at one time. We would do the technical outreach to the medium and large businesses first and then the following year, if we had met with all of the government facilities and medium and large businesses, then we would start working with the smaller businesses. Each year this would come back before the Council in the Annual Waste Reduction Plan.

Councilor White stated I am wondering if Troutdale would qualify if we enacted this for only those targeted businesses, since that is what Metro's program was originally created for.

Amy Pepper replied I do not believe that we would. I think Metro has provided enough feedback to us that we have made as many changes that they are willing to accept.

Councilor Anderson asked hypothetically I am the Principal at Troutdale Elementary School and if I called Metro I wouldn't be able to get a box, correct?

Amy Pepper replied yes.

Councilor Anderson stated but I could go to Albertsons or go to my garage and get my own boxes and bring them into the school and encourage recycling that way. Is that correct?

Amy Pepper replied yes.

Mayor Kight stated one of the complaints we hear, and it has nothing to do with the City of Troutdale, but just in general is government regulation. Cities, counties, states and federal governments are constantly passing new laws and regulations for us and particularly small businesses are hit hard and they are having a difficult time surviving. If you were to speak to a business owner, give me the top reasons why they would benefit from having this program.

Amy Pepper replied I am neutral on whether we have this program or not. But recycling in general, other than the environmental impacts, you can reduce your garbage bill. That is the bottom line for businesses.

Mayor Kight asked targeting the General Store, how would Terry Smoke benefit?

Amy Pepper replied his garbage bill would be reduced. I don't know how much it would reduce because I don't know enough about his operation and his waste stream.

Mayor Kight stated one of the other things I am hearing from the small businesses is that we don't have space to have all of these recycling bins. What is your response to that?

Amy Pepper replied the ordinance does allow for an exemption if a business can't meet the requirements. To be granted an exemption a city staff person, or someone from PSU, would need to visit the business and work with them to see if there is space, and if there is not space they would be granted an exemption.

Mayor Kight asked do they have to separate out the paper recyclables?

Amy Pepper replied the only recyclable material that is required to be separated is glass. All of the other material can be comingled.

Mayor Kight stated that is true with residents in Troutdale as well. Are we adding an additional workload to that small business that may only have two or three employees?

Amy Pepper replied the proposed ordinance does not check for compliance on how well a business is recycling. The proposed ordinance requires a business to provide the opportunity to recycle, provide containers, training for employees and signage. There is nothing in the ordinance, or in staff's proposal, that would have us going through their garbage and recycling to ensure that everything that could be recycled is being recycled.

Mayor Kight asked how would a restaurant owner benefit?

Amy Pepper replied it is the same as other businesses; they have material that can be recycled.

Mayor Kight asked what about the food waste?

Amy Pepper replied we do not currently have a food waste recycling program in Troutdale. We would have to set up a separate rate schedule. Other areas in the Metro area do have food waste recycling for commercial businesses. If Council would like staff to look into that I could do so.

Mayor Kight stated to recap, there is a benefit to the small and medium size businesses in that they are able to save costs in their garbage bill, they can receive free technical service and training, and we will not be policing them on whether or not they are recycling properly. Are there any other benefits to the small business owner?

Amy Pepper replied I think those are the top three.

Mayor Kight stated and the City will receive the money from Metro in order to do the outreach and technical support to the business community. Did I miss anything?

Amy Pepper replied I think it also helps us stay in compliance with state law and Metro code.

Councilor Thomas stated in regards to restaurant recycling for food waste, the Economic Development Subcommittee talked with a representative from Waste Management about the possibility of looking at a food waste recycling program in the future that could be set up on a volunteer basis. Waste Management would be willing to work with us to set that program up.

Councilor Anderson stated you said we had to comply with state law. What state law is that?

Amy Pepper replied I had previously provided you a with a compliance notice from the Department of Environmental Quality (DEQ). Essentially DEQ approves Metro's codes and plans for compliance for this region with the State recycling bills. Part of that included the business recycling requirements.

Councilor Allen asked what are the expectations of businesses in the public sector? People don't always throw things away where they are supposed to. In the case where someone dumps their food into the recycling bin, what is expected of the owner in that case?

Amy Pepper replied we wouldn't be proposing to police that. Sadly it happens more often than not. It is considered contaminated and it is not something that we encourage and we would like it to be removed from the recycling before it is recycled, but we are not going to be out policing the recycling containers.

Mayor Kight opened the Public Hearing at 7:53 and asked is there anyone here to speak to this item?

Terry Smoke, business owner, stated I have heard Amy's report and I know all about where it is at, but I also know how this started. A couple of years ago a sheet was brought around by Portland State students that described how this was going to be set up in a tough manner. I think most of you know how my kitchen is set up and they said how there would need to be a separate bin for each of the recyclables in the kitchen area, and that PSU students would come around and they would be policing it and citing us if we were not in compliance. Maybe this was how it was being handled by Metro early on. I am putting it out there to you that this is how I have seen Metro work in the past and I am not a big fan. I think if you look around Troutdale and if you drive to the back of our buildings, we are all doing our work in trying to keep everything up; I separate everything out – cardboard, glass and garbage. I feel like this is just an ordinance to get Metro's foot in the door and to keep adding to this. Neil Handy was just showing me a letter he received about the food waste program for the City of Portland. If it was a problem or issue in Troutdale I would be the first one to jump onboard and say we need to do this. I really feel like we are a good community about that kind of thing and I don't see an issue here. I think it is just more government getting involved with an ordinance that at this point we really don't need.

Dean Hurford, Gresham, Fairview, stated I agree with Terry Smoke. Most of us in the business world are watching our bottom line. I recycle everything. I was also visited by the outreach program and it was quite aggressive regarding how they were going to implement the program. It kind of confuses me because at that point and time I was already separating my glass, plastic and my cardboard, but they indicated there was no need for that just put them in one bin. Why are we putting bins in now? It is hard to keep up with all of this. As a business person we are just asking for less help with our businesses. We want less help; just let us try to stay in business another year or two.

Terry Smoke stated Waste Management stopped taking Styrofoam and now that just goes into the garbage. If Metro and Waste Management really wanted to do something for us it would be to provide us with a way to recycle Styrofoam because a third of our bins end up being Styrofoam and that goes right to the landfills and it lasts forever.

Dean Kampfer, Municipal Representative for Waste Management, stated we are neutral on this. It would be nice for the solid waste staff at the City to have those added resources. I am sure that the City staff as well as Waste Management could direct the PSU students as to what the program is in the City of Troutdale and make sure that they are conveying the right message. Recycling at a business is the same as it is at your home. We try to make it simple; glass and other. You can comingle all of the other items – plastics, tin, aluminum, paper, and cardboard. If you are source separating you don't need to do that. Regarding Styrofoam, that is a problematic material. There are not any good markets for Styrofoam, so today it is not comingled in the mix. There are a couple of places that you can take it to.

Almost all of the businesses within Troutdale are recycling today, so most of the customers would probably not see a significant cost savings with the adoption of this ordinance. If they can reduce more materials from their waste to their recycling bin, and they are able to reduce the size of their garbage container, they would see a savings. The way this system is set up is you pay for the garbage services and the recycling is no additional charge.

Councilor Daoust asked if someone wants to recycle Styrofoam where can they take it?

Dean Kampfer replied Total Reclaim on 60th and Columbia Blvd. accepts that material; I believe it is \$5/bag. Another resource for problematic materials is to call Metro's hotline at 234-3000.

