

BEFORE THE CITY COUNCIL OF TROUTDALE
MULTNOMAH COUNTY, STATE OF OREGON

TRANSCRIPT OF PROCEEDINGS

January 26, 1993

PRESENT

GENE L. BUI, Mayor
DAVID C. RIPMA
BRUCE THOMPSON
KAREN BURGER-KIMBER
PAUL THALHOFER
MARJORIE G. SCHMUNK

1 MAYOR BUI: Moving on, we now -- I believe it's time that
2 we can proceed with our public hearing, and this is in relation
3 to an intergovernmental agreement for cable regulations --
4 amending the intergovernmental agreement for Cable Regulatory
5 Commissions. I will first ask if there are any -- I will first
6 close our hearing as council and open the public hearing and
7 ask if there are any conflicts of interest, any communications,
8 or any ex parte contacts?

9 I have the ex parte contact since I'm a member of the
10 Commission, and I have been working on this. I believe Mary
11 Beth Henry is here tonight from the Cable Regulatory Commission
12 from Portland to discuss this. Would you please come forward.

13 MS. HENRY: Good evening. I'm Mary Beth Henry with the
14 City of Portland Cable Office, and have been assisting staffing
15 the Joint Cable Regulation Consolidation Task Force which was
16 charged with coming up with a consolidated commission. I
17 appeared here two weeks ago along with Julie Almachek (ph), and
18 responded to questions at that time. I don't have any formal
19 remarks prepared, but I'd be happy to answer any questions.

20 MAYOR BUI: So basically what this is, then, this is the
21 ordinance as a result of our previous presentation by you and
22 Julie concerning the unification of the two cable franchises
23 in Multnomah County into one; is that correct?

24 MS. HENRY: Well, the franchises will remain separate
25 until the new commission takes that issue up. What this

1 intergovernmental agreement does is it joins a joint
2 commission, Troutdale, Fairview, Wood Village, Gresham,
3 Multnomah County, and the City of Portland would jointly
4 administer cable franchises within Multnomah County. And the
5 ordinance also provides that staffing for this new commission
6 would be provided by the City of Portland.

7 MAYOR BUI: Thank you. May I ask, while we're on the
8 subject, is it intended, for the public's information, that
9 there will be some savings for the cable users?

10 MS. HENRY: Well, initially the savings will actually
11 accrue to the jurisdictions themselves. For example, for the
12 City of Troutdale, and I'm unable to cite a specific figure for
13 you until this new commission adopts its budget, but part of
14 the charge is that every jurisdiction will save money so that
15 franchise fees that you receive currently, some of those would
16 remain within your city's general fund to be spent at the
17 discretion of the city council.

18 MAYOR BUI: Thank you. Are there any questions? Okay,
19 then I will read the ordinance. This is an ordinance of the
20 City of Troutdale --

21 COUNCILOR THOMPSON: We need to invite the public.

22 MAYOR BUI: I'm sorry, I have to go through it. Have
23 another drink. Is there anything else that you'd like to add?

24 MS. HENRY: No, thank you.

25 MAYOR BUI: Thank you. Is there any public testimony on

1 the proponents -- or proponents, I should say, that would like
2 to speak?

3 Any City Council questions?

4 COUNCILOR THALHOFER: Mr. Mayor, I'd just like to say
5 that I think we -- this is the second time around on this one,
6 and I think most of us have -- at least I'm pretty well versed
7 on it, therefore I don't have any questions tonight. I wouldn't
8 want people to think we sit here like a bunch of dummies because
9 we have been here before, and so the questions I had, I think,
10 we asked the last time. But I know you have to go through the
11 procedure.

12 MAYOR BUI: Public testimony for opponents? Is there
13 anyone that would be opposed to this? Are there any further
14 City Council questions? If not, is there any rebuttal? I
15 don't know what the rebuttal would be but I'm just going through
16 this process. Is there further City Council questions? Is
17 there recommendation by staff?

18 MS. CHRISTIAN: Well, since, you were the
19 representative, I think I'll speak for the city, and we
20 recommend that we pass this, since I think most other
21 jurisdictions have already passed it except for this.

22 MAYOR BUI: Yes, that's a question I was going to ask
23 Mary Beth. Mary Beth, how many other communities have reviewed
24 this ordinance in the past?

25 MS. HENRY: The ordinance has already been adopted by

1 Fairview, Portland, and Gresham -- five minutes ago? -- Gresham
2 and Troutdale are on this evening, although the County will be
3 hearing it next week along with Wood Village. So we would
4 expect that the new commission could be up and running the third
5 week in February.

6 MAYOR BUI: Thank you. Any further City Council
7 questions? All right, I'll close the public hearing and we'll
8 go back to our positions as city councilors. And now I will
9 read the ordinance for consideration for passage.

10 It is an ordinance of the City of Troutdale approving
11 amendment to the intergovernmental agreement creating the
12 Multnomah County Cable Regulatory Commission and authorizing
13 the City of Portland to joint -- to join the Joint Cable
14 Regulatory Commission. I didn't do that in one breath either.

15 COUNCILOR THOMPSON: Mr. Mayor, I move to adopt the
16 ordinance.

17 MAYOR BUI: There's been a motion to adopt the
18 ordinance. Is there a second?

19 COUNCILOR RIPMA: I'll second it.

20 MAYOR BUI: It's been seconded. Any discussion on the
21 motion with a second? All in favor say aye.

22 (Motion passes: unanimous ayes)

23 MAYOR BUI: The next item on the agenda is an ordinance
24 and a public hearing amending Chapter 16 of the Troutdale
25 Development Code and including language from Oregon Revised

1 Statutes related to notification procedures for quasi judicial
2 land use actions. As it relates to that, I will ask if there
3 are any conflicts of interest, any ex parte contacts? If not
4 I will open the matter now for a public hearing and --

5 COUNCILOR BURGER-KIMBER: Mr. Mayor?

6 MAYOR BUI: Yes, ma'am.

7 COUNCILOR BURGER-KIMBER: I have had ex parte contact
8 on this item because I was chair of the Citizens Advisory
9 Committee when this issue came before the CAC, and we gave our
10 recomm -- forwarded our recommendations to Planning Commission
11 and City Council at that time.

12 COUNCILOR RIPMA: And Mr. Mayor, I sat on the Planning
13 Commission when this came before the Planning Commission.

14 MAYOR BUI: Since I'm about to open the public hearing,
15 and we've had our declaration of challenges, can we have a
16 summary by staff on this, please. Mr. Cline.

17 MR. CLINE: Thank you, Mayor Bui, members of the
18 Council. You're going to hear those words again from me,
19 periodic review. Hopefully not too many times in the future.
20 We're about to wrap this up.

21 If you will recall we received notification from the
22 Department of Land Conservation and Development back in June
23 of '91, draft comments on what we had submitted permitting to
24 our periodic review. They broke it down into two situations:
25 County Farm related, which we've now taken care of, as far as

1 our issue of submitting that to the department. The other was
2 non-County Farm related.

3 One of the things that they had in there was a revision
4 to our Chapter 16 notification procedures. Back in '89 the
5 Legislature went through and tried to clean up and change some
6 of these notification procedures to further define what is a
7 quasi judicial, generally referred to as a Type 3, land use
8 decision. These are decisions which are made on basis of land
9 use that you require certain public hearings.

10 We're not changing by this ordinance really any of the
11 procedures that we do not already currently follow or really
12 what, in my opinion, we'd already covered within the existing
13 text. But the way that this new legislation was written it says
14 that "and cities or municipalities shall incorporate this
15 language into their code."

16 And so Jim Henman, who is our field rep with the LCD,
17 has indicated that we need to adopt this specific language and
18 put it in our code. So that's where that comes from. You'll
19 notice that what we've done by this ordinance is that you see
20 strike-outs where we're duplicating anything; the new language
21 is highlighted in the sort of gray boxes.

22 There are two issues which were raised, one by Mr.
23 Jennings. If you'll look on page 2. Now, this was listed,
24 again, from state statute, and I think for clarification it
25 would be a good idea -- and I agree with Jim -- to add this

1 language. One would be to say that an issue which may be the
2 basis for an appeal to the board, that's that first sentence
3 under that gray section, that we specifically reference the Land
4 Use Board of Appeals because that is what it's referring to.
5 The other on page 3, if you'll look, we do have reference to
6 the hearings office. It's the hearings officer. We left an
7 "r" out so it was a typo on our part.

8 The only thing that is different are that we have
9 changed, and the LCD has indicated there's not a problem with
10 this, under the specific language that's in the state statute,
11 it says that we would only have to go 100 feet on any type of
12 a public notice. We've always gone 250, and it's certainly we'd
13 want to consider taking up at this point, so we've kept the 250
14 in. It's going above what the state requires, I've indicated
15 that that's not a problem. It would complete any type of
16 procedure or hearings that we're going to have to have
17 pertaining to the periodic review or changes to like code.

18 The only thing that you're going to see after this, I
19 hope, is that we'll have a resolution which adopts a revised
20 file review order so I can put this neat little package together
21 and send it down to LCDC.

22 With that, I'd be happy to answer any questions that you
23 have concerning this issue.

24 MAYOR BUI: Any questions of staff?

25 COUNCILOR BURGER-KIMBER: I have a comment, Mr. Mayor.

1 MAYOR BUI: Yes.

2 COUNCILOR BURGER-KIMBER: And Scott, you and I have
3 talked about this previously, but I just wanted to mention in
4 front of the City Council --

5 MR. CLINE: I did (indiscernible). I apologize --

6 COUNCILOR BURGER-KIMBER: Go ahead.

7 MR. CLINE: About the CAC?

8 COUNCILOR BURGER-KIMBER: Yes.

9 MR. CLINE: I apologize to Ms. Burger-Kimber. This is
10 an issue. The DLCD that said I could probably just make the
11 changes into the code and not even have a hearing on it. I don't
12 think, you know, that's probably a real good idea. And we had
13 a meeting coming up with the CAC at the time, so I asked Karen
14 if it's okay if I put this on the agenda. And we did carry this
15 through the whole process. I forgot to put the minutes from
16 the CAC meeting on that, but we do have them for you tonight,
17 which is a part of the process.

18 Is that what you were going to cover?

19 COUNCILOR BURGER-KIMBER: Yes. I just wanted to
20 reiterate that the Citizens Advisory Committee is both advisory
21 to the Planning Commission as well as the City Council equally,
22 so those recommendations would be, I think, nice for the Council
23 to look at. Thank you.

24 MAYOR BUI: If you can just hold there, Scott. Is there
25 any public testimony from proponents? Any further City Council

1 questions?

2 COUNCILOR RIPMA: Mr. Mayor, I'm sorry to jump in. For
3 the purpose of -- you mentioned on page 2 the Land Use Board
4 of Appeals and to substitute for the word "board," and then you
5 mentioned something else, and I just didn't catch that.

6 MR. CLINE: If you'll look on page 3 of your notice of
7 hearing? We left an "r" off of "hearings officer." It says
8 "hearings office." I'm sure --

9 COUNCILOR RIPMA: Hearings office. Right, yeah.

10 MR. CLINE: It should actually refer to land use
11 hearings officer. Now, we don't have a hearings officer for
12 land use decisions. This doesn't require us to make it do us,
13 but at least it will set us up --

14 COUNCILOR RIPMA: I understand.

15 MR. CLINE: -- (indiscernible).

16 MAYOR BUI: Thank you. Any further City Council
17 questions?

18 COUNCILOR THOMPSON: One question, Scott, on that same
19 page 3. There's an item B at the top. It says, "Notice shall
20 be sent to manufactured home park tenants." Does that ever
21 appear later? I was just losing that language.

22 MR. CLINE: That was actually taken out of the state
23 statute when we put that in.

24 COUNCILOR THOMPSON: Okay, thank you.

25 MAYOR BUI: Any further questions? Any public

1 testimony from opponents to the change in this ordinance? Any
2 further City Council questions? I suppose there will be no
3 rebuttal. There will be no City Council questions based on the
4 rebuttal. Is there recommendation by staff?

