

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

Tuesday, November 8, 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; Debbie Stickney, City Recorder; David Ross, City Attorney; Rich Faith, Community Development Director; and Elizabeth McCallum, Senior Planner.

GUESTS: See Attached.

Mayor Kight asked are there any updates to the agenda?

Craig Ward replied there are two updates. 1) I would request that the presentation of Certificates be amended to include Spencer Card. 2) With the Council's permission we would like to add a motion to the Consent Agenda as Item #4.3 to authorize proceeding with an independent investigation relating to the structure at 950 Jackson Park Road.

2. AWARD PRESENTATION: The Governor's Fitness Award will be presented to two of the City's Recreation Program Instructors:

- ➔ Andrea Jackson – Karate
- ➔ Ronna Rothenberger – Teakwondo

Mayor Kight stated there are 242 cities in the State of Oregon. Three cities in the State of Oregon received this award, Troutdale being one of them. We are very proud of our recreation program. We are the only city in East County that has a recreation program. We have supported this program even in difficult economic times.

Mollie King, Recreation Program Manager, introduced Ronna Rothenberger who is the head Teakwondo instructor and her assistant Dan DeGram. Andrea Jackson, our Karate instructor, was unable to attend.

Mollie King stated this award is from the Oregon Governor's Council on Physical Fitness and Sports. On behalf of the City we nominated our Martial Arts Program, which

consists of the Teakwondo and the Karate program. This program provides physical fitness and more for our residents, and for folks outside of Troutdale. The Karate program started about 3 years ago. It has grown from 2 to 4 classes with over 50 participants. Ms. King gave some background information on the Karate program.

Ronna Rothenberger thanked the City for offering this program. I am very honored and glad to be part of it. Martial Arts in general has a lot to offer both adults and children. I think it is great to see families training together. I have had kids that barely want to talk when they first come to class and it is wonderful to see them open up. It is great to see the kind of change that brings that much confidence to the kids.

Mayor Kight presented the Governor's Fitness Award.

- 3. CERTIFICATE OF APPRECIATION:** Certificates of Appreciation for service at the Volunteer Service Day in Beaver Creek Canyon:
- ➔ LDS Church
 - ➔ SOLV
 - ➔ Friends of Beaver Creek
 - ➔ Spencer Card *(added to the agenda at the meeting)*

Charlie Warren, Public Works Director, stated a few months back I received phone calls from several different agencies. Spencer Young from the LDS Church indicated that they had a volunteer day and they were inquiring whether or not the City had a project they could work on. We had a great need in our Beaver Creek Canyon due to lack of maintenance. We started identifying a number of projects that the LDS Church would be able to do. At the same time SOLV had a day that they were also going to be working in the Troutdale area, specifically in the Beaver Creek Canyon. So we combined both of those projects together. Cindy Kolomechuck with Friends of Beaver Creek volunteered her service as well. We also had an Eagle Scout, Spencer Card, who volunteered to add to our community by creating 20 doggie bag containers that are being placed at various parks in the city. Seven of them were located at the trailheads to the Beaver Creek Canyon. He did a really nice job. I would really like to thank each one of these people for heading up this project. We had over 200 volunteers on that day. It was tremendously successful. You should all take a walk in Beaver Creek Canyon and see the fine work that was done.

Mayor Kight presented the Certificates of Appreciation.

4. CONSENT AGENDA:

David Ross stated before we proceed, according to the Council Rules, before Item #4.3 can be added to the agenda it must have the approval of two-thirds of the Council.

MOTION: Councilor Thomas moved to add Item #4.3 to the Consent Agenda (A motion to authorize proceeding with an independent investigation relating to the structure at 950 Jackson Park Road). Seconded by Councilor Allen. Motion Passed Unanimously.

Mayor Kight stated I would like to request permission from the Council to abstain from voting on Item #4.3.

MOTION: Councilor Ripma moved to excuse Mayor Kight from voting on Item #4.3. Seconded by Councilor Anderson. Motion Passed Unanimously.

4. CONSENT AGENDA:

4.1 ACCEPT MINUTES: October 18, 2011 Special Meeting.

4.2 RESOLUTION: A resolution approving an Intergovernmental Agreement between the City of Gresham and the City of Troutdale for extra-territorial sanitary sewer service and industrial pretreatment.

4.3 MOTION: A motion to authorize proceeding with an independent investigation relating to the structure at 950 Jackson Park Road *(added to the consent agenda with consensus of the Council – see above motion)*

MOTION: Councilor Anderson moved to adopt the Consent Agenda. Seconded by Councilor Ripma.

VOTE – Item 4.1 – Accept Minutes from the October 18, 2011 Special meeting.

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

Motion Passed 7 – 0.

VOTE – Item 4.2 – A resolution approving an Intergovernmental Agreement between the City of Gresham and the City of Troutdale for extra-territorial sanitary sewer service and industrial pretreatment.

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

Motion Passed 7 – 0.

VOTE – Item 4.3 – A motion to authorize proceeding with an independent investigation relating to the structure at 950 Jackson Park Road.

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

Motion Passed 6 – 0 – 1.

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

None.

6. PUBLIC HEARING / RESOLUTION: A resolution approving a cable franchise renewal agreement with Comcast of Illinois/Ohio/Oregon, LLC for a ten year term beginning January 1, 2012, with exhibits, side letters of agreement, and accompanying documents.

Mayor Kight read the resolution title.

Councilor Thomas, Troutdale's representative on the Mt. Hood Cable Regulatory Commission (MHCRC), read the attached Exhibit A, which outlines the negotiating process that MHCRC went through, some of the key areas negotiated, and their recommendation for the City to approve the cable franchise renewal agreement.

Council had no questions.