Councilor Daoust stated I would like to have Ms. Pepper address how this will be policed after we finish receiving all the public testimony.

Neil Handy, Historic Highway property owner, stated I received this letter in the mail today from the City of Portland from Mayor Adams and it has to do with changes coming to your curbside collection service, and it reads, "Beginning on October 31, 2011 your household will be able to place all food scraps along with yard debris in your green compost roll cart. Now you will be able to compost everything from fruits and vegetables, to meat, bones, dairy, grains, cooked foods, and pizza delivery boxes. It is part of the new curbside collection service. The green cart containing food scraps and yard debris will be picked-up weekly. Garbage collection will change to every other week." The letter goes on to say what the schedule is and that the service will only increase by \$2.60/month. We all remember when recycling started and we all thought, at least I did, that the more you recycle the less your garbage service would cost. My garbage roll cart at the shop is probably 1/3 or 1/2 full. I recycle everything that I can because it is the proper thing to do and supposedly it is going to save me money. As a business person we try to save money. My point with this letter is that this is coming to your town. It is in Seattle and Portland and it won't be long before Metro thinks that this is a good idea. This isn't the end of what we are talking about tonight. I would suggest that for now you vote no on this and see how this whole thing develops because I think probably in a couple of years we are going to be sitting here talking about this again.

Mayor Kight closed the public hearing at 8:01pm.

Amy Pepper stated it has been a few years since I have worked directly with Portland State staff. There was a short tenure when I wasn't doing the garbage and recycling, but when I was doing it and did work with PSU staff I never had any complaints about their technical assistance. When I worked with them previously I worked with them on the specific outreach material. Given these complaints I will make sure that the outreach material provided also includes my phone number so that if there are any complaints about the technical assistance provided they can be directed to the city and we can resolve those issues.

Councilor Daoust asked what is our status in complying with this in relation to other Metro cities?

Amy Pepper replied the City of Damascus hasn't adopted this and Metro feels that they are unlikely to adopt it any time soon given their political climate. Multnomah County has not adopted this ordinance, but they do not have any hands in the solid waste and recycling business so it is unlikely that they will be adopting it. There are two small cities, Sandy and another one in Clackamas County, that have not adopted it, but in addition to Metro's overarching figure in Clackamas County they also have Clackamas County. So they have Metro regulations and Clackamas County regulations that they would have to adopt.

Mayor Kight asked if we adopt this and it doesn't work can we rescind it?

David Ross replied it is always within the power of the Council to amend or rescind an ordinance.

Councilor White asked what is the reason for them withholding the training prior to implementation of this ordinance?

Amy Pepper replied my understanding is that they don't have a lot of enforcement mechanisms and withholding funding is one mechanism they can use to try and bring us into compliance.

Councilor White asked so the training is considered a form of funding?

Amy Pepper replied yes.

Councilor White stated I think that could be part of the reason for some of the suspicion and worry that it is a foot in the door policy, and what is next.

Mayor Kight reopened the Public Hearing at 8:05pm.

Dean Hurford, Fairview and Gresham, stated before you vote, on behalf of the Troutdale Business and Development Group, we urge you to tell the business community that we are business friendly. Do you want businesses coming to Troutdale? I am begging you to really consider this. It is sending the business person a message. It is getting harder and harder to keep paying my employees.

Mayor Kight closed the Public Hearing at 8:06pm

Councilor Ripma stated this is an example of Metro's style of encouraging or providing some sort of umbrella to the cities. I was on MPAC for ten years and I was on the Metro Solid Waste Advisory Committee at one point. This is Metro's style of governing us. They don't require us to do things, they simply provide a framework and we can decide whether we want to comply or not. The reason this has come before us is that our

ratepayers are contributing money to Metro for the recycling program and we are one of the three jurisdictions that hasn't complied with Metro's mandate and therefore they are withholding the money that our ratepayers are paying for; it is going elsewhere. The Council has dealt with this for a longtime. We actually had a business that wanted to receive some technical assistance on recycling and some of the free bins that are available to any other city and that our people have paid for and they couldn't get it. It isn't a lot of money. The Council has struggled with this for a long time and I think staff has negotiated the best deal that we can with Metro. If you can't comply with these requirements seek an exemption, which the City can grant. Staff worked hard to get this as innocuous as it can be and still get our people the services and products related to recycling that we are paying for. It is a very tough situation but it is the way that Metro operates. If we don't pass this it won't stop Metro from wanting to proceed with whatever Mayor Adams sent you a letter about. It won't make any difference either way; all it will do is make sure that we continue to not receive the money from Metro that our ratepayers are paying. We are contributing that money and we are not getting it back. I can assure you that all of us up here have very reluctantly brought this forward. It is, I think, as benign and innocuous as it can be, but of course it is possible that it will be a problem. I agree with the Mayor, if it turns out to be too much of a headache we will rescind it and give up that money. We have had many work sessions on this and I think on balance we have negotiated the best deal that we can with Metro.

MOTION: Councilor Ripma moved to adopt the ordinance adopting a new Chapter 8.36 of the Troutdale Municipal Code relating to business recycling requirements. Seconded by Councilor Daoust.

Councilor Daoust stated we have been dealing with this for awhile. I am kind of on the fence. I have listened to the arguments from the businesses and they are valid. I listened to staff say what is going to happen in implementing this program. I am not coming up with real solid reasons why we shouldn't adopt it. If there is no room in a kitchen I am sure that city staff will make sure that they can put it elsewhere. Some of the businesses say there is a cost to it but I am not hearing that there is a cost. I am a little confused whether or not there will be an impact on the businesses. I have not heard solid evidence that there is, even though I hear what they are saying and the precautionary tone in their voice; I hear that. I am concerned about that but it is not backed-up with any solid evidence. It is a free program; there is no cost is what I am hearing. I am sure that this Council agrees with the business community that we should reduce the impact on the business community by looking Ms. Pepper in the eyes and saying "reduce the impact on the business community" as a message from the Council, or at least from me. Do not police this so much and don't be so rigid with the expectations; counsel the PSU students that may tend to wonder into Troutdale to monitor this. We can work with that. We don't have to accept PSU students coming out here and doing whatever they want to do. It is just common sense that everybody wants to recycle; the survey said that everybody agrees that we should recycle. Even though we are doing a pretty good job of it already I don't really see a downside to this. From my stance on the top rail of the fence, I guess

I am falling to the side of agreeing with Councilor Ripma. Lets get this done and see how it goes and if we want to rescind it later we can. I agree to go forward and approve it.

Councilor Anderson stated Councilor Daoust I would tend to agree with you that this matter has been before us for quite some time and I too would like to get it over with. However, what is this doing? Recycling is a personal choice. We recycle at home. If we own a business we are probably going to take our same mentality as a homeowner into our business and we are probably going to recycle there. We have very substantial compliance. I don't believe we have a problem with recycling. I do not agree with targeting businesses. If we are going to target businesses lets target residents. I don't think it is a problem. I think this is another layer of government coming in, as benign as this ordinance may be. I can totally envision a situation where these PSU students come into a business right in the middle of the lunch hour and they are not going to be treated too kindly. These business owners work their team 13-15 hours a day. It is another layer and it is unnecessary in my opinion. I am against it with every fiber of my being.

VOTE: Councilor Ripma – Yes; Councilor Anderson – No; Councilor Thomas – No; Mayor Kight – No; Councilor White – No; Councilor Allen – No; Councilor Daoust – Yes.

Motion Failed 2 – 5.

Mayor Kight called for a break at 8:16pm and reconvened at 8:30pm.