5 MR. CLINE: Yes, there is. It's recommended that this
6 ordinance be approved with those two changes indicated on pages
7 2 and 3.

8 MAYOR BUI: Are there any council questions concerning
9 the recommendation? If not, the public hearing is now closed
10 and we will resume our role as City Council. I now will read
11 the ordinance for review by the Council for passage. It is an
12 ordinance of the City of Troutdale approving amended --
13 amendments to intergovernmental agreements --

14 COUNCILOR BURGER-KIMBER: No. That's the wrong one.

15 MAYOR BUI: Oh.

16 COUNCILOR BURGER-KIMBER: May I read it for you?

17 MAYOR BUI: If you don't mind. People didn't know I was
18 blind.

19 COUNCILOR BURGER-KIMBER: With your permission I'll
20 read it. Ordinance of the City of Troutdale amending Chapter
21 16 of the Troutdale Development Code relating to notice
22 procedures to provide consistency with ORS 197.763(3) and as
23 recommended by the Department of Land Conservation and
24 Development.

25 MAYOR BUI: Any discussion on the motion -- I mean, on

1 the reading of --

2 COUNCILOR RIPMA: Mr. Mayor, I move that we adopt the
3 ordinance with the -- if I need to identify --

4 COUNCILOR THOMPSON: Is the public hearing closed?

5 MAYOR BUI: I closed the public hearing, yes.

6 COUNCILOR RIPMA: -- with a minor change on page 2 at
7 16.020, second line of that paragraph, the word "Board" being
8 changed to "Land Use Board of Appeals," and on page 3, on 16.030
9 on the second line, that "hearings office" be changed to
10 "hearings officer." Otherwise, my motion is for the ordinance
11 as printed.

12 COUNCILOR THOMPSON: I'll second.

13 MAYOR BUI: Motion's been moved and seconded to adopt
14 the ordinance. Any discussion on the motion? All in favor say
15 aye?

16 (Motion passes; unanimous aye votes.)

17 MAYOR BUI: Thank you, Scott. The next matter on the
18 agenda is a street tree appeal at 800 S.W. King's Byway. It
19 is my understanding -- I may look at staff for a moment on this
20 -- that some people want to take some trees down and are -- some
21 of these the maintenance director has dis-approved that, is that
22 correct?

23 MS. CHRISTIAN: That's correct. I think that Scott and
24 Val were going to -- I don't know how you want to conduct this,
25 but the gist of it is that under the street tree ordinance that

1 exists in the municipal code, street trees that exist within
2 the public right-of-way are actually owned by the City of
3 Troutdale. However, just like parking strips, we require
4 adjacent property owners -- and I have to say this, it's a
5 standard operating procedure throughout the state of Oregon
6 that the adjacent property owners are required to maintain those
7 right-of-ways or anything that -- like street trees.

8 And they made an application to cut two trees down. I
9 think that you have the backup material in terms of letters of
10 protest and denial. Valerie Lance, Park Superintendent is
11 here, and Scott Cline, her department head, is also present,
12 and I believe Mr. and Mrs. Rasmussen are here.

13 MAYOR BUI: All right, why don't we open the hearing with
14 a presentation by our staff, Val or Scott.

15 COUNCILOR THOMPSON: (Indiscernible) real quick?.

16 MR. JENNINGS: Mr. Mayor, before you get started, before
17 the City Council, let me give you the frame of reference so you
18 know what you need to decide in order to make a decision. If
19 you look at the ordinance that's been provided, it's on page
20 226 and 227 of the ordinances which were provided, and the
21 ordinance number is 12.32.090, beginning with the bottom
22 paragraph that says "appeal."

23 In this case we're in the posture where the
24 superintendent and Ms. Lance have refused to issue a permit and
25 the Rasmussens must apply for a permit in order to remove the

1 trees. Ms. Lance has not issued a permit. Therefore, the City
2 Council, if you go quickly to the top of the next page, "City
3 Council shall proceed to hear and determine the appeal, calling
4 upon the superintendent to give his," and we'll have to go to
5 gender neutral or her, "reasons therefor."

6 The important issue is there's no specific standard by
7 which you folks are to judge whether it's a rational or
8 irrational decision. It's purely a subjective standard. You
9 don't have to look at how good the reasons are one way or the
10 other. You just have to make a decision whether it's
11 appropriate to remove these trees or not to remove the trees.
12 I want to make sure it's understood there's no criteria.

13 Ms. Lance is required under this to give her reasons for
14 the removal along with Mr. Cline's reasons for removal, and then
15 the Rasmussens should come forward and talk about why they want
16 it removed. I didn't mean to interrupt. I apologize.

17 MAYOR BUI: No problem. If you'll begin please.

18 MR. CLINE: Thank you, Mayor Bui. Actually I think that
19 Pam and Jim have pretty much covered what I was going to say
20 as far as the issue of the trees go. And, again, this is not
21 directly to me as director since it does come directly to the
22 City Council from the superintendent. Val has looked at the
23 reasons, and she's given you a cover memo which briefly
24 summarizes those. She did provide that information to the
25 Rasmussens and explained to them why she was denying that.

1 And you might want to cover those reasons for the City
2 Council.

3 MAYOR BUI: If you will, please, Val.

4 MS. LANCE: Even though the ordinance doesn't
5 specifically set criteria for how to evaluate a tree, we do have
6 criteria on evaluating street trees. We use that criteria for
7 selecting street trees when new trees are planted to make sure
8 we don't have ongoing problems in the future. Some of those
9 things we look at are suitability of the tree specie and variety
10 to the street tree planting, how well the different varieties
11 are adapted to our weather and soil conditions here, how well
12 the trees have a record of growth in other areas and also this
13 area where we plant trees here. And we try to choose trees that
14 are disease and pest resistant and that won't cause problems
15 with the sidewalks and curbs and that type of things.

16 These specific trees in this case are mature trees,
17 estimated at probably 30 years or more. They are appropriate
18 species; if we were going to choose the same trees today, they
19 would be within our street tree list that we've been using for
20 about eight years. And they're healthy trees, and they're the
21 kind of trees that we would hope that most homeowners would be
22 glad to have in their yard and maintain. And because the trees
23 are healthy and they have the right -- they're the correct
24 variety and they aren't having any problems to the public
25 facilities and the right of way, I could not, in good conscience,

1 allow the trees to be removed.

2 MAYOR BUI: Thank you. Anything further? Any
3 questions of staff?

4 COUNCILOR RIPMA: Mr. Mayor, I don't -- I know it was
5 in there somewhere. What kind of trees are they?

6 MS. LANCE: One is a pin oak and the other was a
7 (indiscernible) chestnut.

8 COUNCILOR RIPMA: Was there a particular action that was
9 being -- were the owners at this point under an order from the
10 City to do something, trim or --

11 MS. LANCE: No. The -- with our street tree ordinance
12 implementation we're not in a 100-percent proactive situation.
13 We use it as a reaction to people with comments, questions or
14 complaints. If a homeowner wants to do something with a tree,
15 they come in and fill out a permit. And in this case we received
16 a phone call inquiring that started the process.

17 MR. CLINE: It's amazing how many people do comply. We
18 don't actively police, but if we do see something or some type
19 of an activity, then we will pursue it.

20 COUNCILOR RIPMA: In the past has the City ordered
21 anything on these trees?

22 MS. LANCE: Not these specific trees.

23 COUNCILOR RIPMA: That's all.

24 MAYOR BUI: Any further questions? Ken -- Paul.

25 COUNCILOR THALHOFER: I know this is pretty standard

1 throughout the state of Oregon, but I'm having a little bit of
2 a problem with planting street trees and then -- if the City
3 planting street trees at the city's discretion and then having
4 somebody else have to maintain them at their own expense. I
5 think that's -- that doesn't hit me quite the right way.

6 MR. CLINE: I would think, Mr. Thalsofer, the way that
7 that's treated is the same way that Pam has mentioned that we
8 require them to mow the parking strip or the right of way or
9 maintain the sidewalk. And if we have that there's damage to
10 the sidewalk, we've required in the past that that property
11 owner be responsible for replacing the sidewalk.

12 COUNCILOR THOMPSON: As a matter of information, does
13 it look like the trees may uproot, tear up the sidewalk, fall
14 on the house, or anything of this nature because of their age?

15 MR. CLINE: I don't think there's any indication that
16 that's a problem.

17 MS. LANCE: Because of the trees are fairly mature,
18 their age, if they were prone to doing that, they would have
19 most likely already done that. There's a slight lifting of the
20 driveway near the oak. The oak is only a couple of feet away
21 from the driveway, but it's not to the extent that it's causing
22 any problem.

23 MAYOR BUI: Thank you. Any further questions of staff?

24 COUNCILOR THALHOFER: Mr. Mayor, I understand that --
25 what it applies to and the history of it. I'm -- this is just

1 one more instance where we're mandating something we -- if we
2 asked the homeowner, "Do you want street trees in front of your
3 house, and then if you do, good, fine, then you take care of
4 them," that would set better with me than just saying, "We're
5 going to plant street trees and you take care of them." In this
6 case, they apparently are a big nuisance to these folks.

7 COUNCILOR BURGER-KIMBER: Could I ask a question?

8 MAYOR BUI: Yes, go ahead.

9 COUNCILOR BURGER-KIMBER: You mentioned these trees are
10 approximately 30 years old. Did the City of Troutdale plant
11 these trees?

12 MS. LANCE: We do plant these trees. When they were
13 planted it was prior to the City having the street tree
14 ordinance.

15 COUNCILOR BURGER-KIMBER: Were these trees planted
16 prior to the building of the house on which property they're
17 located?

18 MS. LANCE: You might be -- I'm not sure when the house
19 itself was built. The homeowners may have that detail.

20 MR. CLINE: The street tree ordinance does not draw the
21 distinction about whether we planted them. I mean, it's just
22 street trees in general and that's why the issue is before you
23 now.

24 COUNCILOR RIPMA: I guess I have one final thing. How
25 often does this come up that property owners -- I'm sorry, but

1 I'm new on the Council, and I just wondered. I've never seen
2 an appeal like this.

3 MS. LANCE: This is the only one we've brought before
4 the Council since the ordinance was adopted.

5 COUNCILOR BURGER-KIMBER: And when was that ordinance
6 adopted?

7 MS. LANCE: Eight years ago, I think. Almost eight.

8 COUNCILOR SCHMUNK: '86 -- '85.

9 MS. LANCE: Since '85.

10 MAYOR BUI: Any further questions of staff? Thank you.
11 I'd like to ask Mr. or Mrs. Rasmussen, or both of them, to come
12 up, please. If you'll state your name and address, please.

13 MR. RASMUSSEN: Ron Rasmussen, R-a-s-m-u-s-s-e-n. 800
14 King's By-way.

15 MAYOR BUI: Thank you. go ahead and tell us your side
16 of it.

17 MR. RASMUSSEN: In listening to what transpired, I'd
18 like to start out by saying I have no idea what Ordinance 12.32
19 says. I was not given that ordinance. I was given a denial
20 letter which I'm sure you have in front of you from Valerie
21 citing that ordinance. I went down to City Hall to find out
22 what the regulations were, and I was given a document -- in fact,
23 it was the only document that they could find -- entitled
24 Ordinance No. 441-0, an ordinance adopting guidelines and
25 policies for city streets.

1 COUNCILOR BURGER-KIMBER: It's the same thing.

2 MR. RASMUSSEN: Well, it isn't -- I don't know where
3 12.32 comes from then.

4 MS. CHRISTIAN: That was codified --

5 COUNCILOR BURGER-KIMBER: They changed the number of
6 it.

7 MR. RASMUSSEN: Okay, well, whatever. Going through
8 this -- I mean, I don't realize -- this problem won't change
9 a thing, but going through this, it's very incomplete. It cites
10 a number of other ordinances that were not given to me, so I
11 have no way of knowing what I'm even supposed to say here today.

12 However, with that, I can go through, if anybody's
13 interested, and to each one of those, but like I said, I don't
14 think it's going to change anything. I have lived at 800 King's
15 By-way since 1973. I also submitted a letter requesting
16 reconsideration. I hope you have a copy.