Mayor Kight opened the public hearing at 7:25pm.

No public testimony received.

Mayor Kight closed the public hearing at 7:25pm.

MOTION: Councilor Anderson moved to adopt the resolution approving a cable franchise renewal agreement with Comcast of Illinois/Ohio/Oregon, LLC for a ten year term beginning January 1, 2012, with exhibits, side letters of agreement, and accompanying documents. Seconded by Councilor Daoust. Motion Passed Unanimously.

7. PUBLIC HEARING / ORDINANCE (Introduced 9/27/2011): An ordinance amending the Troutdale Development Code (Text Amendment No. 42) and the Troutdale Municipal Code to comply with Title 13 for the Metro Urban Growth Management Functional Plan, Nature in Neighborhoods, and related housekeeping amendments.

Mayor Kight read the ordinance title.

Councilor Anderson stated I would like to suggest that we keep staff comments limited to new developments on this issue that have occurred since the first reading, and that we also limit public comment to 3 minutes per person.

Mayor Kight asked does the Council agree with that?

Councilor Daoust replied yes.

Councilor Thomas stated I think we need to be flexible on the 3 minutes.

Councilor Ripma stated I am a little worried about the public comment restriction. We can see how it goes.

Mayor Kight stated we could suggest that if you have heard a presenter already present the same material don't repeat it, but if you have new ideas or thoughts we are more than willing to hear that.

Councilor Allen stated I personally would like to hear from the public, maybe allow 5 minutes.

Mayor Kight stated how about a compromise of 4 minutes.

Councilor Ripma stated lets just see how it goes.

David Ross, City Attorney, stated Item #7 on tonight's agenda is a continuation of a hearing that was held on September 27th when this ordinance was introduced, and 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 for 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. For those of you in attendance tonight who may not have been present at the first hearing, I will briefly outline the procedure the City will utilize tonight.

- 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 pictures, 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. After all of the testimony has been submitted the Mayor will close the public hearing and this matter will be considered by Council. This summarizes the procedure. Before the Mayor begins with the staff presentation, do any City Council members or the Mayor have any conflicts of interest they wish to disclose?

Mayor Kight stated I have a potential conflict since I have property immediately next to Beaver Creek, and the rear of my property is the overflow channel of the Sandy River.

David Ross stated we have determined that to be a potential, not an actual, conflict and that you are in the same as other members of an identifiable group or class of property owners.

Councilor White stated I also have a potential conflict of interest due to the location of my home in Troutdale.

David Ross stated and as we determined at the last hearing it to is a potential conflict, and also made you part of an identifiable member of a class.

Elizabeth McCallum, Senior Planner, stated Exhibit G in your packet is new information. Some of those letters (in Exhibit G) were presented to you at the September 27th hearing. Also provided to you this evening is some additional written comments that were received after we distributed the packet to you. Those letters are from: 1) the Sandy River Basin Watershed Council; 2) Stayce Blume; 3) Sandy Drainage Improvement Company; and 4) Diane Castillo-White.

Starting on page 3 of the staff report I have outlined the issues that were raised at the September 27th meeting (Ms. McCallum reviewed each of the issues raised at the Sept. 27th meeting).

Since we last met in September an open house was held on October 26th. Starting on page 8 of the staff report, Ms. McCallum provided information about what took place at the open house, and the questions and topics discussed with interested property owners that attended the open house.

Elizabeth McCallum stated we now have two versions of the ordinance before you for your consideration:

Ordinance A: Ordinance A includes new findings (which are shown on pages 9 and 10 of the staff report and on pages 9 and 10 of Ordinance A). Finding #12d includes the additional testimony that was received on September 27, 2011. Finding #13 is new information about the Open House that was held on October 26th. Finding #14 is a placeholder for the testimony received tonight. If this ordinance is adopted the motion should include language to add those who testify this evening, and the letters received this evening. The balance of the findings are the same, but have been renumbered. Attachment A to the ordinance is the clean version of the Text Amendments to the Troutdale Development Code. Attachment B is a clean version of the amendments specific to the Troutdale Municipal Code Chapter 13, Tree Removal. These attachments with Ordinance A **do not** include any of the amendments that were discussed in my staff report and shown as **double underline/bold** text (those changes appear in Ordinance B).

Ordinance B: The changes to the findings in Ordinance B are identical to those I summarized pertaining to Ordinance A. I should note that the criteria that apply to

adopting amendments to our Development Code are outlined in the findings of the ordinances; they are not in my staff report before you this evening. Attachment A to Ordinance B includes the amendments that are identified in my staff report and are shown as **double underlined/bold** text, and are summarized on page 10 of the staff report.

The distinction between Ordinance A and Ordinance B is that Attachments A and B to Ordinance B have the revisions discussed in the staff report (on pages 6-8, and summarized on page 10), and Ordinance A does not.

The third option Council has this evening is to close the public hearing and reject the ordinance and the amendments, and instruct staff to prepare a resolution with findings to support Council's position that the current Development Code standards substantially comply with Metro Title 13 Habitat Friendly Development Practices (Nature in Neighborhoods), and to schedule the resolution for Council adoption on December 13, 2011.

Councilor Anderson stated in the interest of time I have prepared some questions that really only require a yes or no answer to this topic. To your knowledge was it ever the intent of the City Council to have Title 13 apply only to Metro owned lands within the City?

Elizabeth McCallum replied no.

Councilor Anderson asked has our existing code ever formally been submitted to Metro to demonstrate substantial compliance?

Elizabeth McCallum replied yes.

Councilor Anderson asked will adoption of this ordinance restrict the use of, or place encumbrances on, any Troutdale resident's property?

Elizabeth McCallum replied yes it does.

Councilor Anderson asked will those residents receive finance compensation because of it?