8. PUBLIC HEARING / ORDINANCE (Introduction): An ordinance amending the Troutdale Development Code (Text Amendment No. 42) and the Troutdale Municipal Code to comply with Title 13 of the Metro Urban Growth Management Functional Plan, Nature in Neighborhoods, and related housekeeping amendments.

Mayor Kight read the ordinance title.

David Ross, City Attorney, stated Item #8 on tonight's agenda is being processed as a Type IV Legislative Land Use Hearing in accordance with the provisions of the Troutdale Development Code (TDC). A staff report has been prepared on this matter and has been made available seven days before the hearing. The staff report identifies the approval criteria that apply and analyzes those criteria. The procedure that the City Council will utilize for the hearing tonight is:

- Staff will present their report
- The Mayor will open the public hearing
- Anyone who wishes to testify about the proposed text amendment will be given the opportunity to do so
- After all of the testimony has been submitted the City Council will discuss the proposal.

If you are going to testify make sure that you have signed in, and give your name at the beginning of your testimony so that the City has it in the record. If you are going to submit exhibits such as letters, reports, or photographs please identify the exhibit for the record and confirm that you want it included in the record before you distribute it to the Mayor and Council members. Your testimony and exhibits should address the applicable approval criteria. If you believe that other criteria apply in addition to those that are addressed in the staff report, you must identify those criteria and explain why you believe they apply to the proposal that is being considered. The Mayor may reasonably limit oral presentations in length or content depending upon time constraints. Any party may submit written material of any length while the public record is open. After all of the testimony has been submitted the Mayor may close the public hearing and this matter will be set over for a second reading on October 11, 2011. This summarizes the procedure. Before the Mayor begins with the staff presentation, do any City Council members or the Mayor have any conflicts they wish to disclose?

Mayor Kight stated since I have property that would be directly affected by Title 13, I wanted to disclose that.

David Ross stated so you have a potential conflict.

Mayor Kight stated that is correct.

Councilor Daoust stated I do not see a problem with that and I would like Mayor Kight to remain.

David Ross stated this is a legislative proceeding. It is a potential conflict and the Mayor is a member of a class with other property owners as well, so the Mayor would be able to participate.

Councilor White stated I also have that same potential conflict due to the location of my personal home in Troutdale.

David Ross stated again that would be a potential conflict as oppose to an actual conflict, and you can participate.

Rich Faith, Community Development Director, stated it has been a very long journey that has got us to where we are this evening with this ordinance. I would like to summarize and reiterate some of the points that I have made in the past to quickly bring us up to where we are, and outline some of the steps that we have taken.

The ordinance in front of you is related to Metro Title 13, commonly referred to as Nature in the Neighborhoods. That provision of the Metro Code was adopted by the Metro Council in 2006. In January of 2007 the State Department of Land Conservation and Development (DLCD) acknowledged Title 13 as meeting Statewide Land Use Planning Goal 5 pertaining to the protection of natural resources, specifically protection of riparian corridors including water and fish habitat, wetlands, and other wildlife habitat.

In 2007 all of the cities and counties within the Metro Region were notified by Metro that we had by law until January of 2009 to revise our Comprehensive Plan and our implementing regulations to comply with Title 13. In March of 2008 we embarked upon that mission. There is a complete chronology of all of the events that have taken place regarding the preparation of this ordinance and all of the various things that have occurred in the findings of the proposed ordinance. From the beginning it has been staff's goal to do only what is necessary to meet substantial compliance with Title 13. It was to that end that we decided that rather than adopt the Title 13 model ordinance prepared by Metro, we would instead use our existing code and build from that adding only what was necessary to comply with Title 13. We came to that conclusion with input and guidance of the Citizens Advisory Committee (CAC). We chose not to adopt the model ordinance; we built off of our existing code that was adopted in 2000 that was done to comply with Metro Title 3, which pertains to water quality and flood hazard area protection. The particular standards of our code, and the chapter that we are specifically talking about, is what we refer to as our Vegetation Corridor and Slope District Overlay, also referred to as VECO.

The amendments before you have been prepared by staff, with input from the CAC and the Planning Commission (PC). We believe that the amendments are the minimum necessary to meet substantial compliance with Metro Title 13. In fact, we believe that it will meet substantial compliance; we have received indication from Metro's staff that that is the case. I know at first blush anyone looking at these amendments would come to a conclusion that these are overwhelming and daunting. I say that because anyone looking at the amendments will see all of the bold black type and strikeouts which indicate changes in existing language and it appears that we are doing a lot of new stuff in this ordinance. But upon a careful reading of the ordinance what you will find is that the vast majority of these amendments are housekeeping (reorganization and reformatting) changes and they do not add to or increase current standards and regulations. I would like to point out what the amendments do not do.

- These amendments do not change the area currently subject to the VECO standards with one exception, which is except for Metro-owned property within the city limits. The reason this does not change the area that is being regulated is because we are not adopting the Title 13 Map, the Habitat Conservation Area (HCA) Map which Metro generated. Instead we are applying these standards to the current Title 3 Map, which we already reference in our Code for purposes of determining where protection of habitat areas should apply.
- These amendments do not increase the width of the VECO. We are not changing the formula or methodology for how you measure setbacks from water features. We actually tried to streamline that and we struck many of the charts in the Code, but the bottom line is there is no change in how you measure the setbacks so there is no increase whatsoever in the width of the VECO.
- These amendments do not eliminate or prohibit uses permitted in the underlying zoning district, nor do they eliminate or prohibit uses that are currently permitted in the VECO.
- The amendments do not prevent the repair and maintenance of existing development within the VECO. That would apply to even lawns or landscaped

- These amendments do not limit development within the VECO to any greater degree than development is already limited under our current standards with one exception, which is to Metro-owned property.

I am trying to set the stage here to inform and educate what these amendments are all about. There is a lot of bold type and strikeouts that suggest changes, but the bottom line is that the vast majority are merely housekeeping and restructuring of our existing code.

Elizabeth McCallum, Senior Planner, stated in the ordinance there are findings that indicate how our existing standards and codes carryout the Metro Title 13 Goals, and how the amendments are going to compliment what we already have on the books.

We have had discussions since the PC made its recommendation to you about the density transfer provisions, which goes with the site capacity incentives. We have such a standard in the Code right now, but it is proposed to be amended to allow platted lots to be reduced up to a maximum of 30% of the minimum lot area required in the underlying zoning district in order to avoid development in the VECO. The current standard allows a reduction of the lot area up to a maximum of 3,000 square feet. The result is that larger lots will be required in the R-7, R-5, R-4 and A-2 zoning districts to qualify for density transfer then are now required, and those lots are shown on Exhibit F. These are the properties that will generally be affected if residential development density transfer is taken advantage of. Right now if you have R-4 zoning (4,000 square foot minimum lot size), as the Code is currently written you could reduce your lot to 1,000 square feet in area. Staff proposed to the CAC that it made mathematical sense to have a percentage reduction rather than just blanket square footage. What is also important about the density transfer amendment standard is that other zones, Neighborhood Commercial (NC), Mixed Office Housing (MOH) and Town Center General Commercial (TCGC) have a residential component that is permitted and currently there is no provision in the Code for a density transfer, or what Metro calls a capacity incentive. The new language captures the non-residential zoning districts that allow residential development. The list that I provided with Exhibit F does not include properties with old housing stock, or commercial buildings that might be torn down and then new residential development occur. We have about 18 properties that might be affected by that density transfer; it depends on their prospective. There are advantages for that standard from going from a 3,000 square foot reduction to a 30% reduction. Some people may feel like that is a disadvantage.