17 MAYOR BUI: Yes, we do have that.

18 MR. RASMUSSEN: I will try not to reiterate the same
19 things. However, that house was built in 1972. I moved in
20 there in 1973. It had a beautiful front lawn. Since that
21 -- of course, that tree was just a small tree at that time, both
22 those trees. I don't know that they're 30 years old. They were
23 there when I moved there. They were small trees. Since then
24 they have become very large trees, a lot of leaves, a lot of
25 chestnuts. My yard is now totally ruined. I travel, as I

1 stated in there. I don't have the amount of time that maybe I
2 should have to maintain that. However, as this gentleman
3 pointed out, the City says "you maintain them." I have to go
4 out and sweep the street when the chestnuts fall, et cetera.

5 My wife has a bad back. She can't do it. It's totally
6 up to me, and I don't get it done. And as such, it has totally
7 ruined my yard.

8 Now, during the same period of time, right across the
9 street there was seven acres of wooded land. The City has seen
10 fit during this period of time to give out permits to cut down
11 those trees and build new homes, and as such, new yards, I see
12 no difference in my situation to allow me to cut down two trees
13 that have destroyed my lawn, so I can put in a new lawn, than
14 allowing people across the street from me to do exactly that.

15 I understand there are the rules, as the city attorney
16 stated, set out to make this decision. I just do not feel that
17 it's fair. I have paid taxes in this city for almost 20 years.
18 The people across the street haven't. They have advantages
19 that I'm being denied. And as such, I'm respectfully
20 requesting you grant my permit, at my expense and none to the
21 City, to cut down those trees.

22 Also, if those trees are cut down, they're exactly where
23 a sidewalk should be. There are sidewalks across the street.
24 There are sidewalks down the street. If the sidewalk was put
25 in, they would have to come out anyway. Now, the property

1 across -- kitty-corner across the street from me has all
2 beautiful fir trees, and if those two trees in my front yard
3 were fir trees I probably wouldn't have this problem, but they
4 are now. However, every single one of those trees in that lot
5 were allowed to be cut down.

6 Her denial, and she's probably absolutely right: trees
7 provide many benefits. I agree with that. That's great. But
8 they have destroyed my front yard. And that's the reason I want
9 them removed. Any questions?

10 MAYOR BUI: Any questions of Mr. Rasmussen.

11 COUNCILOR SCHMUNK: I have a couple of questions.

12 MAYOR BUI: Yes, Marj.

13 COUNCILOR SCHMUNK: In response to your letter that you
14 wrote, the one you wrote for the appeal, you stated that no
15 sidewalks, which to date have not occurred. It's not the City's
16 responsibility and that's up to the developer of the property.
17 That's why you have no sidewalks.

18 MR. RASMUSSEN: I don't know.

19 COUNCILOR SCHMUNK: One of the trees that you mentioned
20 is a pin oak and they don't lose their leaves until the spring.
21 Pin oaks lose their leaves in the spring, not in the fall. I
22 went over and looked at both of them, and I believe they could
23 be trimmed and look fine. I trim the leaves in my -- not leaves
24 -- the trees in my yard, shrubs in my yard, and I have a bad
25 back. I don't have any real problem with them being trimmed

1 according to the ordinance.

2 MAYOR BUI: Did you want to respond to that?

3 MR. RASMUSSEN: Yes, heartily. I don't know what a pin
4 oak is, but both those trees lose their leaves in the fall.

5 COUNCILOR SCHMUNK: Pin oak. Pin.

6 MR. RASMUSSEN: Pin oak? I don't know what that is. I
7 don't know the species. One I'm told is an oak and the other
8 is a chestnut. I know the chestnut is a problem.

9 COUNCILOR RIPMA: Pin is a variety of --

10 MR. RASMUSSEN: But they do lose their leaves in the fall
11 all on the driveway. It's about to ruin my driveway. And if
12 that happens, it's going to be my expense, not the expense of
13 the City.

14 Also, I have been -- received notice from the City to
15 trim those trees because they overhang the highway, and I've
16 complied with that. Has to be over 11 feet, and et cetera. So
17 --

18 COUNCILOR SCHMUNK: Well, you have to -- if their
19 sight's obscured, so people can see on the streets so they have
20 some kind of vision.

21 MR. RASMUSSEN: Oh, I understand that --

22 COUNCILOR SCHMUNK: They're your trees, so that's why
23 they have to be cut.

24 MR. RASMUSSEN: And I complied with that. But that
25 didn't help my lawn.

1 COUNCILOR BURGER-KIMBER: Mr. Rasmussen, have you
2 talked to your neighbors about your problem with your trees?

3 MR. RASMUSSEN: No, they don't have a problem. My
4 neighbors across the street have been allowed to cut their
5 trees.

6 COUNCILOR BURGER-KIMBER: Right. I just wondered if
7 you talked to them about how they felt about the trees being
8 gone or if they liked them or if they understood what your
9 problem was.

10 MR. RASMUSSEN: Well, my next-door neighbor agrees with
11 me, Gil Robb, but, again, he doesn't have a problem.

12 COUNCILOR BURGER-KIMBER: I drove through the
13 neighborhood, and I was particularly impressed with the fact
14 that it's one of few neighborhoods that has mature trees in it.
15 From all the other neighborhoods in the area. Do you think --
16 do you think that in removing these trees, if you were given
17 permission to remove these trees that you might replace them
18 for something else that might be appropriate for the area?

19 MR. RASMUSSEN: Oh, yeah, I don't have any problem with
20 that. Remove the trees, put in my new lawn and put trees in
21 that aren't going to ruin it.

22 COUNCILOR BURGER-KIMBER: What kind of trees do you
23 think would be appropriate.

24 MR. RASMUSSEN: I don't see where the fir trees are
25 ruining it. In response to the question about whether these

1 would blow over or not, I've got five grown trees along the side
2 of my house. The middle tree just blew over into the road and
3 I had to go out and cut it. The fact that these trees haven't
4 fallen down to this point doesn't mean they're not going to.

5 Again, I'd like to have a sidewalk.

6 COUNCILOR BURGER-KIMBER: It's expensive. Do you feel
7 that the trees -- do you feel the trees in your neighborhood
8 -- the other trees, for instance, across the street where all
9 the fir trees are and different areas around your house where
10 there are a lot of mature trees, do you feel that those trees
11 are an asset to your neighborhood?

12 MR. RASMUSSEN: Well, I like the looks of them.
13 However, the lot across the street, they were allowed to cut
14 down every single one of them.

15 COUNCILOR BURGER-KIMBER: That was for the new
16 development?

17 MR. RASMUSSEN: The new homes built on the northwest
18 corner of 7th and King's By-way. And a lawn.

19 COUNCILOR BURGER-KIMBER: That's a sad -- that's a sad
20 situation. I wish that we could preserve more trees. I've
21 been a little distressed by that removal -- the wanton removal
22 of trees and not taking the extra effort to try to preserve a
23 few trees around houses. I think it would be nice if we could
24 do that.

25 MR. RASMUSSEN: I still have a number of trees around

1 my house.

2 COUNCILOR BURGER-KIMBER: You've been a member of our
3 community for quite a number of years, Mr. Rasmussen, and your
4 wife. You had a lot of concerns here about things that have
5 changed in your neighborhood, about the growth, and the amount
6 of time it takes to travel, a lot of concerns that you have about
7 the changes that we've had in our community. Do you feel that
8 -- maybe this isn't a fair assumption, but -- and maybe you won't
9 like me for saying this -- but do you suppose because of the
10 pressure of everything else that's gone on in the neighborhood
11 and the new houses coming in and the traffic congestion and all
12 these other issues have maybe caused you to direct your anger
13 to the trees?

14 MR. RASMUSSEN: No. The trees have ruined my front
15 yard.

16 COUNCILOR BURGER-KIMBER: Okay, all right. I had to
17 ask. I have no further questions.

18 MAYOR BUI: Anything further of Mr. Rasmussen.

19 COUNCILOR RIPMA: Mr. Mayor. I will say at the outset
20 I'm sympathetic to your plight, and anyone who's gone to all
21 the trouble playing by the rules and bringing this appeal I'm
22 sympathetic. I just want you to know that most citizens in my
23 experience in Troutdale like trees, like our tree ordinance and
24 like our requirements that -- at least this is my feeling, that
25 developers plant trees. They do beautify the neighborhoods,

1 and I hope you've been dealt with courteously by the staff.

2 In reviewing the situation I think the staff could come
3 to no other conclusion: these trees didn't present the kind
4 of hazard that would allow them to grant your request
5 automatically, and I'm sorry you had to bring this appeal, but
6 I'm hoping we'll deal with you fairly, and I am sympathetic to
7 your request. That's all I have, Mr. Mayor.

8 MAYOR BUI: Any further questions? Staff?

9 MS. LANCE: This is a comment. I too am sympathetic
10 towards the fact that the yard has not been kept up to the kind
11 of standards that the homeowner would like to see, and we did
12 offer the trimming that could reduce the leaf issue by probably
13 25 percent and do have information that we make available to
14 homeowners, if we're asked, that spelled out different seed
15 mixes for shade and different cultural practices in the yards
16 to make the yardwork a little easier and have a better
17 maintenance standard with less work. We apply those to our park
18 areas so we've had -- we try to stay up to date on the secrets
19 that are available for turf. We have shady areas, too, so we
20 would be happy to share that knowledge with you.

21 COUNCILOR RIPMA: Could I ask staff?

22 MAYOR BUI: Yes.

23 COUNCILOR RIPMA: Valerie, would that lessen the
24 problem of chestnuts ruining the ground -- the lawn?

25 MS. LANCE: If a person wanted to get very technical

1 there are some seed inhibitors that can be sprayed on the tree
2 that would reduce that. That would add one more step to the
3 maintenance program for his trees.

4 COUNCILOR RIPMA: And as far as the program you were
5 mentioning I just want to be clear: You weren't actually
6 offering to have the city do the trimming.

7 MS. LANCE: No, we'd provide technical assistance as far
8 as giving information on how to --

9 COUNCILOR RIPMA: How to do it?

10 MS. LANCE: Mm-hmm.

11 COUNCILOR BURGER-KIMBER: Would you like to respond to
12 that, Mr. Rasmussen?

13 MR. RASMUSSEN: Right. It isn't just the leaves. It's
14 the chestnuts. It's the roots of the oak tree that are going
15 to ruin my driveway. I mean, there's no doubt it's going to
16 ruin my driveway. She says it's about to now. It isn't just
17 the leaves. I can cut half the branches off and cut down the
18 leaves. The chestnuts are still going to fall; I'm still going
19 to be traveling. You know, it isn't going to correct the
20 situation.

21 COUNCILOR THALHOFER: Can I ask a member of the staff.
22 Valerie, is that, in fact, your opinion that this tree will ruin
23 his driveway ultimately?

24 MS. LANCE: I noted a slight uplifting of the concrete
25 now. Because the tree is fairly mature it would be unlikely

1 that there would be further uplifting and if so, it would do
2 so over a long period of time rather than short period.

3 COUNCILOR THALHOFER: I think you mentioned that
4 before. But if it's started already, okay, you say it's not
5 going to be --

6 MS. LANCE: Oaks are very slow growing trees so they
7 don't move very quickly. In situa -- the tree is only a couple
8 feet away from the driveway. And in some of our park areas and
9 other sidewalk areas when we had an uplifting problem where the
10 concrete was being uplifted, we had instances where the sidewalk
11 was removed and interlocking paving stones or grates were put
12 in the sidewalk to accommodate the tree.

13 COUNCILOR THALHOFER: If Mr. Rasmussen were to build his
14 own sidewalk, what then would be the position of the trees, those
15 two trees? I mean, would it inhibit the building of the
16 sidewalk?