Elizabeth McCallum replied there is no provision in these standards for that.

Councilor Anderson asked will the adoption of this ordinance reduce developable land within the Urban Renewal District?

Elizabeth McCallum replied yes it does.

Councilor Anderson asked are you aware of any independent studies that have been done in Troutdale over the past three years that show a decline in wildlife habitat?

Elizabeth McCallum replied no.

Councilor Thomas stated when you were asked the question by Councilor Anderson if the code had ever been submitted to Metro, it appeared you had some comments you wanted to make which I would personally like to hear.

Elizabeth McCallum stated this process has been going on for a number of years. In the spring of 2008 Metro had two staff people that worked with us. We provided them with a copy of our existing code. They gave us a matrix that outlined the goals of Title 13 and our ordinance sections. They provided comments as to whether our ordinances were responsive to the Metro Title 13 standards or if they needed to be revised, or if they somehow obstructed compliance with Title 13. From that matrix we prepared the first draft of the amendments for the Citizens Advisory Committee's consideration.

Councilor Thomas asked so they did have a chance to review it?

Elizabeth McCallum replied yes they did.

Mayor Kight asked Mr. Ross, would it be instructive if we identified a specific property and then asked staff with the new rules how that property would be impacted/affected? Could we do that?

David Ross replied yes.

Mayor Kight stated the property I would like to use as an example is Councilor White's property. This is a two part question. 1) If he did nothing to his property what impact would there be? 2) If Councilor White decided to demolish his home and rebuild, or add an additional building on his property, what restrictions would that then trigger that normally wouldn't be triggered under our current rules?

Rich Faith replied to the first scenario of doing nothing, I would answer that by saying that these amendments as now proposed would have no more affect on his property than our existing code has if he does nothing. I can't think of anything that is triggered in the absence of doing anything on his property.

Mayor Kight asked so he wouldn't have to change anything to his property in its current state if we adopt this code?

Rich Faith replied I can't think of anything.

Councilor White stated I can think of one.

Rich Faith stated if I am overlooking something or...

Craig Ward interrupted and stated this line of questioning seems pretty unfair to staff; to put us on the spot and ask us for an ad-hoc interpretation of the code for a specific piece of property without prior warning. I admire Mr. Faith's efforts to be responsive to that, but really I am very uncomfortable with the notion that we are going to ask him these questions. As you can see he hasn't thought his way through this answer. I guess I would ask that if we are going to pursue this line of questioning to keep it very general, and also acknowledge that Mr. Faith hasn't had time to prepare his response. It is one thing to say to do nothing, but when you start to talk about doing something, doing something could entail a huge range of potential options. I would ask that you take into consideration the fact that Mr. Faith has not had time to prepare this, nor do we have a specific proposal in which we are responding to.

Mayor Kight stated I think we are aware of that. I was just trying to give a hypothetical situation and the impact that these rules would have on a specific piece of property. I think it could be constructive. However, if you feel uncomfortable in giving an example of what could happen for a particular piece of property, I am fine with that because I didn't let you know ahead of time. As Mr. Ward points out there are numerous different projects that could take place on that property, some would be triggers for things he would have to do to his property that other development may not.

David Ross stated that is true under the existing code as well, is it not?

Mayor Kight replied that is true. I just thought we could go through an exercise to see what could happen to the property under the current code versus the proposed code as an example.

Craig Ward stated this is exactly what we did with the GIS at the Open House. We went through examples with several property owners to elaborate upon how this code might affect development on their property. It was very fruitful. We would be happy to do that if the Council would like. It is the ad-hoc nature of the questioning here that concerns me. We are really not prepared to provide an informed response to that question.

Councilor Anderson asked has our existing code, relative to Title 13, ever been brought before the Land Use Board of Appeal (LUBA) or LCDC for an opinion?

Rich Faith replied that is not part of the process yet. No, it is not called for.

Mayor Kight asked if we fail to adopt the changes would that then trigger the LCDC or LUBA appeal?

Rich Faith replied whatever action we take could potentially result in a LUBA appeal. That is out of our control.

Mayor Kight called for a break at 7:58pm, and reconvened at 8:05pm.

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

Steve Wise, Executive Director of the Sandy River Basin Watershed Council, stated I submitted a written letter and two reports on the recent science about Beaver Creek. Although the Watershed Council doesn't have a specific recommendation on your policy, we wanted to underscore the idea that what you are dealing with is regionally significant habitat. The Watershed Council is a volunteer led, independent, non-profit whose mission is to help restore and conserve habitat and the cultural and recreational resources in the Sandy Basin. We try to work with all land owners, private and public, to restore fish habitat in the basin. Of the two reports that I gave you, one was developed by the County and East Multnomah Soil and Water Conservation District. It talks about having found native fish in every habitat type surveyed in Beaver Creek. There were 13 native fish and they are using the creek year-round. At the end of last month the Wild Fish Conservancy completed a study that was conducted in the last year about fish populations. It is fairly technical and dense, but I wanted to share with you a summary that the scientists from that group brought to us at a field hearing. What they told us then was that the study had indicated that we shouldn't write off Beaver Creek; it is meaningful habitat and the diversity in the species is meaningful for the type of stream it is. If Beaver Creek and its fish populations were in the Puget Sound people would be really excited about this. In terms of particular elements in that study they also found 12 native species and 4 non-native species. They also determined that 88% of the fish that they found were native fish, and that although the abundance is less than less degraded streams, they feel like continued restoration would likely help to improve the fish populations in Beaver Creek. The positive message is that this is an opportunity in the habitat that you have within Troutdale, and also the work that you do here is as important in the broader context of the Sandy River Basin. The Sandy has some of the strongest and most recoverable wild fish stocks in the entire lower Columbia. It is considered anchor habitat for recovery in the lower Columbia Basin. The work that we do here in Troutdale, and throughout the Sandy Basin, can be a really positive contribution to that entire regional effort. I want to encourage you, and thank you, for your support for that. The Watershed Council is here to work with you and make whatever policies you adopt a success, and help you to find successful ways of conserving and restoring important habitat conservation areas in the City.