At work sessions with Council we responded to the tree removal mitigation formula. The amendments change the Table for the tree mitigation standards shown on page 28 of Exhibit B. The prior provision was about double every one of the numbers shown in the proposed text.

It is also important to consider the criteria in our TDC that must be met with these amendments. Finding #13 on page 10 of the ordinance includes the standards from the TDC that must be met when considering text amendments to the TDC. Finding #13-b - These amendments do not adversely affect the health safety and welfare of the community. Finding #13-c – These text amendments are in compliance with, or do not conflict with goals and policies of our Comprehensive Land Use Plan. The Comprehensive Land Use Plan goals that are identified in this finding are: Goal 5 pertaining to Natural Resources; Goal 6 Air, Water, and Land Resources Quality; and Goal 7 Areas Subject to Natural Disasters and Hazards. All of the findings related to that are outlined in the ordinance.

The findings also identify the public notification process and testimony that has been received in writing and verbally to date. Finding #14 explains that the City has a separate floodplain management chapter in the TDC; amendments to that chapter were adopted in November of 2009. By its very nature the floodplain and the VECO overlap in most of the affected areas.

I would like to now address two of the letters that we received after the staff report was made available to you (copies included in the packet). The first letter is from the Sandy Drainage Improvement Company (SDIC) dated September 26, 2011. They are requesting an additional provision for tree removal in the levies that they maintain be allowed in the proposed amendments to Troutdale Municipal Code (TMC) Chapter 13. This is being requested because some of those trees are not going to be in the VECO or in the floodplain, so there was a need to add a parallel provision which they proposed in their letter. Staff is comfortable with that, especially since the Metro model ordinance for Title 13 does allow the District to remove trees from within the habitat areas as well as other areas of the city. Their proposed change to TMC 13.10.270A is to add the following sentence to the end of existing proposed text (shown on page 60 of Exhibit B):

Tree removal on properties owned or managed by the Sandy Drainage Improvement Company (SDIC), or its successor or designee, are exempt from the standards of this section provided the SDIC or its successor submits an annual report to all local permitting agencies in which the district operates describing the projects the district completed in the previous year and how those projects complied with all applicable federal and state laws and requirements.

Staff does agree and would recommend that this sentence be added.

The second letter I would like to address is from the Audubon Society's letter dated September 27, 2011. The first point that they make is, "The VECO and Flood Management Area standards provide inadequate coverage of the HCA's that Title 13's model ordinance was adopted to protect." On the wall are two maps (not submitted into the record). The first map is the Metro Title 3 Water Quality and Flood Plain Map, commonly called the Title 3 map. That is the map that is referenced in the applicability section of the TDC, which is on page 10 of Exhibit B which reads:

4.311 Applicability – These standards apply to all development in the VECO as defined in section 1.040, Vegetation Corridor and Slope District and Water Quality and Flood Management Definitions of this code and to the Metro Title 13 Habitat Conservation Areas

of all Metro-owned parks and green spaces that are designated for natural areas, and are shown as HCA on the Metro Title 13 HCA map.

The second map on display is the HCA map. Metro is not requiring anything to happen in the lighter gray area. What the amendment is saying is that only the Metro-owned property that is on the HCA map would be subject to these standards. Exhibit D of my staff report is the map showing the HCA of the Metro-owned properties in the City, as well as the Title 3 area overlay. There is some area of the Metro-owned property that is certainly much greater in area or width than the Title 3 area, but generally there is a direct overlap of both of those areas. The areas that we currently manage under our VECO standards are virtually the same. That is part of my second response to the Audubon letter, and with that I have 2 maps that I want to hand out (copies are included in the packet). In the Audubon letter they say that they are particularly concerned about how we would be protecting Beaver Creek south of Cochran Road. The first map I just provided to you is the Metro Title 13 map showing the HCA. The City's proposed amendments of the VECO standards do not include adoption of this map because in most of the City, and in particular this area of Beaver Creek called out by the Audubon Society in their letter, the HCA is substantially the same area identified on the Metro Title 3 map (2nd map provided). The property shown on the map is not the Metro-owned property on Beaver Creek, this is privately owned. The HCA map does not apply to this part of the Beaver Creek; it will only apply to the portion owned by Metro. I am using this as an example to show you how staff came to the conclusion that if these standards, with the amendments such as they are to make it clearer about protection of these areas, will substantially comply with Metro's request.

The Audubon Society is also concerned that we have insufficient standards to avoid, minimize and mitigate any impacts to the HCAs. They also have concerns about our floodplain management standards. Our floodplain management standards are not before you this evening, but we do have vegetation protection standards in our floodplain standards. With respect to the amendments that are before, we are quantifying how we will mitigate for tree removal in the VECO, which we reviewed earlier. Mitigation for tree removal from the VECO is required and the proposed standards in Chapter 4.315 quantify what mitigation is. Mitigation for removal of other types of vegetation in the VECO and Flood District is also covered in the code, but there is no quantifiable standard proposed. In other words if you are not cutting down a tree but you are taking up the vegetation in the VECO, the standard says you have to mitigate and give us a re-vegetation plan, but there is no quantifying table like there is for the tree removal.

The Audubon Society also says that the proposed zoning code amendments do not adequately protect HCAs in publically owned parks and green spaces. Metro responded to this is in the letter of October 12, 2009 (Exhibit E-9) from Brian Harper. The letter mentions that Metro only requires that the standards apply to the HCAs of Metro-owned parks and green spaces, and Metro prefers but is not requiring that the HCA of all other publically owned lands be subject to these development standards.

The last point that the Audubon Society brings up is that the City of Troutdale has not proposed comparable acquisition, restoration, or other programs to address the shortcomings in protection of Title 13 HCAs. I am not certain as to what is meant by comparable acquisition. What I do know is that the City is not required to purchase development rights from the property owners. A blanket statement that there are shortcomings in the protection regulations proposed is not instructive. The amendments do include restoration standards when the VECO is disturbed, and if the developer wants to use part or all of the VECO to meet the minimum required landscaping for the development. That is a new standard in Chapter 11 which is included in the amendments. If somebody owns land that has a VECO they can use that VECO to meet all or part of their required landscaping for their development. The condition is that they do have to restore that VECO with native plants and remove the blackberries. That is a carrot for avoiding development within the VECO.

There are a lot of concepts that we have discussed in the past work sessions with you. The ordinance is recommended to you by the PC and it has been vetted by the CAC. We have made some changes to the proposed amendments as requested during the work sessions. Staff is recommending that the amendments as proposed be adopted. Council does have the option to revise the amendments as proposed in Exhibit B of this staff report. I refer to Exhibit B because that is the redlined version of the amendments with the sidebar comments.

Councilor Thomas stated in reviewing the items that have come in and the reports, one of my concerns is I think we are moving too fast. What I would like to do is give some of the business owners, especially those that are listed on the letter from the Troutdale Business Development Group, an opportunity to have a public open house.

MOTION: Councilor Thomas moved that we table this discussion until October 11, 2011 after an open house has been held by staff with the affected property owners so that they can have an opportunity to discuss the proposal with staff. Seconded by Councilor White.

David Ross stated there has to be a motion made to adopt the ordinance before a motion to table can be made.

Councilor White asked what do we need to do in order to allow this open house to occur?

Mayor Kight asked do we need to go through the whole process, the public hearing etc., because this is only the introduction of the ordinance?