17 MS. LANCE: Well, we rarely have existing trees to deal
18 with in the city. One example where we did was right out here
19 on the -- right out here on, I think, 3rd Street. There was
20 an existing walnut tree, and when that sidewalk was put in, that
21 sidewalk was configured around the tree, and had a street grate
22 installed to accommodate the bend in the trunk. And in
23 sidewalks in the city, there's usually a curb, a strip of
24 planting area and a sidewalk. In some instances there's a curb
25 and a sidewalk and then the planting area is incorporated as

1 part of the yard. But there's different designs to accommodate
2 a situation. When there are mature trees involved we would look
3 at alternative designs to try to accommodate the trees.

4 MR. CLINE: I think another example of that is the
5 sidewalk along Sweetbriar Meadows. Because of what we learned
6 from our (indiscernible) over Christmas there was a great deal
7 of concern placed in where we put the sidewalk. You've got
8 sidewalks that do veer around some trees to preserve those. We
9 would also allow the option -- if it's to save some of these
10 trees, we're not going to cut them down to put in a sidewalk.
11 It would either be placed against the curb or it could be behind
12 the curb depending upon the location of those trees.

13 COUNCILOR BURGER-KIMBER: Mr. Rasmussen, it sounds to
14 me like your biggest problem is with the chestnut tree.

15 MR. RASMUSSEN: Well, yeah, until the oak tree ruined
16 my driveway.

17 COUNCILOR BURGER-KIMBER: Okay. What is the
18 possibility of cutting just the chestnut -- or requesting a
19 permit to cut the chestnut tree only and leaving the oak tree
20 and replacing the -- that tree with another tree.

21 MR. RASMUSSEN: That would be an alternative.

22 COUNCILOR BURGER-KIMBER: On the -- Valerie, is it
23 appropriate in a condition with an oak tree like that when it's
24 next to a driveway, to cut that root?

25 MS. LANCE: That's one cultural practice that is

1 acceptable, and there's now what's called a bio barrier. It's
2 a fabric that has some chemical imbedded in it, herbicide that
3 inhibits the roots to enter into the sidewalk area. The City
4 has some of that in its stock to use in situations that come
5 up like this. We make that available to the homeowner at our
6 cost.

7 MAYOR BUI: Is there anything further, Mr. Rasmussen?

8 MR. RASMUSSEN: Only the sidewalk situation, the
9 sidewalk across the street goes right to the curb, the sidewalk
10 down the street goes right to the curb. I think it would be
11 a detriment to the looks of this city if you put one sidewalk
12 a different -- every block a different type of a sidewalk. They
13 put the same sidewalk in front of my house that's in front of
14 the rest of the houses on that street. It's right up to the
15 curb, and the trees would have to come out.

16 COUNCILOR SCHMUNK: We're not putting any sidewalk --

17 MAYOR BUI: Is there anything more? Is the Council
18 prepared to deal with this matter? I'll accept any kind of a
19 motion.

20 COUNCILOR RIPMA: All right. Is that how we're going
21 to do it? Move to either grant the permit or --

22 MAYOR BUI: I think it's --

23 COUNCILOR SCHMUNK: Approve or deny the appeal.

24 COUNCILOR RIPMA: Yes, I would move, Mr. Mayor, to --
25 well, grant the appeal -- I guess we're in the appeal, and grant

1 Mr. Rasmussen's permit.

2 MAYOR BUI: Okay, there's a motion to grant Mr.
3 Rasmussen's appeal and his permit. Is there a second to that
4 motion.

5 COUNCILOR THOMPSON: I'll second it.

6 MAYOR BUI: There is a second to the motion.

7 COUNCILOR RIPMA: And if I may --

8 MAYOR BUI: Any discussion on the motion?

9 COUNCILOR RIPMA: Yes, for the purpose of the motion.
10 I am second to none in this city. I've embarrassed myself
11 sitting where Mr. Rasmussen is talking on behalf of trees. I'm
12 a nut about trees. I've probably planted -- planted 40 trees
13 last year on my own property. But this ordinance that we have,
14 which I think is widely supported by our city and is good for
15 the city, needs to be administered in a temperate fashion. This
16 is the first gentleman to come up. He has a legitimate
17 complaint. I think we should promote trees for people who want
18 them, but here we are faced with a very unusual situation where
19 somebody doesn't want his mature trees. I consider it very
20 unusual. But it's come up, and I think if we're going to have
21 our ordinance be popular and be effective, we need to temper
22 -- temper and bend it once in a while and allow this kind of
23 thing. So that's why I favor the motion.

24 MAYOR BUI: Thank you. Any further discussion?

25 COUNCILOR THOMPSON: I agree with David? I'm very

1 prone to like trees and to dislike seeing them cut. But at the
2 same time I don't believe that the City has the right to insist
3 that those trees remain if Mr. Rasmussen wishes to cut them down
4 and replace them. You did say you'd replace them --

5 MR. RASMUSSEN: Yes.

6 COUNCILOR THOMPSON: -- with other appropriate trees.
7 I just don't see that we can do this. So I seconded the motion.

8 MAYOR BUI: Any further discussion on the motion.

9 COUNCILOR THALHOFER: Yes, Mr. Mayor. I too love
10 trees, and I am trying to put myself in Mr. Rasmussen's position,
11 and I think if I had the chestnut tree out there which showered
12 the yard with chestnuts once a year, a large amount of chestnuts
13 and a large amount of leaves, and the trees were in the way of
14 the sidewalk, perhaps you'd like to build someday, because it's
15 going to be your responsibility to build the sidewalk. And if
16 it's ruining your driveway, which we've been told by the Public
17 Works --not Public Works but by the Community Development
18 Department that they have ways to mitigate the growth of the
19 root that it would do perhaps no more damage to your damage
20 still. It appears that you've -- you have suffered for some
21 time now, and since you're willing to replace those trees with
22 some other variety of trees which will not do so much damage
23 to your property and also allow you to build your sidewalk and
24 have a driveway that will work and be there and not be destroyed,
25 I find myself in a position of agreeing that you should be

1 allowed to take down those two trees. And I say that very
2 reluctantly.

3 COUNCILOR BURGER-KIMBER: I'd like to call for the
4 question.

5 MAYOR BUI: The question has been called for on the
6 motion, allowing Mr. Rasmussen to remove these two trees from
7 his yard. All in favor say aye.

8 (Motion passed; unanimous aye)

9 COUNCILOR BURGER-KIMBER: Be gentle, Mr. Rasmussen.

10 MR. RASMUSSEN: I'd just like to say I don't hate trees,
11 (indiscernible).

12 COUNCILOR BURGER-KIMBER: Two for one. Two for one.

13 * * *

14 MAYOR BUI: Now, we're going move to the final item on
15 our agenda, the status report on the negotiating team of the
16 Wastewater Management.

17 COUNCILOR RIPMA: Mr. Mayor, is it permissible to ask
18 for a break in a few minutes.

19 MAYOR BUI: This is the last matter, but, yes, we could
20 have a break.

21 COUNCILOR RIPMA: I was thinking it might be lengthy.
22 If I'm the only one I'll withdraw that.

23 MR. JENNINGS: It may not be as lengthy as it might be.
24 There's been a break in the negotiations.

25 MAYOR BUI: All right, let's move ahead with it.

1 MR. JENNINGS: If I might, Mr. Mayor, briefly, if you
2 remember at the last City Council meeting we were charged with
3 the responsibility of continuing to work on -- at least to bring
4 before the City Council based upon a simplified commercial lease
5 being established and an agreement to comply with the terms of
6 an industrial pretreatment ordinance.

7 Since that time, the negotiating team has met one more
8 time. Jim Galloway's spending innumerable hours, or more,
9 working with the people from Wastewater Management. There has
10 been -- there have been some technical issues to be resolved.
11 The form and substance of a lease has been circulated to the
12 members of the negotiating team. They have seen the form of
13 the lease. Mr. Zupancic and I have agreed to the form of the
14 commercial lease. There remain some technical issues to be
15 resolved.

16 The technical issues appear to have been resolved this
17 evening with an establishment of a mechanism -- I'm not going
18 to get into the complicated measuring of how much flow and over
19 what period of time it's going to be purchased. The essence
20 of the lease is that we would recommend to City Council that
21 the lease be approved subject to -- and I'm speaking now for
22 my self. The negotiating team has their own position -- I would
23 recommend approval of the lease subject to the compliance with
24 an industrial pretreatment ordinance and subject to a few minor
25 issues being worked out that Mr. Zupancic and I really

1 anticipate no problems.

2 I know that Jim Galloway is still working on the
3 pretreatment ordinance with Bob Holman and the issues of
4 compliance there. I'll let him speak in regard to that.

5 MS. CHRISTIAN: (Indiscernible)?

6 MR. JENNINGS: I understand the -- the permit letter
7 which mirrors or at least discusses the parameters of the
8 industrial pretreatment ordinance.

9 MAYOR BUI: Do you have any comments to make, Mr.
10 Galloway.

11 MR. GALLOWAY: I don't think at this time. I think that
12 some of the Wastewater --

13 MR. JENNINGS: Jim Zupancic who is here this evening
14 representing -- attorney representing Wastewater Management.
15 Before Mr. Zupancic says anything, I think it would be valuable
16 to have the input from Paul and Bruce who have been embroiled
17 in this for a while.

18 MR. ZUPANCIC: Jim, it may be difficult because there's
19 a few fairly recent things that have unfortunately that Paul
20 and Bruce, as members of the negotiating team, have not been
21 privy to. I think it might be helpful to hear things maybe
22 before they're asked to --

23 MR. JENNINGS: Okay, that's fine. Why don't we have --

24 COUNCILOR THOMPSON: Mr. Zupancic, please give us a
25 brief resume of what's been going on.

1 MAYOR BUI: Please come forward and introduce yourself,
2 sir.

3 MR. ZUPANCIC: Thank you, Mr. Chairman. I'm Jim
4 Zupancic. I've appeared before you previously. I'm with the
5 law firm of Davis Wright Tremaine in Portland, and as Mr.
6 Jennings indicates, we hope to bring you solutions tonight as
7 opposed to more problems. We hope that we have resolved our
8 issues, our dispute by way of settlement, which I think is music
9 to all of our ears, given the history of this relationship.
10 1984, for those who don't know the history, this company
11 and the City began as cooperative allies. We hope that this
12 is a turning point and we can reestablish that relationship.

13 Tonight we are very hopeful that you can take action on
14 the lease and discharge agreement. It's very important, given
15 the fact that this company is now in Chapter 11. We have been
16 restricted in our flow of discharge filtrate to a point where
17 the company is not able to operate. Judge Sullivan has granted
18 two extensions for us either to accept or reject the existing
19 lease. And to be quite candid, his patience is running about
20 as thin as some of the rest of yours in trying to get this issue
21 resolved.

22 Mr. Jennings and I have reached agreement on a lease.
23 With respect to the discharge agreement Mr. Galloway and I,
24 tonight, agreed as to the last technical issue. And I must say,
25 of course, they did not intend -- Mr. Galloway did not intend

1 to bind the negotiating team, so my apologies to Mr. Thalsofer
2 and Mr. Thompson, this will be the first time you've heard of
3 it as well.

4 The premise is basically that in 1984 this company
5 negotiated for ERU's and paid for ERU's based upon a strength
6 of discharge that would be equal to approximately 40 percent
7 of an equivalent residential unit. We've agreed to a formula,
8 and rather than to bore you with the details, which is yes, there
9 would be an adjustment in the SDC charges to Wastewater
10 Management for an additional 18 ERU's that would permit the
11 discharge of 68,250 gallons per week, which is the necessary
12 discharge volume; there is a formula which would require payment
13 of additional SDC's if minimum BOD levels are not met --
14 biological oxygen demand -- levels are not met within the next
15 year.

16 Following that ascertainment of level, the company will
17 be given an additional year to pay those SDC charges in the event
18 that those SDC charges arise.

19 Perhaps the best definition of a settlement is a solution
20 to which both parties are equally disappointed. The company
21 wants to continue in operations. We think that it's in the
22 benefit of the city that the company continues in operations.
23 I can tell you that behind me, at their own volition, there are
24 a number of individuals who, given the opportunity, would like
25 to come forward and tell you that the very existence of their

1 companies depends on the continued operation of Wastewater
2 Management.