Councilor Thomas stated I would like to have a full-scale report on this.

Councilor Daoust stated I read the Fish Species Composition report on-line before the Council meeting. It talked about biological integrity scores. I don't know whether Beaver Creek was scored along the length of Beaver Creek. When it comes to biological integrity, are there certain portions of Beaver Creek that are really impaired compared to other portions? Are those impaired stretches within the City of Troutdale or outside the city?

Steve Wise replied I know that there are stretches that are more or less impaired and that the scores vary from severely impaired to partially impaired in terms of that study. I don't know this study or its rankings well enough to tell you which scale of the parts are in Troutdale and which are out. I think in general some of the more impaired parts are

further upstream, so maybe outside of Troutdale. But all of the stretches that they measured were at some level of impairment; it is considered an impaired stream. There is work to be done, but what we think is encouraging in this report is it says that we can continue to make progress building on a reasonable base of diversity of species.

Councilor Allen stated the one thing that it seems like everybody has in common is that we all want a healthy river. What do you see as the most significant change that could be done to attribute to a healthier river?

Steve Wise replied it really depends on which part of the river and what the given impairment is. In some of these places it is about the vegetation along the creek side, because shade and temperature are issues. In some of the issues it is the land practices. Some places it is land practices in terms of what goes on the land such as fertilizer and insecticides used in lawn or agricultural practices. There are a number of different actions you might do depending on the condition. In a developed area like the City of Troutdale even what you do with streets and building codes can have an impact on stream quality. The work that goes on in terms of less impermeable surfaces and designing buildings that cause less runoff can be important in a city in terms of supporting habitat measures directly along the creek side even if you are not on the creek itself. It varies somewhat, and it is conditional upon what the given impairment is, but it is also cumulative in a positive sense. Each of those things you can fix in a given place will support the others.

Mayor Kight asked are you familiar with the proposed changes that we are considering tonight?

Steve Wise replied generally, but not enough to give you really specific ideas.

Mayor Kight asked based on the proposed changes, how would that change what is currently happening on either the Sandy River or Beaver Creek?

Steve Wise replied I am not familiar enough to know.

June Mohler, resident, stated I submitted a letter regarding this issue back in September (copy is included in the packet under Exhibit G). I had requested that our standards for city trees be strengthened, and there were no changes made regarding compliance with Title 13. I also requested that our standards for park maintenance and management of vegetation be strengthened more in favor of native vegetation especially in city maintained properties. I don't think there have been any changes based on that. These issues do directly affect the water quality and wildlife within the Beaver Creek and surrounding habitat. Councilor Anderson asked if there had been any independent studies done on loss of wildlife habitat in the Troutdale area. I think there probably has been some, although I can't think of any right now. Were you honestly wondering if there has been loss of wildlife habitat? Was that a serious question?

Councilor Anderson replied yes.

June Mohler asked so you are wondering if we have lost wildlife habitat in the Troutdale area?

Councilor Anderson stated if there is a demonstrated independent study that shows that because we are not doing what these ordinance amendments are asking us to do, that the cause is a loss of wildlife habitat.

June Mohler asked how long have you lived in this area?

Councilor Anderson replied 16 years.

June Mohler asked and you haven't noticed?

Councilor Anderson replied no.

June Mohler asked do you ever go outdoors?

Councilor Anderson replied yes.

June Mohler stated I will make an effort to find some independent studies to demonstrate to you that we have lost a considerable amount of wildlife habitat in the Troutdale area in the last 16 years. I have observed it myself. I have seen a lot of soil and native vegetation lost, and those things count as native wildlife habitat. I am sure you don't mean things like rats and farm animals; I am talking about our native fish and wildlife and terrestrial animals. I will look into that.

You also received a letter from Jim Labbe of the Audubon Society back in September (copy included in the packet under Exhibit G). He is concerned that the amendments that you are adopting aren't going to comply with Metro's Title 13; they are not adequate to comply fully with that. I share Jim's concern that they are not going to comply. My own personal concern is that we are losing our wildlife and our water quality in this area faster than we are making any serious effort to protect what we have. I would like to remind you look at my letter from September.

Neil Handy, property owner in Troutdale, stated Mr. Hurford is going to speak to the letter that we have submitted and you have. You understand our position. I have an article that I think is really appropriate for what we were trying to bring forth in our letter. It was written by Mr. James Huffman who is a law professor at the Lewis and Clark Law School. The title of the article is *Defenders of Property Rights, Don't Call Them Zealots*. The article is a strong argument for recognizing how important private property rights are. I am not just talking about property being land or buildings.

Mr. Handy read the following: In 1792 James Madison wrote that "a man's land or merchandise or money is called his property." But man also, said Madison, has "a property in his opinions and the free communication of them...in his religious opinions

... in the safety and liberty of his person ... in the free use of his faculties and free choice of the objects on which to employ them.” “In a word,” concluded Madison, “as a man is said to have a right to his property, he may be equally said to have a property in his rights.” These men were not zealots, nor were the many generations of property rights defenders who followed. Yet today property rights advocates are too often dismissed as selfish, right-wing, extremists, etc.