David Ross stated rather than table I would suggest that you move to postpone to a certain date.

MOTION WITHDRAWN: Councilor Thomas withdrew his motion.

MOTION: Councilor Thomas moved to postpone to a time certain of October 11, 2011 to continue the discussion of this agenda item after an open house has been held by staff with the affected property owners so they can have an opportunity to discuss the proposal with staff.

Councilor Thomas stated the reason for this is because there have been a lot of changes and we have been looking at this for 2½ - 3 years. I think a number of the property owners would really like to have an opportunity to see this material and understand what is going on. This is the first time it has been all together as one document. I really value getting the public's opinion prior to us going forward.

Councilor White seconded the motion.

Rich Faith asked for clarification on what is being requested. Between now and October 11th you would like us to have an open house and invite affected property owners to attend and ask questions, and for staff to be available to answer those questions.

Councilor Thomas stated it is an opportunity for the property owners to better understand what is going on.

Mayor Kight stated I don't disagree with what you are trying to accomplish. Is the timeframe too tight to hold the open house between tonight and October 11th? Is there sufficient time to get the notices out to all the property owners in order to have a good turn-out? Should we push this back to the 25th of October?

Councilor Thomas stated we need to have the conclusion of this before the end of December.

Councilor Ripma asked is it possible to do an open house in the timeframe proposed by Councilor Thomas, or the timeframe mentioned by the Mayor?

Rich Faith replied I would prefer that we put the second hearing off until the second meeting in October to give us adequate time to prepare for and send out notifications to the property owners.

MOTION TO AMEND: Councilor Thomas moved to amend the motion to postpone this item until October 25th.

Councilor Ripma asked if we pass this motion are we going to take any public comment tonight? Folks have waited a long time and they may have something to say to us. I think it might be proper for us to at least invite them to comment.

Mayor Kight asked can we take testimony Mr. Ross? We have a motion to postpone the item to a date certain. That kind of cuts the process off right?

David Ross replied exactly. The way we announced that this was going to proceed tonight was that there was going to be a staff report then we were going to take public testimony, then Council was going to discuss the matter.

Mayor Kight asked what if we go ahead and take public testimony and then postpone the item?

David Ross replied this is an ordinance introduction so at this point there is nothing to postpone. I think that was the point that I was trying to make. You can decide when you are going to have the second hearing, but at the moment there is nothing to postpone. This is an introduction and there is nothing pending for you to move to postpone.

Councilor Daoust stated we have the assumption that we are going to have the second hearing in two weeks.

David Ross stated the second hearing may be postponed.

Mayor Kight asked can we go ahead with the meeting, take public testimony and then at the end postpone the second hearing?

David Ross replied that would be preferred. The motion on the floor is improper. There is nothing to postpone at the moment. This is an ordinance introduction and at this point there is nothing for the Council to decide. I would prefer that it be withdrawn and that we continue with the public hearing, and then Council can debate how you want to proceed.

MOTION WITHDRAWN: Councilor Thomas withdrew his motion.

Councilor White stated in your opening statements Mr. Faith you said that nothing significant is changing in the size of the riparian zone, or the wetlands and water features. I guess that is a matter of perspective. I agree with you that the size of it is not changing but the cost and the content of what occurs in these sites is definitely changing. The only way that we can ensure that it would not be changing is if we submitted our existing code to Metro, something that we still haven't done. I think it would be a smart idea for us to submit our existing code to Metro and include what they want, which is these added requirements for their own property (Metro-owned property) and see if we are not sufficient with Title 13. I am wondering why that has never occurred.

Elizabeth McCallum replied it did occur. It goes back to at least 2008 when Metro looked at our ordinance, along with the other cities ordinances. They worked with me and they gave us a matrix that was presented at the very first work session over three years ago with Council, PC and CAC. They looked at our existing ordinance and language to see what kind of avoidance measures we have. They looked at our building setbacks...

Councilor White interrupted and asked isn't it true that they interpreted our code but we actually never submitted it in compliance?

Rich Faith replied we have never submitted our code in its existing form, nor have I ever been instructed by Council to do that on the basis that that is all we need to do.

Councilor White stated in going through this one big thing that came up is when we talk about the VECO and once you develop you have to have 15% landscaping, but if the VECO was large enough to cover that 15% you didn't have to do anything. That has already been offered to us. When we passed Title 3 and Goal 5 we were told that by this planning staff. I know it is not in our code, but we were all told that and I specifically remember it on more than one occasion. Now, to be compliant with Title 13 a property owner has to rehabilitate that entire area in order to utilize it for the 15%. Right away I see a problem where there is an increased loss to the property owner. Now instead of being able to utilize that VECO, which they have received zero compensation for and they are still paying taxes on, the cost of repairing it could be extensive. It would be cheaper just to do the landscaping along the parking curbs. That is a loss of revenue and rights to a property owner.

Rich Faith replied if you have a 15% landscaping requirement and you were adjacent to a VECO, we give you the option of counting that towards your landscaping. That is potentially 15% more of your land that can be used for buildings and other uses.

Councilor White stated what I am saying is we have already given that right to people that have had their VECO doubled, and in some cases tripled. We have already told them that it will count towards your landscaping requirements. If your VECO is large enough it could actually cover it all and you don't have to do anything additional. That in its self is a pretty big change. I am not an expert like you guys are. I question why we are doing all of these changes when our current code is so restrictive, and we still have the open question of isn't our current code acceptable. When we went to the hearing to ask for an extension we were told by Tim Obrien that they were worried about delaying the process even further if we submitted our actual existing code and had them review it for compliance.

Rich Faith replied it would certainly take additional time for them to do that and particularly if they come back with the answer that it is inadequate and doesn't meet substantial compliance and we need to do more. Then we would be right back to where we are.

Elizabeth McCallum stated the reason why we have specific standards pertaining to when somebody chooses to use the VECO as part of, or all of, their required landscaping is to directly respond to Metro Title 13 where they want the hydrologic qualities and the vegetation in the VECO to be restored. The proposed standard is (page 56 of Exhibit B):

11.010(K) - The landscaping requirements of this chapter may be partially or entirely satisfied by enhancing, maintaining, and preserving the vegetation of the VECO and

Flood Management Area (FLMA) of the subject site. To qualify enhancement shall consist of all of the following: (1) Organic soil amendments within the areas of the VECO or FLMA to mitigate for compaction, erosion, and/or prior degradation through aggregate or top-soil extraction.

That is something that Metro specifically asked us to look at in amending our ordinances. We have to have standards that enhance that VECO area so that it really is functioning as a water quality area. So if somebody wants the option of that VECO on their property to be used for their landscaping so that they can use the other part of their land that is outside of the VECO for development then there are things that must be done.

Elizabeth McCallum read the rest of the proposed standards in 11.010(K) on pages 56-58.

This is not a required standard, but it is the standard if you want the VECO to be used as the required landscaping percentage of the development that is occurring. Right now there is no standard. So what staff has said is that yes your VECO can count towards required landscaping, but because there is currently no enhancement component that is the part that is weak and that Metro would find is not in substantial compliance. That is why these amendments are proposed.

Councilor White stated that is exactly my point. The current standard is you don't have to do anything if you have this large VECO on your lot you don't have to do any landscaping for parking lots. That was like a form of compensation. Property owners got very little compensation in all of this. They didn't get a reduction in taxes. They didn't get offered any money for increasing the size of the VECO. They just lost the rights to utilize it. I hate to see that incentive taken away. I don't think it is necessary.