3 I also have tonight Mr. Duane Lee from Duane Lee
4 Engineering that would testify as to the effectiveness of this
5 system. We can present that testimony if you would like to hear
6 it. But I would defer to you, Mr. Mayor, with respect to the
7 proceedings tonight. We believe we have a settlement. In
8 deference to the people who have come, I would like to give them
9 an opportunity to speak to you, if you would wish that, and also,
10 Mr. Lee, if he'd like to hear that as well. So I would defer
11 to you.

12 MAYOR BUI: Thank you. This is listed as an information
13 matter in our packet.

14 MR. JENNINGS: It is. The information in that it is
15 listed as a specific action matter. At the request of Mr.
16 Zupancic it's being upgraded to an action matter because, as
17 I understand it, his client is on the -- ropes is too colorful
18 a term --

19 MAYOR BUI: Sure.

20 MR. JENNINGS: They need a larger amount of discharge
21 in order to continue to operate. If the matter can be spelled
22 out, if the Council is comfortable considering a lease in its
23 skeleton form tonight then that's what we're asking them to do.
24 If the Council wants the final document, then that works a
25 hardship on his client, if I understand Mr. Zupancic, and he

1 can tell us better. Notwithstanding what Judge Sullivan might
2 think, it works hardship on his client.

3 MR. ZUPANCIC: Judge Sullivan is somewhat persuasive,
4 given the fact that he has jurisdiction in this Chapter 11. But
5 there's no question from an operating standpoint this company
6 has been brought to its knees, and it's not able to serve its
7 clientele, and as a result there are many other companies that
8 are being damaged as a result of this, and we think that we've
9 now reached agreement with the City. We are very happy with
10 the fact that we have, and we'd like to get on with it now and
11 ask for approval of the lease.

12 MAYOR BUI: What I'd like to do is just ask each of the
13 council people if they'd like to hear from the witnesses that
14 are here tonight. It is not a witness-type public hearing
15 matter. Karen?

16 COUNCILOR BURGER-KIMBER: Putting me on the spot here?
17 All those lovely people out there?

18 MAYOR BUI: One by one.

19 COUNCILOR BURGER-KIMBER: I wouldn't mind hearing from
20 a couple of representative people if they can keep it brief,
21 one or two minutes apiece, if that would be all right?

22 MAYOR BUI: Paul.

23 COUNCILOR THALHOFER: Yes, I'd like to hear from them
24 briefly as to how this would impact them and their business.

25 MAYOR BUI: Bruce.

1 COUNCILOR THOMPSON: Not necessarily. I understand
2 that it impacts a lot of people.

3 MAYOR BUI: Okay, Dave.

4 COUNCILOR RIPMA: A question perhaps Mr. Zupancic can
5 answer and clarify in my mind if I want to hear from the witnesses
6 -- is it all right if I ask him?

7 MAYOR BUI: Go ahead.

8 COUNCILOR RIPMA: The existence of all these other
9 witnesses' companies is dependent, you say, on Wastewater
10 Management. Am I to understand that that means we're the
11 dumping ground, and there's no other place? Is that what that
12 means? They have no other place to dump, in a nutshell?

13 MR. ZUPANCIC: In a nutshell, the propriety process
14 that's employed by Wastewater Management is able to digest
15 certain wastes that other facilities are not able to digest,
16 consequently this is one of the only places that some of these
17 clients can discharge their waste. This is not to suggest that
18 it's a dumping ground, because there's a very
19 -- there's a critical path and a process that must be undergone,
20 and I think Mr. Lee would be prepared to testify and explain
21 the process to you much better than I.

22 COUNCILOR RIPMA: Well, without getting into all of
23 that, and maybe you've answered this before -- the Council
24 forgive me -- but you mean that Portland or West Linn or some
25 other -- there's no other place that they can dump? And we can

1 hear -- witnesses will be coming to tell us that they have to
2 dump here in Troutdale?

3 MR. ZUPANCIC: There is no other place that uses the same
4 process, the same Purifax process, therefore there's different
5 types of wastes that can be accepted here in Troutdale.

6 COUNCILOR RIPMA: How many of these witnesses are
7 Troutdale businesses?

8 MR. ZUPANCIC: I'm not familiar with all of them, sir.

9 COUNCILOR RIPMA: Are any of them?

10 MR. ZUPANCIC: Yes.

11 COUNCILOR RIPMA: I might be interested in hearing from
12 a Troutdale business.

13 MAYOR BUI: Okay, thank you. Marj.

14 COUNCILOR SCHMUNK: It's part of the process is
15 listening to the public, so I'll go along with it. But you said
16 this was going to be short.

17 MAYOR BUI: I didn't say that.

18 COUNCILOR RIPMA: It doesn't sound short.

19 COUNCILOR SCHMUNK: Yeah, it doesn't sound short.

20 COUNCILOR BURGER-KIMBER: Would I be considered rude if
21 I kept time and waved my hand when they were done -- when their
22 time was up? Would that be acceptable?

23 COUNCILOR RIPMA: What's the time limit?

24 COUNCILOR BURGER-KIMBER: Two minutes.

25 MAYOR BUI: I'll use the clock here.

1 COUNCILOR THOMPSON: May I point out, before we do this,
2 the reason that I don't particularly want to hear from the
3 witnesses is I know that they're here to indicate that they need
4 this facility in their business. You know, we're all cognizant
5 of that, I hope. If we're not we wouldn't be in this situation.
6 We're cognizant of that. So listening to the witnesses
7 essentially is putting pressure on the City to accept the lease,
8 and if Mr. Zupancic is correct and if Mr. Jennings is correct,
9 there shouldn't be that much problem with the approval of the
10 lease.

11 MR. ZUPANCIC: We should point out that the negotiating
12 committee has had the benefit of hearing --

13 COUNCILOR THOMPSON: Yes.

14 MR. ZUPANCIC: -- at least from one witness at a
15 negotiating session, who I thought presented the case fairly
16 eloquently for all of the people. As a matter of fact, he even
17 -- I believe, Don, you even listed a lot of the people who were
18 affected by this when we talked before, didn't you?

19 It would be some 15 businesses, I believe, were mentioned
20 then. So, not to shortcut the process, but the negotiating
21 committee has heard from representatives of the businesses.

22 COUNCILOR THOMPSON: Right. And I would suggest that
23 we're going to hear from representative of the businesses that
24 we limit it to one, one, because I assume that they're all in
25 the same position.

1 MR. ZUPANCIC: Mr. Mayor, if I might suggest, I don't
2 know how many businesses we have here tonight represented, but
3 I would be happy to take the heat and suggest to them that maybe
4 a couple of representatives be appointed to speak so that we
5 save your time and we at least get the issues presented to you
6 that you want to hear.

7 MAYOR BUI: Is that fair?

8 COUNCILOR BURGER-KIMBER: I think that's very
9 acceptable.

10 COUNCILOR THALHOFER: Mr. Mayor, I'd like to hear from
11 all of them who came here tonight to speak to this council. And
12 in most other hearings or meetings of this nature that we have
13 we do let everyone speak, albeit it briefly, and I think that's
14 what I would like to see tonight, two minutes or something like
15 that.

16 COUNCILOR THOMPSON: Mr. Mayor, I'm sorry, I disagree
17 with Paul. I think if we're going to hear from them all at one
18 time then we should set this hearing at some other time, because
19 there was nothing on the agenda which would have provided for
20 that type of testimony. This was just supposed to be a status
21 report. If we're going to upgrade it, I don't think we should
22 have a full-blown hearing.

23 MAYOR BUI: Let's quickly, then, just poll the council
24 to see who wants what, why or when. Karen, where do you stand.
25 You mentioned two?

1 COUNCILOR BURGER-KIMBER: I'd like to hear from some
2 select people for two minutes apiece.

3 MAYOR BUI: Paul, you want to hear them all?

4 COUNCILOR THALHOFER: In order to not to further delay
5 this, I will accede to that.

6 MAYOR BUI: Oh, you will accede to it?

7 COUNCILOR THALHOFER: Accede to hearing from two or
8 three people.

9 MAYOR BUI: Okay.

10 COUNCILOR THALHOFER: So we don't have to delay to
11 another time.

12 COUNCILOR THOMPSON: All right, okay. Would you select
13 two people for us, at least one from Troutdale.

14 COUNCILOR SCHMUNK: Can we take a break while they're
15 making their decision.

16 MAYOR BUI: Pardon?

17 COUNCILOR SCHMUNK: Can we take a break while they're
18 making a decision?

19 MAYOR BUI: Yeah, we'll take a quick break while you're
20 making a decision here. We'll take five minutes, in fact.

21 (Recess)

22 MAYOR BUI: Are we prepared to move forward?

23 COUNCILOR RIPMA: Mr. Mayor, before we proceed I just
24 want a clarification. Are we supposed to be voting on something
25 tonight?

1 MAYOR BUI: That's what the request is.

2 COUNCILOR RIPMA: I point out that we've received no
3 report. Some of us are new on the Council, although I've
4 followed this closely as a citizen. Our negotiating team
5 hasn't read it. I can't see how in the world we can consider
6 voting on even the outlines of it at this time.

7 I don't know if that would affect whether the people want
8 to proceed.

9 COUNCILOR SCHMUNK: My question is only on the
10 informational, from the agenda, and whether --

11 COUNCILOR THALHOFER: This was my initial concern --

12 COUNCILOR SCHMUNK: From the way this is going tonight
13 it seems more like it's a public meeting, and I think really
14 we need -- you know, we need more of the public informed about
15 what's going on than what's going on tonight.

16 MR. ZUPANCIC: Mr. Mayor, may I reply?

17 MAYOR BUI: Mr. Zupancic.

18 MR. ZUPANCIC: The negotiating team and I agreed that
19 this matter would originally be heard on the 12th. We
20 understand that that wasn't possible due to the installation
21 of the new council, and when we put it over -- we agreed to have
22 it put over to the 26th, it was our understanding that the matter
23 was to be set for action and for public hearing, and for that
24 purpose we have provided documents quite some time ago so that
25 they could be reviewed.

1 Unfortunately, and I understand your dilemma, but for
2 us it has significant impact. And Mr. Ripma and I were just
3 speaking. It's our intent to make sure that everyone on this
4 council is adequately educated as to the issues. But we would
5 very much like to be able to proceed tonight, if at all possible,
6 to get an action.

7 COUNCILOR RIPMA: Mr. Mayor. Were the documents that
8 you supplied some time ago, did they contain the proposed
9 settlement that we're talking about tonight?

10 MR. ZUPANCIC: Yes, they did, Mr. Ripma, with the one
11 technical change that we've just agreed to having to do with
12 the payment of the SDC's, which was relatively minor compared
13 to the entire settlement.

14 COUNCILOR RIPMA: Is there any reason why we didn't
15 receive the written materials then on this?

16 MR. JENNINGS: We may have a disagreement between Mr.
17 Zupancic and I as to the status of the negotiations. The
18 proposed lease was circulated to the negotiating committee
19 about a week ago for their review. The negotiating committee
20 was, tonight, to make a report. I viewed the things that were
21 left unagreed upon as more fundamental, maybe, than Mr. Zupancic
22 did.

23 If there is an error, it is mine in not having this thing
24 on for final decision. Frankly, as of last Friday I did not
25 feel that we had an agreement that I could bring to City Council.

1 But I will say that everybody has worked very, very hard in the
2 last few days to put this together. If there's any way to lessen
3 the hardship on Mr. Zupancic's client while a formal report is
4 prepared, I suggest we at least consider doing that, which would
5 be an increase in the amount of discharge pending approval of
6 the final lease agreement, when we have the operating terms,
7 really, right now for governing the discharge between now and
8 the next council meeting when a full settlement agreement can
9 be given. If that's acceptable to Mr. Zupancic, if we can agree
10 to increase the discharge to the 68,000 gallons subject to
11 approval by the Council at the next meeting of the final lease
12 document and final discharge document -- Jim, I know you have
13 a problem with Judge Sullivan, but I have a feeling we're only
14 talking about the better part of two and a half weeks.