The reason I brought this forth tonight is because when government looks at and passes ordinances I think often times we don't take the time to think about the individual property owner and how it affects his property, and how over the years the amount of effort and caretaking that property owners, most of them, take in taking care of their property. I hope that tonight, through our letter, and through this article, you will understand how important it is to our group and to myself that we take into consideration the impacts of what we do in government and also what happens when the interaction of governments, Metro, this council, state land use boards, etc., how that can cumulatively affect negatively in the enjoyment of one's property.

Dean Hurford stated I will be quick because I know you have all of the paperwork and our letter in front of you. I would like to go back to the Mayor's question. Lets disregard the fact that we are going to tear the house down and we want to redo it, and lets just say that I want to put an awning on my back patio. How much more paperwork is going to be involved now? An awning will necessitate a lot more paperwork than tearing down the house and doing a complete remodel. The minute you go for a building permit it will be a lot more work. I almost feel bad because I am a land developer and I employ people, and I feel bad because I feel like I am getting blamed that I don't care about the environment. I spend more money on protecting the environment than all bet a lot of other people do. Every building permit that I get I comply with. I am for the environment. I am for saving the habitat and the waterway. I am there; I am willing to pay my way. But the time is coming when we have to get a balance of development, property owners' rights, saving the natural resources and all of the above. I urge you to look through all of it. We have to come to the middle of the road between me employing people and keeping them employed and the environment.

Mayor Kight closed the Public Hearing at 8:26pm.

MOTION: Councilor White moved to adopt Option C – to close the public hearing and reject the ordinance and these amendments, and instruct staff to prepare a resolution with findings to support Council's position that current Development Code standards substantially comply with Metro Title 13 Habitat Friendly Development Practices (Nature in Neighborhoods), and schedule the resolution for Council adoption at the December 13, 2011 meeting. Seconded by Councilor Anderson.

Councilor White stated Troutdale is already in compliance with Goal 5, which is federally mandated pertaining to providing animal corridor and fish protection.

We already adopted Title 3, which regulated clean water and water filtration. We have already adopted the Slope District when we adopted the Title 3 ordinance, which increased the size of our protected riparian zones substantially. I would also add that a request was made directly to Metro, almost two years ago, to show us specifically where our code does not comply with state law, and there has been no written response. To me that indicates that we do comply. The City Council already instructed staff to submit our current code, which I believe you will find in the minutes. Before anyone can impose any penalties, you first have to prove that our current code violates state law.

Councilor Anderson stated this is probably the biggest decision that I have faced on Council. I thank everybody for coming in and testifying this evening. This is an issue that has been going on for three years, and it is an issue that just down the home stretch I have come in to. I have to balance what is best for all of Troutdale when I vote. The things that are bothering me about this is that I don't believe, and it hasn't been demonstrated to me, that we have gone all the way with Metro. I am concerned that we haven't received a legal opinion about our current code. I spend a lot of time outside. I often brag to folks who don't live here about how blessed I am to live in a community where I can turn right off of my street and be in a neighborhood and a shopping center, and I can turn left off of my street and drive 5 minutes and be in one of the most beautiful wooded scenic settings around. It is still that beautiful after 16 years of living here. I am concerned that adoption of this ordinance will encumber property owners' rights. I am very concerned that there will be no compensation to those property owners because of it. I would be willing to submit our existing code and find out specifically, without question, where compliance is lacking.

Councilor Allen stated like many of you I would like to see a healthy river. The decisions before us are difficult because they don't really tell us that by adopting this we are going to have a healthier river than we have now. I am nervous about telling property owners what they can do with their property more so than we already have done without a valid reason for saying so. It is a difficult decision. To adopt something because you are told to adopt it is difficult to swallow. To adopt something because you are actually going to make some improvement, that is much easier. That has not necessarily been demonstrated.

Councilor Daoust stated I would like to take a few minutes out of respect for Metro Councilor Shirley Craddick, and out of respect for the citizens that have a higher regard for the environment and the issues that we are struggling with here. I don't think anybody on the Council has taken this lightly, even though it seems like we are moving rapidly to a consensus here. There is a perspective that I would like to add to the discussion that may be unique to me. I have spent 37 years of my career in natural resource management, in conservation and restoration activities, and on the Governor's Invasive Species Council for the State of Oregon and Washington. So I have spent a lot of time dealing with this

on federal, state and private lands in Oregon and Washington for the Forest Service.

There is a perspective about the City of Troutdale that I think needs to be brought out. There are some good things about the City of Troutdale and our location specifically, and the ordinances that we have in place already. We are a Tree City USA. We are recognized for putting an importance on trees. We have been here for over 100 years. If you look at what is still here it is pretty impressive along our waterways and streams. The Sandy is a well-buffered river. It is much more influenced by agricultural and farming upstream from Troutdale. We are surrounded by: The Sandy River Delta property, which is owned by the Forest Service; the Columbia River Gorge National Scenic Area; and the Lewis and Clark State Recreational Area right across the river.

One of the main points is that there are very few properties left that are undeveloped. That is a huge point. So we are mainly talking about what exists now; what you see now. We have steep slope ordinances. We already have fish species protection ordinances in place. If there is a new development coming in the developer needs a plan review to remove any tree larger than 6 inches in diameter.

Some examples of Troutdale being trusted in managing our land is that Gresham transferred over 100 acres behind Mt. Hood Community College into Troutdale for us to manage. Metro then bought 62 of those acres along Beaver Creek; one of Metro's parcels is along Beaver Creek. Then Metro turned around and gave us \$600,000 through the greenspaces bond to manage that area. So it appears that there is a level of confidence in Troutdale from Metro and Gresham, that we know how to manage parks. I think a lot of us are proud of our parks. We have a very extensive parks system in Troutdale.