Councilor Daoust stated if the VECO is in a natural undisturbed state, in other words there is no restoration needed, can it than count towards the landscaping and not be required to do anything if there is no restoration needed.

Elizabeth McCallum replied I am fairly familiar with the City and the areas next to our protected water features and I don't know of many of those areas that are totally undisturbed that don't have blackberries that need to be removed, and garlic mustard weed and all kinds of things that need to be pulled out.

Rich Faith stated if a plant expert were to say that this site, in its present condition, satisfies what we have in our code as necessary to qualify for that landscaping, I would accept that.

Councilor White stated I think that is going to be rare and really hard to find in Troutdale. Part of the reason Metro bypassed us on land acquisition is they said that the area is highly disturbed which is normal in an urban setting. Our 100th Anniversary Centennial Poster shows a cart and buggy in a riparian zone loading smelt from the river. People

come here to the urban settings to utilize those resources. I think Metro recognized that. They bought up the pristine land.

Councilor White stated in Exhibit B, page 28, the tree table, I know what our current code is which is an unwritten rule that if you cut down a large tree that you replace it with two. Am I correct?

Elizabeth McCallum replied there is no unwritten rule.

Councilor White asked what has been Troutdale's past practice?

Rich Faith replied we ask the developer to submit a landscaping plan.

Councilor White stated I think we worked this out in a work session that if you cut down a large tree the requirement is to replace it with two and that would suffice.

Rich Faith replied I believe that was your statement; I don't believe that was our statement.

Councilor White stated the Mayor had to cut down a tree and I asked him what he had to do to replace it and he responded he had to plant two trees. The proposed tree table would require that you replace a tree the size that the Mayor needed to cut down with 5 trees and 15 shrubs, and they have to be native trees from the Metro list. I recently bought a Huckleberry bush the size of a shrub listed here and it was \$25 because it was a native species. Based on that I did the math and at 15 shrubs we are looking at \$325 for shrubs. I took the price that we use to charge folks for street trees of \$150 per tree and that came up to \$750 for a grand total of \$1,125. I am trying to point out that there are definitely some cost impacts to develop your property now that weren't there before.

Mayor Kight asked did you want a response to that?

Councilor White stated I am having difficulty getting answers.

Rich Faith stated I haven't heard a question.

Councilor White stated the question was, what is the current standard?

Elizabeth McCallum replied we do not have one.

Councilor White stated on page 35, G.1.a talks about bike paths. It says that they can't be closer than 10' from the boundary of a protected water feature. Is that the starting point in the VECO? Is that bankful stage or would that be at the end of the VECO?

Rich Faith replied it is the actual protected water feature, not the VECO. The VECO is generally a measurement away from the bankful stage of a protected water feature like

a creek or river. This says that it is from the waterline, that is what the protected water feature is.

Councilor White asked so you could have a bike trail 10' from the water's edge?

Rich Faith replied no closer than 10' from the boundary of that protected water feature. That boundary changes, so it is an open question as to when do you measure that.

Councilor White stated I really would have preferred another work session. We got these packets and it was quite lengthy reading. I know you took the time to meet with me but I have further questions. On page 44 it says that the City of Gresham's Erosion Prevention and Sediment Control Manual is now going to be used in place of what we were using. Is that a more restrictive manual?

Elizabeth McCallum replied this came forward as a recommendation from Public Works. The Unified Sewerage Agency no longer exists, it is Clean Water Services and they have a whole different document now. The City of Gresham's Erosion Prevention and Sediment Control Manual, from what I understand, is what Public Works has been using when they look at erosion control now. I would say that it is probably not any more restrictive than what was in the document that is no longer being published.

Councilor White asked is there a copy of that manual included in this report?

Elizabeth McCallum replied no. There is a copy of that manual downstairs; it is rather large so I didn't make copies of it. It is most likely on-line at the City of Gresham.

Councilor White stated on page 45 it talks about vegetated stormwater quality facilities and they can be placed in the VECO as long as native vegetation is used. Is that our current standard?

Elizabeth McCallum replied that is our current standard; if you use up to 30% of the VECO is our current standard. Native vegetation is what is expected in there because if you go back to Chapter 4 it says that anything in the VECO has to have native vegetation. Now the amendment is allowing the entirety of the VECO to be used for the water quality facility provided that only native vegetation is used. That is to remove all doubt as to what is expected in there.

Councilor White stated on page 50, under 9.140 A-1 it says the minimum setback from a street front or street side property line shall be ten feet. I know in the Town Center Overlay that they had a reduction in that; they were able to build right up to the property lines.

Rich Faith replied there are some zoning districts that have zero setbacks, that is correct.

Councilor White asked so those will still be allowed?

Rich Faith replied according to this if it is a parking lot the parking lot would have to be set back ten feet from the street. You couldn't have the parking right up against the right-of-way line. The building may be able to be right next to the property line, but the parking lot will have to be set back.

Councilor White stated on page 61, item 2, I read that paragraph and I wanted to know what our current rule is.

Elizabeth McCallum asked for tree removal?

Councilor White responded yes.

Elizabeth McCallum stated if you go to page 60 of Exhibit B, Item D the stricken language is what our current code is. (Ms. McCallum read the stricken language.) For those not associated with land use application you need to go to page 62, the language under letter E that is stricken is the current code. (Ms. McCallum read the stricken language.)

Councilor Thomas stated going back to page 50, when Councilor White was talking about the ten foot side setback for the parking lot. If the underlying zoning allows for no setback can this be changed to comply with the underlying zoning?

Elizabeth McCallum replied the amendment does go with one of the goals of Title 13 that there be mitigation for all of the paved area that parking lots represent. In other words, are we requiring landscaping around parking lots? If a parking lot goes all the way up to the street edge there is no opportunity for perimeter landscaping. I don't have a sidebar comment noted to jog my memory from 3-years ago, but I believe that is where that is coming from with respect to making sure that there is landscaping in parking lots.

Councilor Thomas stated I understand the landscaping piece, but you don't always have a lot of room. Requiring a ten foot setback may take away the ability for them to park at all when the underlying zoning actually allows for it. My concern is that you are overriding the underlying zoning which makes it very confusing for the developer to try and develop a piece of property.

Councilor Daoust stated with all of the good questions I have not really heard any proposals to change anything. Is that the right assumption?

Councilor White stated I was going to wait until the discussion period.

Councilor Daoust asked so you do have some proposed changes?

Councilor White replied yes.

Councilor Allen stated I own several hundred trees and I thin them where they are too thick and I add trees where it is too thin. Is there a certain density that we are targeting?

Elizabeth McCallum replied my recollection of the goals of Nature in Neighborhoods is if there is a tree canopy within the riparian area, or what we choose to call the VECO area, the tree canopy should be maintained. So if a tree comes out and there is a hole in that canopy then there needs to be the compliment of replanting to maintain that canopy.

Councilor Allen asked so what would a person like myself need to do when I am thinning where it is too thick and adding where it is too thin?

Elizabeth McCallum asked are you in the VECO?

Councilor Allen replied I don't have my land in Troutdale, so the question would be if I did.

Rich Faith asked is it an undeveloped piece of property with nothing on it except for the trees?

Councilor Allen replied trees and animals.

Rich Faith replied so it is farm or forest property. I think I would have to say that if that was in the City of Troutdale then we would look at the standards that are on page 61.

Elizabeth McCallum stated that is the TMC tree removal standard.

Councilor Allen asked is there a tree density that we are targeting?