15 MR. ZUPANCIC: When would the next day be?

16 MAYOR BUI: Second Tuesday of February.

17 MR. JENNINGS: February 9th, and I think you still have
18 time.

19 MR. ZUPANCIC: We -- I tell you, I appreciate that, and
20 I don't mean to be laying blame on anybody here. I think we
21 can work with that as long as we can get the discharge up to
22 the level we request during that time. I think we may have until
23 a couple days after that.

24 MR. JENNINGS: Well, I don't want to short-circuit any
25 testimony tonight. I don't think it's inappropriate to hear

1 from maybe a couple of selected people. But what I would
2 suggest is that final consideration of the lease agreement be
3 put on the February 9th docket with the responsibility of staff
4 to have the lease agreement and the discharge agreement to City
5 Council with their packets the Thursday before, and for final
6 vote to be at that point in time, and final recommendation from
7 the two members of the negotiating committee at that time who
8 have much more -- who have a different bias and approach and
9 feeling about this because they've been involved in it for five
10 months.

11 Frankly, Dave's position is well taken, but I want to
12 try and extend whatever we can to Mr. Zupancic's client, give
13 them an opportunity in the next two weeks to stay on their feet
14 until such time that there is a final decision by City Council.
15 Again, remember, that the negotiating team is charged with the
16 responsibility of bringing a lease to City Council, not
17 finalizing a lease, but bringing a lease to City Council saying,
18 "This is the best we can do. City Council, do you approve of
19 it or not approve of it?"

20 COUNCILOR RIPMA: Mr. Mayor, isn't it true that the
21 issue of whether they can increase their discharge is the heart
22 of the matter? I mean, I've been following this from the
23 audience for a long time. I mean, that is the heart of the whole
24 issue. If we grant them that, we've granted them everything.

25 COUNCILOR THALHOFER: Mr. Mayor, no, that's not true,

1 because that would be a temporary grant, and it hasn't been the
2 heart of the matter. Originally the heart of the matter was
3 we were going to shut them down completely without regard to
4 flow. And then that's come up later. I'm a member of the
5 negotiating committee. So any extension of flow to 68,000
6 gallons a week until this matter is resolved on February 9th
7 would be a temporary grant. If this Council so deemed that they
8 didn't want to enter into the lease agreement at that time on
9 February 9th, then that could be dropped immediately. A
10 temporary grant of 68,000 gallons of flow per week.

11 MAYOR BUI: Basically what you're saying it could be
12 worded in the motion?

13 COUNCILOR THALHOFER: Yeah.

14 MR. JENNINGS: Paul, but I think you would agree that
15 over the last two months it has become the focus.

16 COUNCILOR THALHOFER: It is the focal point.

17 MR. JENNINGS: And I agree with you. The funny thing
18 about this lease negotiation, Dave, is that the focus has
19 shifted over time. I think that's clear.

20 COUNCILOR RIPMA: Right, and it has --

21 MR. JENNINGS: And it has, in the last few weeks, in my
22 opinion. We spent a lot of time on the issue of -- well, I think
23 there are two issues. There's discharge and there's the
24 capability of meeting the industrial pretreatment standards.
25 Those two remain the large issues.

1 COUNCILOR RIPMA: Paul, I'm just thinking, look, if it
2 isn't the heart of the matter, why not just leave things the
3 way they are until we're done negotiating. Either it is or it
4 isn't the heart of the matter. And I say if it isn't the heart
5 of the matter, and by granting it we're granting them what they
6 want, then let's just leave things as they are until we as
7 Council can have a full report and a chance to consider this.
8 We're being asked to cave in on the most important negotiating
9 point we've got.

10 COUNCILOR THALHOFER: That's not true.

11 COUNCILOR RIPMA: It seems to me.

12 COUNCILOR BURGER-KIMBER: David, I don't see this as
13 caving in. I see this as giving them a grace period and taking
14 the recommendations of the staff and the negotiating committee.

15 COUNCILOR RIPMA: Our -- as I understand it, the limits
16 that are imposed by -- that exist today are based on earlier
17 leases, protection of our plan, protection of our city
18 investment. I mean, there's reasons for them. They're not
19 just flighty arbitrary numbers. And the reason we haven't
20 granted an increase up till now is because we haven't been able
21 to figure out a way to make it fair to the citizens of Troutdale.
22 That's it in a nutshell, I think.

23 Well, I just know you don't cave in on the main -- well,
24 I don't care if you call it the main point or not. If it's so
25 important we shouldn't give in on it, and if it isn't so

1 important, then let's just leave it the way it is. That's the
2 way I feel about it.

3 MR. ZUPANCIC: Mr. Ripma, let me put this, perhaps, in
4 a frame of reference that you and I will understand as attorneys.
5 Occasionally there's a need for provisional process, getting
6 some sort of injunctive relief pending the outcome of a dispute.
7 I would liken this to very much like provisional process.

8 What we're asking for is for things to be maintained,
9 if you will, in the status quo before such time as this company
10 was restricted in its flow. We have worked things out and have
11 the most amicable relationship with Public Works that this
12 company has had probably in eight years. It's not perfect, but
13 things are moving along now so that handshakes and promises
14 truly mean something.

15 The last thing we want to do is to foul the city sewer
16 system. And I believe that -- Mr. Holman can speak to this issue
17 and also other representatives of the economy -- they would be
18 willing to work with Public Works over the next couple of weeks
19 pending this so that we wouldn't foul the city system.

20 So it's very important that this process be allowed to
21 operate again, not only for the company's benefit, but for those
22 that you're going to hear from tonight. This company continues
23 to lose a major amount of money every day that it has to stay
24 closed down.

25 COUNCILOR RIPMA: Well, as you know, Mr. Zupancic,

1 oftentimes the interim temporary solution, temporary
2 restraining order in court or something else, ends up being the
3 key thing in the whole trial, for that matter. In other words,
4 it cuts both ways. There's -- the granting of the additional
5 flow here, as I understand it, in the final lease, it's going
6 to be dependent upon you meeting requirements that are not in
7 place today. They're based on a -- I assume monitoring systems.
8 I'm just guessing now. They're based on things that are unknown
9 right now as to how we're going to have any -- we don't have
10 mechanisms in place to allow you to increase the flow with full
11 protection the way the lease will.

12 I don't mind -- I want to know all the facts. But at
13 this point I feel that I'm being asked to cave in on the flow
14 issue, which I have heard discussed here for months now. You
15 know, we say it's temporary until the next meeting. Well, I
16 don't -- you know, is that flow going to choke back off in two
17 weeks? I really -- in other words, I -- I object. I object
18 to granting that request based on no report, no written report,
19 no knowledge. Even our negotiating team hasn't had a chance
20 to report to us. I feel it's not wise for the City to do that.

21 COUNCILOR THALHOFER: Do you want a report from the
22 negotiating committee?

23 COUNCILOR RIPMA: I'd like a written report -- regular
24 written report.

25 COUNCILOR THALHOFER: Written report. We've been

1 working on this for umpteen months, and I would like to say that
2 I hope we don't just start from scratch again because we have
3 a couple new council members. And I, as one of the members of
4 the negotiating committee, am prepared to give you a report,
5 if you would like a report. If Bruce doesn't want to, that's
6 his prerogative.

7 But to just -- in my opinion, when we've been pursuing
8 this thing for so long, going back to last spring, I think, maybe
9 even before that, and I think I know quite a bit about this.
10 I've been to many meetings discussing this. I can understand,
11 and I'm not going to lay blame any place, but I can understand
12 why we don't want to approve the lease at this time; that we
13 want to present it as an agenda item for action. I can
14 understand that. I have no problem with that. I think it's
15 too bad that it came up this way, but I can understand why we
16 can't do it.

17 But I can't understand why we can't give this company
18 a couple of weeks of 68,000 gallons flow. And, sure, it's
19 critical at this point. It isn't what started this whole thing,
20 but it's critical now. It's one of the factors that's developed
21 as being critical, and probably will be most critical at this
22 point.

23 So giving them two, maybe two and a half weeks of flow
24 at 68,000 gallons unless the Public Works Director can say that
25 that would somehow foul our plant, then I see nothing wrong with

1 that. If, in fact, when we meet on February 9th, with witnesses
2 and so on, have the hearing, and this Council decides, no, they
3 don't want to enter into this lease, then it's all over with.
4 There won't be any more flow. It would be shut off, period. So
5 it's not like it will continue on and on and on.

6 There is finality to this thing because, for one, I think
7 this Council is tired of dealing with it, and I, as a negotiating
8 committee member, am tired of dealing with it and would like
9 to get on with it. I would like to see these people have a
10 chance, at least for the next two and a half weeks, to do business
11 because of the situation they're in.

12 COUNCILOR THOMPSON: Let me respond, as long as Paul
13 made a slight report, let me also.

14 COUNCILOR THALHOFER: I haven't made my full report.

15 COUNCILOR THOMPSON: I understand that. I'm not going
16 to make my full one either. One of the things that I just --
17 let me point out first of all, as far as Mr. Galloway and the
18 sewage treatment plant, I don't think they can make any
19 guarantees that if they increase the gallonage to 68,000 that
20 it won't harm the plant.

21 MR. GALLOWAY: I don't think a guarantee was made any
22 way.

23 COUNCILOR THOMPSON: Right. That's my point. No
24 guarantees either way.

25 As far as increasing the flow to 68,000 gallons, if

1 that's such a critical thing, why has it taken all this long
2 in order to arrive at the last-minute negotiations to
3 essentially get an extension or to get the lease signed tonight?
4 There's a lot of time that's passed between the time when we
5 first started negotiating this thing and right now. If it was
6 such a critical thing you would think that the negotiations
7 would have gone a lot faster than that. So therefore, I don't
8 believe it's that critical.

9 MR. ZUPANCIC: May I respond to that, sir?

10 COUNCILOR THOMPSON: Sure.

11 MR. ZUPANCIC: I think that the negotiations have taken
12 time because all of the members of the negotiating team have
13 been very careful to make sure that they understood all of the
14 facts and the historical perspective and acting in the best
15 interest of the parties they represent. And those things take
16 time. And what you have--

17 COUNCILOR THOMPSON: I understand it, Mr. Zupancic, and
18 what -- I guess I'm agreeing with David, that we need additional
19 time also. All right? We need additional time, at least until
20 the next council meeting when we can have time to study the
21 issue.

22 Essentially what we're arguing right now is whether
23 we're going to allow you to increase the gallonage to 68,000
24 a week in the period between now and the next council meeting
25 which is two weeks away. Is that essentially what we're talking

1 about?

2 COUNCILOR THALHOFER: I think so.

3 COUNCILOR THOMPSON: Whether we do that temporarily or
4 not. I think we're all agreed that we won't act upon the lease
5 until the next council meeting.

6 So that's the point, are we going to allow you to increase
7 your flow to 68,000 gallons a week for the next two weeks.

8 MR. ZUPANCIC: And to clarify, this would be allowing
9 the company to go back partially to the allowable discharge that
10 was occurring in 1992. So we talked about increasing the
11 discharge to 68,000 gallons a week. Number one, it's only
12 temporary, and Mr. Thompson, Mr. Ripma, it really isn't the
13 core. The core of the issue is a lease and a discharge agreement
14 that are much more complex than this.

15 COUNCILOR THOMPSON: Well, you know, I disagree with you
16 slightly, because the lease -- I don't think we have a whole
17 lot of problem with the terms of the real estate lease. All
18 right? What we have problems with are the ERU's that the
19 company originally purchased, what that gives them a right to
20 discharge, what they've done in the past, and what the last lease
21 limited the company to. Is that essentially correct?

22 MR. ZUPANCIC: Under the existing lease the city has the
23 prerogative to grant discharge to whatever level it wishes
24 without imposition of additional ERU's or SDC's. That's what
25 the city did. The temporary allocation that's being proposed

1 here, would be that which was permitted under the existing
2 lease.