Troutdale currently has a 24% tree canopy. If you fly over Troutdale you can see it; you can see that $\frac{1}{4}$ of the area of Troutdale city limits is covered in tree canopy. In the natural areas, selected thinning of Douglas Fir trees to maintain stand health is permissible. Reforestation is done. Invasive plant removal volunteer projects are done.

I think one of the biggest things that influenced the Sandy River was when the Marmot Dam was taken out. There were these huge influences on fisheries habitat along the river that are much more influential than what an individual private property owner can do along the river. The Marmot Dam was breached to allow passage for fish species to go farther up the Sandy River. It was the largest dam removal in history in the State of Oregon. It took 23 agencies to figure out how to do it, but they did it.

Ms. Mohler raised concerns about wildlife habitat being reduced. I think that you could say that urban development reduces wildlife habitat. But at the same time,

I would agree with you. At the same time you cannot argue with the fact that we have cougars and coyotes roaming through our streets, a thriving beaver population along Beaver Creek, and skunks. I think that Beaver Creek and the Sandy River provide travel corridors for wildlife and it is evident that those travel corridors are being widely used from outside the Troutdale area into the city.

Oregon Senators Wyden, Merkley and Congressman Blumenauer have played essential roles in securing \$13.3 million in appropriated funds from the Land and Water Conservation Fund to spend on the Sandy River since 2001. It is a river that gets attention. It is a river that not only flows through Troutdale but gets a lot of attention from a lot of people. It is not just our problem; it is not just our resource in Troutdale.

I read the Beaver Creek reports and they are very good. They do point out though that when they did their month long survey in 2010 they picked up 1,200 fish when they netted them, identified them and released them. We have 12 native fish in Beaver Creek and 4 non-native fish species that go up Beaver Creek. That caught my attention. When you look at Beaver Creek in some of the areas it doesn't look like it could hold any fish species, but it does. Steelhead, Chinook Salmon, Coho Salmon, Chum Salmon were some of the species found in Beaver Creek. I agree that we need to continue to monitor and protect those species; I sincerely agree with that. You cannot argue with the fact though that they are already there.

When you talk about circumstances that really affect a watershed and fisheries habitat you cannot deny what happened on January 16th of this year when the Sandy River flooded. That was such a raging flood all the way from Mt. Hood that came down the Sandy River. It tore away banks and it took houses into the river up at Zigzag. Wood debris came down to Troutdale; we had a mess of wood debris that came running down the Sandy River. What affect does that have on fisheries habitat? It has a huge affect. A single event in January had a huge affect on habitat.

We have multiple agencies that are watching the Sandy River and all of the tributaries that flow into it. The Sandy River Basin Watershed Council, Western Rivers Conservancy, other non-governmental organizations, the Bureau of Land Management (BLM), the Forest Service, Multnomah County, Clackamas County, Soil and Water Conservation Districts, City of Troutdale, and the City of Sandy. We all have an interest in the watershed.

All I am trying to do here is add a perspective and say that this is kind of how I put things in perspective from natural resource management and looking at our current ordinances to see if they are adequate or not when you take other things into account.

The Sandy is not just for fish and wildlife habitat, although it is an important river for that. Our section of the river is a recreational river. We need to provide access to the river for scenic trails, for the public, for expanding recreation opportunities, for floaters, anglers, and hikers, in addition to the wild salmon and steelhead purpose that the river serves. It has more than a fish and wildlife purpose, especially down on our lower end where it is used for a high recreation purpose.

We all know that there are a lot of rivers that flow into the Sandy. The Zigzag River, Salmon River, Bullrun River. Portland's water supply flows into the Sandy River. You can admit that low elevation watersheds at the urban rural interface, which is where we are at in Troutdale, have a long history of agricultural use which affects the river, and urban development which affects the river. But I don't know that I can say that is true within the city limits of Troutdale. I don't know of very much agricultural use within the City of Troutdale. I don't know of very much more development we are going to do within the City of Troutdale. Sure, if you go upstream a little bit you will get into the agricultural use, the pesticide use on agricultural land, but not in the City of Troutdale except that which is applied on personal property lawns.

I think this is a perspective that people need to know, coming from the City Council. I believe that our current codes are adequate. I believe if we focus on restoration, even from individuals, restoration activities can do a lot to restore and rehabilitate areas of the river that need it rather than adding more restrictions like a Title 13 to landowners. Free up the landowners to restore and do some do-it-yourself restoration. One of the biggest things that will improve fisheries habitat on Beaver Creek would be to improve fish passage at several of the road crossings by replacing culverts. That one activity done by the people that manage the roads and replace culverts would do much more for fish passage than anything a private landowner could do. Lets get into some do-it-yourself restoration by removing English Ivy from your property, removing blackberries from your property if you are along Beaver Creek, Sandy River or any other watershed. You can grow trees along your creek to reduce erosion and decrease water temperature. You can do that yourself; you don't need the city or Metro to tell you to do it. Maintain your septic system to prevent pollution of domestic wells and ground water. Those are three good ideas that we can all do ourselves and I think do just as much good rather than change our policy and codes.