Elizabeth McCallum replied no. The only ratio for replacement of trees is when you are removing them in the VECO, whether you are removing them to develop or if you want to use that VECO to count towards your required landscaping then there is a ratio of trees that you have to plant in there. There is no replacement ratio for areas outside of the VECO. That is the distinction between what is going on in the TMC tree removal standards, and that is why we proposed amendments clarifying that distinction. There are rules for what you do with trees when the land is in the VECO, and the City already has rules for what to do with trees that are not in that area but it was not clear. Anybody reading Chapter 13 of the TMC as it is currently written might think that it applies even down by the river, but it doesn't. Chapter 4.300 of the TDC applies to the trees down by the river and there is no replacement standard currently. It does say that you have to have a justification for removing that tree down by the river. The amendments hopefully make that distinction clearer, but there is no mitigation component in the removal of trees elsewhere in the City.

Councilor Daoust asked so he can practice good forest management outside of the VECO.

Elizabeth McCallum stated if that land was in the City of Troutdale he would have to get a tree removal permit based upon the Type II procedure because he is not doing that in conjunction with development of his land.

Rich Faith stated we are not contemplating that within the City we have a commercial forest practice occurring in which there is going to be thinning of trees. This assumes that if you have a piece of property with trees on it, to remove them subjects you to a permitting process. If you feel that we have property in the City that is being operated as a commercial wood lot and thinning needs to occur we ought to provide a provision for that; we do not address that.

Mayor Kight opened the Public Hearing at 9:50pm.

Tom Bouillion, Port of Portland, stated we provided testimony back in the summer of 2009. The Port was engaged with staff and the PC back in the summer of 2009. We were concerned about the potential impact to development in the Troutdale Reynolds Industrial Park (TRIP) as well as the safe operation of the Troutdale Airport. I am happy to say that at this point I believe we have resolved all of our issues with one exception. That one issue relates to the location of where City required mitigation can occur. The proposed code language would limit mitigation plantings only within the Troutdale City limits. The Port would like to propose a slight modification to that requirement, which would allow for mitigation within 1 mile of the city boundary. We believe there are four main reasons why this modification makes sense. Our original testimony is provided in Exhibit E-8, which includes a map that roughly shows where 1 mile beyond the city boundary appears. There are many public lands that would be suitable for mitigation within that buffer area. Some examples include the Forest Service property on the east side of the Sandy, the Sandy River Delta, Mt. Hood Community College as well as Blue Lake Park, all of which are enjoyed by Troutdale residents. Secondly, Metro's model ordinance does allow for mitigation elsewhere within the same watershed so it is not limited to a particular jurisdictions boundary. Third, there are limited public lands that are suitable for mitigation planting within the City boundary. Port owned lands are either already treed, slated for development at the TRIP, or they are restricted from planting such as around the approach path to the airfield. On the City's side many of the parks are already treed and are either developed for recreational uses such as ball fields or they are relatively small in size. Fourth and finally, in the past the City has allowed the Port to mitigate for tree cutting at the Troutdale Airport and allowed that planting to occur at the Sandy River Delta. The Port has developed a good working relationship with the Forest Service and they are eager to have more trees and plantings over there so we would like to continue that relationship. We would like to have this clarified in both the Title 13 amendments in the TDC and also in Chapter 13 of the TMC.

Mayor Kight asked do you have any proposed language for an amendment?

Tom Bouillion replied yes. In our original letter that we submitted back in 2009 (Exhibit E-8) there is some suggested language provided.

Jim Labbe, Audubon Society of Portland, stated I want to highlight a few things from our written testimony and respond to Ms. McCallum's comments pertaining to our letter. We are concerned about the direction here in that at the end of the day Troutdale's existing Development Code and these proposed amendments will not substantially comply with Metro Title 13. We disagree with Finding 1.a that there are adequate avoidance measures to respond to Title 13 goals. There are four areas that we have highlighted of concern in our letter.

The first was related to adequate coverage of HCAs that Title 13 is supposed to protect. There are several options for substantially complying with Title 13 and the option that Troutdale is pursuing, which I think is actually a good one, is to modify your existing Comprehensive Plan and Zoning Code to specifically meet the performance standards and substantially comply with the Metro HCA map. The concern is that there is inadequate protection; the Vegetation Corridor and Slope District doesn't cover areas outside the VECO; they will be left vulnerable to degradation and loss as development occurs. I will have to go back and actually look at the data that Ms. McCallum used to compare Beaver Creek. There are, however, large flood plain areas that in many cases extend beyond the minimum fifty feet for areas that are less than 25% slope that were part of the HCAs; these are undeveloped flood plain areas that provide a variety of functions that recreates habitat. That is an area of specific concern that I suspect are where some of the most significant gaps are going to be.

Then there are the standards that apply in the mapped HCAs, and how the proposed and existing ordinances would apply to those areas. Particularly in the Flood Management Areas there is a question of whether the avoidance standard is going to be equivalent to what the region agreed upon would be the minimum in the Title 13 model ordinance.

The third big issue is about Troutdale's publically owned parks and green spaces. June Mohler is going to speak as well about some of the issues she has seen in public parks and how the vegetation is managed there. The Metro Policy Advisory Committee and the Metro Council were really clear that Title 13 would set a higher standard for protection of public parks and green spaces, not just Metro owned property but all public parks and green spaces where there are HCAs. That is a major concern for us.

I won't go into the exchange with Metro, but I don't think it is completely clear that Metro understands some of the last minute changes that were made in October which removed some of the protections for parks and green spaces. I think that is an outstanding issue for Metro and it is one that Councilor Hosticka raised last week.

The last point was merely to say that I think there are a number of ways to address these. The point of Title 13 is that you don't have to rely totally on land use ordinances to protect the HCAs. The forth point that I raised was merely that we haven't seen how

the gaps are going to be addressed, whether it is through more active restoration. I understand that there is that one loophole where there is an option to enhance landscape areas. I think what Metro was looking for was where are investments being made to improve conditions and enhance fish and wildlife habitat water quality in these areas.

Jim Labbe provided the Council with a handout titled Beaver Creek State of the Watershed (copy included in the packet).

June Mohler, resident, reviewed a letter she provided to the Council (copy attached as Exhibit A).

Tina Mohler, City of Portland resident, stated I would like to talk about the impact of mature trees on the quality of life in Troutdale. The value of mature trees is relevant to the tree replacement mitigation chart. That is the chart specifying what must be replanted if a mature tree is removed along VECO and other sensitive areas. It is therefore directly relevant to the meeting tonight. The issue however of the value of mature trees also impacts the mission of the City Council more broadly because it impacts the quality of life for all residents in Troutdale. I live in a suburb of Portland, though I have lived in Corbett, Gresham and Troutdale. In my suburb mature trees often extend out over the roads to form canopies. I asked some of the residents in my neighborhood how they feel about these trees and they said: Trees cool the air; almost no one has air conditioners; they clean the air; they give you a sense of presence, continuity, and rootedness. The residents that I spoke with all indicated that the trees in the neighborhood were one of the reasons they moved to the neighborhood. While cutting down a mature tree may be a gain to a given property owner, every other resident in Troutdale will suffer a loss. For every other resident in Troutdale the air will become a litter hotter, dirtier and because trees form sound buffers the streets will become a litter noisier. I have heard said by a member of the City Council that if a tree is removed it should simply be replaced with a sapling or two saplings. The idea I think is that one tree equals another. This sounds reasonable until you consider how long it takes for a tree to grow and its chances for survival. From this perspective a mature tree is irreplaceable. In our lifetimes we won't see another tree take its place. In our lifetime that tree is gone for good, so the idea that a sapling can replace a mature tree is just not true for people who have 70-year life spans. Where I live people protect their trees, both on public and private land. There is even an ordinance that allows the City to designate heritage trees for special protection. The City can designate their own trees or a property owner can support the nomination of a tree for City Heritage Tree status. If a tree attains that status it is protected for all time, beyond the ownership of the given property. This ordinance reflects the value of trees not just to a given property owner, but to the whole community. I support greater protections for trees in Troutdale both on public and private land, and for City ordinances that take into account the value of a tree before a decision is made about what a suitable replacement for that tree might be. I urge the Council to consult a biologist or an ecologist to determine tree and ground cover value before adopting a tree replacement mitigation chart.