3 And to be honest, I appreciate the good-faith way in
4 which the City has negotiated. It was not easy for me to reach
5 an agreement tonight with Mr. Galloway because it's potentially
6 going to cost the company a great deal of money. But we did
7 that in good faith in response to what we believe has been the
8 City's good-faith negotiation. We would ask you, in the form
9 of a plea, to allow us that discharge of up to 68,000 gallons,
10 with the understanding that if Mr. Galloway tells us to turn
11 off the flow because we're fouling the system, we would do that
12 immediately.

13 COUNCILOR THOMPSON: That was going to be my request,
14 yes.

15 MR. ZUPANCIC: The City would be protected in any event,
16 so that the City would not suffer harm.

17 COUNCILOR THOMPSON: Under those conditions I have no
18 objection to increasing that flow to 68,000 gallons a week.

19 MAYOR BUI: Are you prepared to make a motion?

20 COUNCILOR THOMPSON: Yeah. If Mr. Galloway can shut it
21 off at any time that he sees any harm coming to the plant, at
22 least, you know, until the next council meeting when we can
23 discuss the lease issue at length, and I would make that into
24 a motion, yes.

25 MAYOR BUI: Okay, there's a motion to allow Wastewater

1 Management to increase its capacity to 68,000 dollars --

2 COUNCILOR THOMPSON: Gallons.

3 MAYOR BUI: I mean, gallons.

4 COUNCILOR THOMPSON: Let's go with the dollars.

5 MAYOR BUI: 68,000 gallons and until there's a
6 recommendation from Mr. Galloway that it is interfering with
7 our city's sewage treatment process. Is there a second to that
8 motion?

9 COUNCILOR BURGER-KIMBER: I second that motion.

10 COUNCILOR THALHOFER: Until the next meeting.

11 February 9th is our --

12 MAYOR BUI: February 9th, correct.

13 COUNCILOR RIPMA: Am I to understand that at that point
14 the flow allowance reverts?

15 COUNCILOR THOMPSON: It's a total temporary flow
16 allowance only until February 9th, and at that time it would
17 either have to be agreed to permanently in a lease or disagreed
18 to, whichever.

19 COUNCILOR RIPMA: I'm just saying, it would
20 automatically revert back down --

21 COUNCILOR THOMPSON: Automatically revert back.

22 MR. JENNINGS: And the only reason it doesn't terminate
23 is because of the Chapter 11.

24 COUNCILOR THOMPSON: Right, otherwise, they wouldn't be
25 doing anything.

1 COUNCILOR RIPMA: All right --

2 COUNCILOR BURGER-KIMBER: There's a motion on the
3 floor.

4 COUNCILOR RIPMA: I'm discussing that motion, and if I
5 may, Mr. Mayor?

6 MAYOR BUI: Please.

7 COUNCILOR RIPMA: Was the public informed that we'd be
8 voting on this tonight?

9 MS. CHRISTIAN: Only informational. that was --

10 COUNCILOR RIPMA: So, I just point out, Paul --
11 particularly to Paul, I appreciate what you've done, and I don't
12 mean to denigrate the efforts of the negotiating team, but we
13 are being asked to vote when we weren't told -- the public wasn't
14 told. There might be serious objections to this by the
15 neighbors of this plant that are not here tonight because they
16 were not informed about it. I still strenuously object to
17 voting on this thing, even for two weeks. This is not a proper
18 process. We're granting something that I think has a potential
19 for harm to the City, without notice to the public. And they've
20 arranged a parade of witnesses to support this without even
21 notifying the public of a -- and giving them a chance to oppose
22 it. Really, I object to this.

23 COUNCILOR THALHOFER: Mr. Mayor.

24 COUNCILOR RIPMA: It's very unwise.

25 COUNCILOR THALHOFER: I think that there was some --

1 there were some people who thought this was going to be the final
2 hearing and thought it was going to be set up that way. And
3 I think that through -- I don't know what happened, but it became
4 informational only, and I don't know how that happened or
5 whether that's correct or not. I'm not going to get into that.
6 But I think that's what Wastewater Management had in mind, at
7 least, that this was going to be a final meeting. We talked
8 about this before that the 12th was out and that this was going
9 to be the time.

10 And now all we're doing, we're not -- we're not approving
11 the lease at this time at this point, which I think we need to
12 have the full public hearing on. This has not materialized the
13 way it was anticipated. And I think we need to have the report.
14 I think the negotiating committee needs to give their reports.
15 And I think we need to do the whole thing in a proper manner.
16 So I agree with you on that.

17 But I also think that, based upon the city attorney's
18 recommendation, that they be allowed 68,000 gallons of flow per
19 week until February 9th when we can consider this in full
20 (indiscernible), and from hearing the evidence I've seen and
21 heard on the negotiating committee, I don't think at this point
22 it will necessarily foul up the plant. And we also have the
23 provision that the Public Works Director can shut off the valve
24 if he deems that the plant is in peril.

25 And having said that, I'd like to vote on this.

1 COUNCILOR SCHMUNK: I'd like to call for the question.

2 MAYOR BUI: The question's being called for on the
3 motion.

4 (Motion passed: aye: Burger-Kimber, Thalsofer, Tho

5 MAYOR BUI: It's three to two. Motion passes.

6 COUNCILOR BURGER-KIMBER: Mr. Mayor, would we like to
7 have the people that have been selected to come forward to speak
8 speak? I think that you've made an effort to come here and I'd
9 like to give you the opportunity to speak in a limited--

10 COUNCILOR THALHOFER: Maybe they should -- well, I know
11 it's an imposition, but maybe they should come and speak at the
12 hearing, but I know that would be very inconvenient for you,
13 so I'll leave it up to the attorney.

14 MAYOR BUI: It was my intent, at least in talking with
15 Mr. Zupancic at intermission time, that I would at least allow
16 all these other people, because they were not going to be
17 testifying tonight and to get up and tell us their names, the
18 businesses that they represent and where they're from. Am I
19 correct?

20 MR. ZUPANCIC: That would be fine. At this time, Mr.
21 Gibbons and Mr. Mock have been nominated to speak on their
22 behalf. I've asked them each to keep their comments very brief.
23 If they wish to come back at a public hearing, that would be
24 fine, in my view. Why don't we do it that way if that's
25 permissible with you, Mr. Chairman.

1 COUNCILOR THOMPSON: What's happened is we have passed
2 the motion to allow the 68,000 gallons. If my understanding's
3 correct, that's basically what we were going to have the
4 testimony about.

5 COUNCILOR BURGER-KIMBER: I think these people just
6 want to tell a little bit about themselves, and I don't see any
7 objection to that.

8 MAYOR BUI: Okay.

9 COUNCILOR RIPMA: As long as we're allowed to ask
10 questions.

11 MAYOR BUI: Favor of the council: Marj?

12 COUNCILOR SCHMUNK: Doesn't make any difference to me.

13 MAYOR BUI: Huh?

14 COUNCILOR SCHMUNK: Doesn't make any difference to me.

15 MAYOR BUI: Dave?

16 COUNCILOR RIPMA: As long as we're allowed to ask
17 questions.

18 MAYOR BUI: Two. Paul.

19 COUNCILOR SCHMUNK: One question for every one minute.

20 COUNCILOR THOMPSON: No.

21 COUNCILOR THALHOFER: Yes.

22 MAYOR BUI: Karen?

23 COUNCILOR BURGER-KIMBER: I'd like them, of course.

24 MR. ZUPANCIC: Will I get a chance to rehabilitate my
25 witnesses? After you cross-examine them.

1 COUNCILOR RIPMA: I'm not going to cross-examine them.

2 COUNCILOR BURGER-KIMBER: Be kind, David.

3 COUNCILOR RIPMA: As long as -- you were -- you may not
4 believe this, but I'm not necessarily opposed to your 68,000
5 gallons. I'm opposed to doing it without a public hearing.

6 COUNCILOR BURGER-KIMBER: We've covered it.

7 COUNCILOR RIPMA: I'm not necessarily opposed.

8 MR. ZUPANCIC: I'd like to ask Mr. Mock to come forward
9 and to offer brief salient testimony, please.

10 MR. MOCK: I'm Albert Mock.

11 MAYOR BUI: Your name and address, please?

12 MR. MOCK: I beg your pardon?

13 MAYOR BUI: Your name and address, please.

14 MR. MOCK: I'm Albert Mock, and I live on 1360 S.W. 257.

15 MAYOR BUI: Okay, thank you.

16 MR. MOCK: I own Goodman Sanitation Service for 35 years
17 in Troutdale. I do approximately 40,000 gallons of septic that
18 I've been able to complete since Wastewater has been semi-shut
19 down. I have no idea where the other stuff is going. I service
20 Brightwood, Estacada, Clackamas. I don't go any further west
21 than Clackamas, basically, so I wouldn't tell you how many
22 people are depending on this sort of thing. I do not know what
23 people are doing with the material when their toilets quit
24 functioning and I can't go.

25 There's a very definite need, I would tell you, and

1 there's probably 15, not in this area -- there's only two of
2 us here -- that need this service. It was zoned as a community
3 service, and it's very definitely needed, and there is no other
4 place to put it except the city of Portland which doesn't want
5 it.

6 COUNCILOR RIPMA: May I ask a question of Mr. Mock, Mr.
7 Mayor?

8 MAYOR BUI: Oh, God, I knew it.

9 COUNCILOR RIPMA: How long -- just how long have you had
10 your business?

11 MR. MOCK: How long did I what?

12 COUNCILOR RIPMA: Goodman Sanitation, how long have you
13 had it?

14 MR. MOCK: How long did I just get through telling you?

15 COUNCILOR RIPMA: I'm sorry, I didn't hear.

16 MR. MOCK: Thirty-five years.

17 COUNCILOR RIPMA: What did you do before we had the
18 plant.

19 MR. MOCK: I built the plant.

20 COUNCILOR RIPMA: Well, I'm saying, though, the plant
21 hasn't been around for 35 years. What did you do?

22 MR. MOCK: Well, I brought it down to Troutdale and put
23 it in the wastewater plant: 3,000 gallons a day I was allowed.

24 UNIDENTIFIED: Without pretreatment?

25 MR. MOCK: For years.

1 COUNCILOR RIPMA: All right, and why is it that this
2 plant is so important to you?

3 MR. MOCK: I'm generating 40,000 gallons of sludge a
4 month that I can't get rid of except city of Portland; they don't
5 want it.

6 COUNCILOR RIPMA: You mean they won't accept it?

7 MR. MOCK: Some they will, some they won't. Takes you
8 an hour and a half to get through all the tests. I get through
9 all of them because I basically do septic.

10 COUNCILOR RIPMA: Troutdale and Portland are the only
11 two choices?

12 MR. MOCK: In this part of the county, yes.

13 COUNCILOR RIPMA: All right, thank you.

14 MR. MOCK: Basically East County.

15 MAYOR BUI: Any other questions? Thank you, Mr. Mock.

16 COUNCILOR SCHMUNK: Thank you.

17 MR. MOCK: You're welcome.

18 MR. GIBBONS: I'm Don Gibbons, and I own Columbia
19 Laboratories, which is in Corbett. It's a food testing lab.
20 Before I speak to my own issue, I've had quite a bit of experience
21 with this general situation here. I've met quite a few of the
22 people involved. Wastewater's customers. What I discovered
23 is that there's three areas that really have difficulty.

24 Domestic waste is not so bad. But grease traps,
25 portable toilets and my situation. I assure you there is no

1 place else to dump. I've checked Vancouver, Salem, Eugene,
2 Clackamas County, Washington County, Portland, Hood River,
3 Camas. None of them will take it. One of the problems is that
4 even though my septic is cleaner than any domestic septic you'd
5 ever find, I fall into the industrial category, and by
6 regulations, the typical sewage treatment plant can't take what
7 I have. And believe me, I've covered the waterfront. When
8 this came up last spring, members of the City Council assured
9 me that there were other sources, other places to go.