Councilor Ripma stated I certainly agree that Troutdale is second to none in our love of our watershed areas along Beaver Creek and the Sandy River. I totally agree with everything that Councilor Daoust said. To the extent that the river and the creek are in good shape, we are doing it now. The ordinances and rules that we have in place are strict enough I think. This Title 13 hasn't been adopted everywhere. Portland hasn't adopted it because they are so heavily impacted by it. They have so much waterfront. I understand that Hillsboro didn't adopt it; they are also heavily impacted and they took another route. I understand other

cities like Lake Oswego, which could have been heavily impacted; the border of the lake of Lake Oswego is exempt under this ordinance. We are particularly, here in Troutdale, impacted like some of the other cities that haven't adopted Title 13. I understand Ms. Mohler who wanted us to cover standards for city trees by having more stringent standards, and native vegetation in our parks. I listened and heard you in September, it is just that this vehicle has gotten so big and overloaded that we couldn't cover things like that. That doesn't mean you should stop your efforts to establish standards for city trees and native vegetation. If you are not on our Parks Advisory Committee, I think we are accepting applications right now. I served on that committee, and a lot of us have. It is a wonderful way to influence how our parks develop, or don't develop, or turn into native habitat. In other words, we are hearing you, we are hearing all sides and we are trying to do the best we can. On property rights, I own property and I am a believer that we can all benefit collectively, even individual property owners, by having reasonable rules so that you aren't harming somebody downstream. We have those already. I don't think adding another layer of them by adopting the Title 13 ordinance, or the choices we have before us, is a good thing. I think I am joining the consensus. I would like to say that I think our staff deserves thanks for a thankless job. They have tried to work with Metro on this for years. I think Metro gave in a lot on some things; I can't tell. It is just that it always ended up being that Troutdale is being asked to sacrifice much more than the other cities that adopted it. A city that does no riparian zone has no trouble adopting this ordinance. We are the ones that are heavily impacted and we are being asked to give up much more for perhaps a marginal benefit to the waterways that we love. We are being asked to sacrifice a lot more than other cities that adopted it. I think we are better off following the lead of cities that are considering taking other courses of action, such as Portland. I am not prepared to adopt it tonight, so I will support the motion.

Councilor Thomas stated I think it has all been said; I don't have anything else to add.

Mayor Kight stated I bring a rather unique perspective because I live on Beaver Creek. We purchased the property and built our home in 1988. When we first looked at the property we met all of the neighbors. There are 17 homes on the street that I live on. As I talked with all of the neighbors and visited their homes and properties, I was struck by the fact of their sensitivity to the environment and how they were taking care of their property, and the pride that they had in knowing that they had a very unique piece of property. Everyone was sensitive about the environment and taking care of the property. I didn't see any kind of illegal dumping or trees being removed without careful thought beforehand. Usually if a tree was removed it was because of disease, or the tree was in the process of coming down. That hasn't changed. What has changed was when we first moved there in 1988 I thought we would see things like deer, red foxes or beavers and we didn't. We only saw raccoons and possums. I would say in the last 12 years we have seen deer on multiple occasions, a red fox, raccoons,

possums, and skunks. It appears that the animals are using that as a corridor for movement through the area as Councilor Daoust pointed out. We are happy to see that. The people, not only on Beaver Creek, but also the folks I know on the Sandy River, are extremely conscious of being really good stewards of their property. I wish that was also true of the people who are not immediately adjoining Beaver Creek or the Sandy River because unfortunately a lot of the chemicals that end up in Beaver Creek and the Sandy River are the result of parking lots from the large shopping centers, grocery stores, and driveways; it all ends up in Beaver Creek which is also fed by the creeks in Gresham that connect up with Beaver Creek and eventually ends up in the Sandy River.

Not to counter what Councilor Daoust said, but one of the things that seems to be the enemy of people that don't live on waterways is blackberries. I love blackberries, and I like the non-native blackberries. I have watched as blackberries have been removed and then when the high water comes there goes the bank; major erosion. We have had people come who wanted to spray the blackberries on our side; I give them natural organic fertilizer. I want them to thrive because we have found in the 23 years that I have lived on Beaver Creek the only thing that survives the bank from erosion is the anchoring of those blackberries. I know that runs counter to a lot of people but over the course of time I have seen it happen in one season where several feet of the bank was taken out where the blackberries were removed.

I am not going to support this. I don't think what has happened here has demonstrated that the City of Troutdale, and the people that live along Beaver Creek and the Sandy River have not shown to be good stewards. In fact, at least from my personal experience, it is just the opposite. I will be supporting the motion.

Councilor Allen stated I am not a real fan of the tree table primarily because the tree table assumes that you always want to add another tree. I tend to like the idea of desired tree density per the zoning type. What the tree table does is for a person who has not yet developed their property it nearly makes it impossible for them to do so, as opposed to somebody who already developed their property. Really what we want in the end is we want a particular tree density for our animal life and enjoyment.

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

Motion Passed 7 – 0.

Councilor White stated Mayor, may I have the floor for a moment. Councilor White stated for the record I would just like to point out that you were the one that advocated reopening both the mandatory business recycling program and Title 13 to which you

voted no on both issues. I just want to state that both of those issues took a great deal of staff time and personal time. I hope now that this Council can concentrate on issues like job creation, economic development, and critical infrastructure needs.

8. STAFF COMMUNICATIONS

Craig Ward updated the Council on the following:

- I had informed the Council that I was anticipating a request from the West Columbia Gorge Chamber of Commerce regarding tree lighting. They had proposed garlands both for the downtown businesses, which would be the businesses expense, and also for the downtown street lights. We would include that with the lights. Their proposal came in at \$400 to do the 36 lights, which seems reasonable to me. There are also some incidental expenses, so it will probably come to a total of about \$500 to prepare our downtown for the Tree Lighting Ceremony. I am planning on going ahead and authorizing that; we do have money in the budget.
- The deadline for applications for volunteers to serve on city committees is the 18th.
- This Friday is Veteran's Day so City Hall will be closed.
- We have several items for the Regular Council meeting on November 22nd, but they all appear to be consent agenda items. We are also planning on having a work session following that meeting.
- I had notified the Council of the possibility of a work session on December 6th, but it appears we may be able to discuss that topic at the November 22nd work session and if so we will not need to hold the work session on December 6th.
- We are proceeding with the contract authorized for BBL to look at the repairs necessary on City Hall, and we are looking at having that work completed by the end of the year.