Mary Gibson, contract planner for Sandy Drainage Improvement Company (SDIC), stated the SDIC has participated in the City of Troutdale's process for compliance with Title 13 over the past 2-3 years. SDIC uses levies for flood control in Troutdale. Language was included in the Text Amendment #42 to the TDC to permit the maintenance and operations of the SDIC within the VECO. Maintenance sometimes includes tree removal from levies to protect the structural integrity of a levy. Some levies are outside the VECO and thus we also require language to allow this maintenance in the TMC. The proposed language is contained in a letter to you that you received from the SDIC (copy included in the packet) and is part of the record and was read tonight by staff. The amendment is consistent with the language in the PC's recommendation on the TDC and Metro's model ordinance. We request that you include this in your consideration of Text Amendment #42. With this addition the SDIC supports Text Amendment #42 to the TDC and TMC.

Dean Hurford, Gresham and Fairview, stated I want to reserve the right, with the understanding that there will be a workshop that I will participate in.

Mayor Kight closed the Public Hearing at 10:20pm.

Councilor White stated given that the market is already chilled and we are only asking the people who have already given so much to be the only ones that have to do more without any compensation, I think a fair way to handle this would be to submit our current code to Metro with the addition of the model ordinance being applied to the Metro-owned land and that native tree species be used from the Metro list whenever required to replace a tree in the VECO. Lets get an answer back from them. I don't see how Metro can deny the fact that Troutdale has done a better job protecting its VECOs then any other city with natural features. Granted there are some cities that have adopted the model ordinance, but the model ordinance was only designed for cities that didn't have an inventory; an example being Wood Village. That is my proposal.

Councilor Thomas stated I have a couple of things I would like to see staff look at. The first is the issue on page 50 with the setback on the parking and the underlying zoning for that area. At least take a look at that and see if there is some way to allow for the setback to be with the underlying zoning and still maintain some of the vegetation standards. The second item is the recommendation from the SDIC. I would personally recommend that we add that to our existing code so that they can manage their property. I know there have been some changes recently in regards to dikes, and without adding their proposed language we would be severely restricting what they can do to even meet federal mandates. The third item is in regards to the recommendation from the Port of Portland to look at the 1-mile corridor around the city. I like the 1-mile idea, although I would much rather it be in the city and possibly in Thousand Acres as a priority, versus putting a tree in SE Gresham someplace that should really be in Troutdale. I don't know if there is a way to build that into the code.

Mayor Kight stated you mentioned Thousand Acres, but that is not within the city.

Councilor Thomas replied right, but it is within the 1-mile. I was trying to give a priority order by looking in Troutdale first and then move out.

Councilor Anderson stated it is nice to finally get to this point with this issue where we actually have public testimony. It is obviously very important to a lot of folks. I want to thank everyone who came in and waited patiently to speak to this issue; I appreciate hearing from you.

Mayor Kight stated I would second that.

Councilor Daoust stated one thing that might help address Metro's concern and the Audubon Society's concern is the HCA map. Maybe at the open house both maps could display where the HCAs are. Maybe they already do and it would just need to be pointed out how our existing ordinance varies with Metro's Title 13 protection of HCAs. That is an issue that we will probably need to address. It is not a request to change anything, but just make that more visible.

Councilor Thomas stated I would like to recommend that we hold a public open house and that we hold the second hearing on the 8th of November giving plenty of time for the open house to be scheduled and to give the affective property owners time to look at this and find out how this affects them. That would still allow us time to move forward and meet the deadline of December 31st to send something to Metro.

David Ross stated that would need to be a motion to postpone the second hearing to a date certain.

MOTION: Councilor Thomas moved to postpone the second hearing of this agenda item to a date certain of November 8, 2011, with an open house being held prior to that date. Seconded by Councilor Anderson. Motion Passed Unanimously.

9. STAFF COMMUNICATIONS

Craig Ward, City Manager, reported that the Sam Cox Building kitchen remodel is almost completed. The electric stove, fridge, freezer and ice machine are all up and running. We are holding events there. We still have a few punch list items to complete. The major one is a commercial gas range that needs to be installed.

David Ross stated we need to close the loop on Mr. Wilson's suggestion this evening under public comment. Because you made a motion to adopt the policy which was passed at the last meeting, if you want to reconsider that decision a motion needs to be made to reconsider it so that you can further discuss it.

MOTION: Councilor Thomas moved to reconsider the volunteer recognition policy. Seconded by Councilor Allen. Motion Passed Unanimously.

10. COUNCIL COMMUNICATIONS

Councilor Anderson stated last week Councilor Daoust and I visited Toyo Tanso at their request to see where a sidewalk needs to be put in. I left there wondering why we are requiring a sidewalk, at a great expense, to be put into an industrial zoned area with zero pedestrian traffic. At its original site this sidewalk would have meant taking down numerous trees and moving a transformer box. Since then that has moved to between the tree canopy, but again it comes back to the issue of why we're requiring sidewalks in industrial areas when nobody is going to use them; there is zero pedestrian traffic at Toyo Tanso. I would like to bring that issue forward either at a work session or in ordinance form to address this because I think it is absolutely pointless. We have a representative from Toyo Tanso here tonight that I believe he has some photos and documentation of the sidewalk to submit.

David Ross stated if this is an item that you are going to consider I am not sure you want to be taking evidence in advance. At this point I do not know the procedural history of this issue. There was a land use decision that provided for an appeal time and I believe that appeal time has come and gone.

Mayor Kight stated could staff provide us with more information.

Craig Ward stated we would be happy to provide you with the background on this situation and if necessary any legal opinion that pertains to the Council's ability to act upon it.

Mayor Kight stated I received a phone call from Mayor Weatherby in Fairview and he is considering looking to do a study to combine all three cities into one city and seeing if there isn't an economy of scale in the services provided to the taxpayers if we were all under one umbrella. Obviously there would be costs and staff time and I didn't want to commit to doing something like that without checking with the Council first. I don't need an answer tonight. You can think about it and if you think it has merit we can bring it up again.

Councilor Thomas stated I also had a conversation with Mayor Weatherby about that same issue. It was my understanding that he was thinking about having a local university look into it as purely a hypothetical "what would happen if". It didn't lead me to believe that there would be a cost to the city directly.

Mayor Kight stated there always is.

Councilor Thomas stated that would definitely be something that we would need to figure out.

Mayor Kight stated think about it and we can bring it up again if you desire. I will need some direction on what we want to do with this.

11. ADJOURNMENT:

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

Meeting adjourned at 10:37pm.

Mayor Jim Kight

Approved October 11, 2011

ATTEST:

Debbie Stickney, City Recorder

Exhibit A to these minutes can be found in the scanned version of the minutes, or in the Council Meeting packet for the 9/27/11 meeting.