9. COUNCIL COMMUNICATIONS

Councilor Daoust stated my wife and I had the honor of attending the Trauma Intervention Program (TIP) auction last week with Councilor White and his wife. The Chief of Police wanted us to join him and all of the other Officers and Firefighters from around the Metro area to raise money for the TIP. TIP is a volunteer program. The folks who volunteer do so 365 days a year, 24 hours a day. They get called at any hour of the day and they show up and comfort a family immediately when they have experienced a death. It is a very valuable program. You can tell that these volunteers have a real heart for this program. I was so impressed with not only the fund raising effort, but the stories that were told about the program and the volunteers.

Councilor Thomas thanked all of the Veterans for their service to this Country, and thanked their families. I really want to express my personal thanks to all of those who put themselves in harms way for our protection, and to the families who support them.

There has been a parks district discussion going around. I would like to get the Council's consensus as to whether we want to look at pursuing a parks district before we end up spending staff time or committee time. From what I understand, based on what I have heard, I don't think it is beneficial to Troutdale. I personally would rather not pursue it or spend a lot of staff time on this. I was hoping to get Council's opinion on this issue.

Mayor Kight stated I asked Metro Councilor Shirley Craddick if she would make a presentation to us. She is looking for support from communities to take it out to the voters and let them make the decision of whether or not they want to form a parks district. I will leave it up to the Council to decide if you are interested in having a presentation from Councilor Craddick.

Councilor Ripma stated we are being asked to make a decision if Shirley Craddick can come and make a presentation to us. We let anyone come and make a presentation to us, particularly a regional government elected official. So I don't think that is a fair question. I would agree with Councilor Thomas that a regional parks district is not a good idea for Troutdale. But if she wants to come and make a presentation, I don't know what Metro has to do with it, so I am a bit confused. I don't feel comfortable saying I don't want to hear from a Metro official who wants to make a presentation. I think we should always listen. Councilor Thomas is actually asking if there consensus to not have staff spend time on it; I am with Councilor Thomas on that.

Mayor Kight stated I don't think there would be any staff time. Councilor Craddick would make the presentation and it would just be informational.

Craig Ward stated I think there are two issues intersecting here. We had a request from the Parks Advisory Committee (PAC) for Mollie King, our Recreation Manager, to attend one of their meetings to answer questions that they have. This was initiated by the PAC and they are thinking about this issue. My sense is that if an advisory committee is asking for staff input that it is our duty to provide that input. I am not in a position where I would preclude that. I don't want her to spend a lot of time; they simply asked her to attend a meeting to answer some questions. But it does raise the question, absent Metro's role, about whether or not this is a function that you would like the PAC to pursue. After all there is no sense in staff even attending a single meeting if that is not something that the Council wants the PAC to look into. We would like direction on that point. I think we can always have Councilor Craddick show up and present any point of view that they would like to inform you about.

Mayor Kight stated maybe it would work out best to have Councilor Craddick come and make the presentation and then we could give direction to staff.

Councilor Daoust asked is this an issue before the PAC or not? Or are you waiting for us to tell them that it is an issue?

Craig Ward stated they have self-initiated this as far as I know. They said this is an issue of interest to them and they feel that it is within their scope of responsibility and they are looking into it and therefore they have asked for additional staff support to answer some questions.

Mayor Kight stated why don't we have Councilor Craddick make the presentation and then we can have a discussion at that time.

Councilor Daoust stated I don't know what Councilor Craddick has to do with it. That is an innocent question. If the PAC is starting to look into it, maybe we should wait for them to make a recommendation to the Council.

Mayor Kight stated the only reason I bring it up is because Councilor Craddick asked. She is apparently making presentations to other city councils and requested to come before us and make the presentation.

Councilor Ripma stated I am willing to listen to Councilor Craddick any time she wants to come and speak to us. I don't think at that point that we should discuss it and make a decision. I think we should hear her and then have our PAC advise us and then we could have a discussion.

Councilor Daoust stated it would be just for information.

Mayor Kight stated this is the third year that I have attended the TIP banquet. I sat at a table with one of the volunteers who has been volunteering for over 20 years. The Troutdale Police Department calls on the TIP volunteers at a minimum of twice a month. I think they serve a great purpose. There were probably 1,200 folks in attendance.

Councilor Allen served in the Air Force for 8 years, Councilor Thomas was in the Army and I served in the US Navy. Reynolds High School is going to have a phenomenal display of 175 US Flags around the school. They are going to bring in speakers that were in WWII and they are going to talk about their experiences. There will be a breakfast and then they will go to different classrooms and share their experiences of WWII with the students. WWII ended in 1945 and as a result the amount of Veterans left from that war is diminishing rapidly. It is important that we hear from them their life experiences. We want to honor their service, not only the Vets from WWII, but also the Vets from the wars since then. I want to thank those men and women who have given service to our Country, and that are currently serving our Country.

Councilor Daoust stated another item that is unfinished is the Multnomah County Coordination Committee (MC3) discussion. Mayor Weatherby came and talked to us about that, but we never took any action. We need to take a position one way or the other on this issue. I don't want to do that tonight. It would just be a short agenda item.

Councilor Ripma asked have any other cities signed on?

Councilor Anderson stated I think Wood Village is doing that tonight.

Mayor Kight stated Gresham and Portland have opted out. We can have a discussion later.

Mayor Kight stated I have asked Councilor Allen and Councilor Anderson to be part of a subcommittee to review the City Attorney's contract. I need to set up a meeting with the two of you to review the contract.

10. ADJOURNMENT:

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

Meeting adjourned at 9:20pm.

Mayor Jim Kight

Approved December 13, 2011

ATTEST:

Debbie Stickney, City Recorder