10 COUNCILOR THOMPSON: Would you tell us, first, where
11 your waste comes from. That's important.

12 MR. GIBBONS: Okay, I'm a laboratory, and it has a septic
13 tank. And all of that waste from the laboratory, all of the
14 water from the laboratory is pumped into a truck, a holding tank,
15 as it were, and it's hauled away.

16 COUNCILOR THOMPSON: And your laboratory is food
17 testing, right?

18 MR. GIBBONS: Right, food testing lab.

19 COUNCILOR THOMPSON: So this is the -- the sewage that
20 results after the tests are made?

21 MR. GIBBONS: Right. Now, I operate under a DEQ permit.
22 Every truck load is tested before it's moved, so we know exactly
23 what's in it.

24 But that's not the important part. If my laboratory
25 were in the city of Troutdale everything would go down the sewer.

1 Not a problem. All of DEQ's laboratory wastes go down the
2 sewer. It's just I don't happen to be on the sewer line. And
3 so rather than put it in the ground, I haul it down here. But
4 I really assure you there is no other place that I know of within
5 a 100-mile radius where I can dump this stuff. And right now
6 I've got a 4,000 gallon tank load that's full tonight and I've
7 got to dump it by noon tomorrow or my business is shut down.

8 And I'm not alone. All the guys that rent the
9 porta-potties, portable toilets, the guys that clean grease
10 traps from restaurants, gas station people, numerous kinds of
11 businesses that rely on this. And that's not just the guys who
12 are trucking in here, because there are businesses all over.
13 Vancouver has no place to dump.

14 Now, this doesn't mean we're dumping all the garbage on
15 you. What it means is that you are lucky enough to have a
16 facility that can deal with this kind of thing, that can pretreat
17 the septic so that it's acceptable to the normal sewage system,
18 a disposal plant. You're not being dumped on. You've got a
19 good viable business, or the possibility of a good viable
20 business if they're allowed to have the gallonage to be able
21 to make a profit. Other questions?

22 COUNCILOR RIPMA: Mr. Mayor?

23 MAYOR BUI: Go ahead.

24 COUNCILOR RIPMA: How many plants like this are coming
25 on line, then? How many other cities are building plants like

1 this?

2 MR. GIBBONS: To my knowledge, none.

3 COUNCILOR RIPMA: Well, I -- tell us how many other
4 cities are so lucky as Troutdale in this respect.

5 MR. LEE: In this region, none.

6 COUNCILOR RIPMA: Why not?

7 MR. LEE: The option to this date has been that there has
8 been a facility in Troutdale, one. There hasn't been anyone
9 else to invest in this, and there isn't enough volume,
10 typically, in the region to justify more than one plant.

11 Secondly, most of the plants are not currently set up
12 to accept the type of waste this gentleman just referred to.
13 They can handle septic tank wastes on a limited scale. Some
14 -- the only two that I'm aware of regionally that I'm aware of
15 now are the Durham facility in Washington County and the City
16 of Portland's Columbia Boulevard Wastewater Treatment
17 facilities.

18 MR. GIBBONS: Except Durham won't take anything from
19 outside their county now.

20 MR. LEE: That's news to me. I didn't know that.

21 MR. GIBBONS: That's a new policy.

22 MAYOR BUI: As a matter of record, would you tell us your
23 name, please.

24 MR. LEE: Yes, excuse me, I'm Duane Lee of Lee
25 Engineering, 1300 John Adams Street, Oregon City.

1 COUNCILOR RIPMA: Yes, Mr. Lee, then, why -- there's
2 obviously a market for this discharge for people to use these
3 facilities. I have to admit, I feel as though Troutdale is
4 getting the honor of being dumped on in this case. I can't see
5 any further way to put it. All you people who are coming here
6 are desperate for a place to dump, and you've got Troutdale and
7 you don't want to lose it, but I'm wondering what's in it for
8 us. In other words, why, if there's such a market out there,
9 there isn't anybody else setting up a plant like this? I'm
10 frankly puzzled.

11 MR. LEE: I need to preface my comments here with some
12 little background if I may answer it, since I was going to be
13 the most speaker anyway. I'm an independent consulting
14 engineer. I have a staff of 15 people, and we work primarily
15 in the water and wastewater issues of small and medium sized
16 communities. I typically do not serve the large political
17 jurisdiction, basically based on my size and preference.

18 My experience in wastewater treatment goes back to a
19 period beginning about 1968 when I was an employee of a rather
20 large consulting engineering firm in the northwest. While a
21 member of that firm I designed the expansion to the Gresham
22 wastewater treatment plant; I expanded that system from primary
23 to secondary and added additional flow capacity, up to six
24 million gallons a day. Since then that has been expanded again
25 by others.

1 We also assisted the City of Troutdale in expansion of
2 its treatment plant back in the period of the late '70's and
3 early '80's. I was the designing engineer of record for your
4 facility. I've also designed a number of other facilities
5 throughout the Pacific Northwest.

6 Since then, as our own group -- and prior to then I had
7 worked for a large firm that had designed water -- water and
8 sewage facilities for many communities, including the Columbia
9 Boulevard Wastewater Treatment Plant. I personally was
10 involved in many of the design aspects of that plant during its
11 expansion of the early 1980's.

12 COUNCILOR RIPMA: I accept your expertise.

13 MR. LEE: Based on that, my experience with
14 sludge-handling facilities began in the late '70's in Boise
15 where this Purifax system was first introduced in the Pacific
16 Northwest, to my knowledge, in which the City of Boise was
17 looking to expand its plant economically. Purifax brought its
18 system into town. We tried it on a pilot scale. We took
19 samples. And here's a sample since 1980 that's been in my file
20 all this time. It's still very stable and sterile; smells a
21 little bit like burnt newspaper.

22 The additional investigations that I made on behalf of
23 the Purifax system included a tour of Calispel, Montana, to
24 Calgary, Canada, to Ventura, California, and to the West Point
25 Treatment Plant in Seattle from which these units were derived.

1 They were there initially. And they were used there to treat
2 the supernatant from their digesters in order to reduce the BOD
3 in order that it could be reverted back to the plant; there was
4 a capacity problem. One way to increase capacity was to
5 economize the existing treatment scheme at West Point.

6 Once they began a major expansion of West Point they
7 abandoned these units and Goodman Sanitation at that time bought
8 those and brought them to Troutdale. He -- Goodman Sanitation
9 at that time attempted initially to install these units in
10 Gresham, and Gresham was approached, to handle their sludge
11 processing. At that point in time, which was the early '80's,
12 they had just constructed a heat-treatment system to treat
13 sludges. And the heat-treatment system was creating a major
14 odor problem in the Gresham area. To solve that, however,
15 Gresham, rather than using these units, opted to carry or sludge
16 by truck their sludges to Hood River, which I understand they
17 still do.

18 Treating sludges is not the most popular thing in the
19 world. It's not an easy thing. And frequently designers tend
20 to overlook this option. Handling septic tank waste is a
21 difficult thing. Plants have to be outfitted with some form
22 of pretreatment in order to get that process into their main
23 stream so that it can be biologically reduced as the other wastes
24 in your stream do.

25 The reasons primarily why these units have not had wide

1 acceptance is their cost, both in terms of capital investment
2 and operation and maintenance expenses. One of the unique
3 things about the system in Troutdale is that the capital
4 investment that was made was rather minor because they had
5 already been depreciated at West Point and were sold for
6 salvage. And so the capital investment became very minor
7 compared to normal operations of this type. That's why
8 Troutdale is unique in respect to other processes to handle
9 septic tank waste.

10 They can be handled in a normal treatment flow, but it
11 is difficult and expensive.

12 COUNCILOR RIPMA: So, Mr. Lee, then, the reason other
13 cities in the metro area here don't take this has nothing to
14 do -- or is not because it's unsavory or they don't want it or
15 something else but because they didn't have access to a couple
16 of cheap units being salvaged; is that what you're --

17 MR. LEE: That's part of --

18 COUNCILOR RIPMA: That's your testimony?

19 MR. LEE: That's part of the issue. No, I'm not
20 testifying. I'm trying to give you independent professional
21 opinion about these units. I'm here at the request of Mr.
22 Zupancic. I asked him to try to find additional experts in the
23 field. He assures me that I'm here tonight to represent the
24 profession in an unbiased way. I understand that Wastewater
25 Management is paying my time, but I'm here to answer any

1 questions freely that you may ask. I'm not here to testify on
2 behalf of anything.

3 COUNCILOR RIPMA: So other cities --

4 MR. LEE: There are other factors with regard to the
5 ability of this unit -- these units -- to handle waste which
6 treatment plants simply will not accept. So the option really
7 then becomes -- and most of these things are economic options.
8 I think that's fair to say. The decisions about how you do it
9 and what you do are in large part directed by economic factors.
10 These wastes can be disposed of, for example, at Arlington.

11 COUNCILOR RIPMA: Oh, they can?

12 MR. LEE: Yes.

13 COUNCILOR RIPMA: Oh, I see. So all these folks would
14 have another -- obviously they'd have to go all the way to
15 Arlington --

16 MR. LEE: That's correct.

17 COUNCILOR RIPMA: -- but they could do it.

18 MR. LEE: Which would add to the cost of their providing
19 services to this community and to others.

20 COUNCILOR RIPMA: Mm-hmm. But they can't in Gresham,
21 though? The only other place I've heard is Portland.

22 MR. LEE: That's my understanding.

23 COUNCILOR RIPMA: Is that true, Mr. Gibbons?

24 MR. GIBBONS: Yes, that's true for domestic waste.

25 COUNCILOR RIPMA: And Portland's harder? They give you

1 a hard time or something.

2 MR. GIBBONS: Well, I can't take it to Portland.

3 COUNCILOR RIPMA: You can't even go to Portland.

4 MR. GIBBONS: I can't go anywhere. Except Wastewater
5 Management.

6 COUNCILOR RIPMA: This is it.

7 MR. LEE: Or Arlington.

8 MR. GIBBONS: Yeah, which would be prohibitive. I
9 might as well close the doors.

10 COUNCILOR THOMPSON: Let me point out that Mr. Gibbons'
11 testimony is one of the reasons why we're still negotiating and
12 still trying to come to an agreement with Wastewater Management,
13 because we realize there is a real need out there. And we don't
14 want to shut the door on those people, but at the same time,
15 we want to safeguard the citizens of Troutdale and the sewage
16 treatment plant.

17 COUNCILOR RIPMA: All right, thanks. That's all I
18 have.

19 COUNCILOR THOMPSON: Did (indiscernible) statement,
20 Paul?

21 COUNCILOR THALHOFER: Yes, it is.

22 COUNCILOR BURGER-KIMBER: Do we have any other
23 representatives that would like to speak or introduce
24 themselves?

25 COUNCILOR THOMPSON: I'm sorry, are there any other

1 representatives?

2 COUNCILOR BURGER-KIMBER: Right, I thought we were
3 going to find out who's here?

4 MR. ZUPANCIC: Mr. Mayor, if I may call upon the
5 individuals who are here to please identify themselves and the
6 companies they represent.

7 MAYOR BUI: Please do, yes.

8 MR. WATSON: My name's Mike Watson. I own Tuffy
9 Portland Toilet Company (ph). We are not a Troutdale-based
10 company but do provide service to the outlying areas. Along
11 with some of the other gentlemen here that provide a septic tank
12 service, I don't believe that all of Troutdale's on the sewer
13 yet, so some of that waste ends up in this treatment plant, so
14 there is a service.

15 The other thing is that we do frequent this facility when
16 it's up and running on a daily basis. We purchase fuel at your
17 fuel stations. I have a mechanic here and a chemical
18 distributor. These people, I don't know, if we go away, their
19 businesses too. If you're interested in protecting the
20 financial end of it, I am a small part of it.

21 COUNCILOR THOMPSON: Mr. Mayor, would you like these
22 people to come forward or speak from their seats?

23 MAYOR BUI: I think they can just speak from their seat,
24 if that's all right with council.

25 COUNCILOR BURGER-KIMBER: That's fine.

1 MAYOR BUI: Next.

2 MR. RAY: Gerald Ray (ph). I work with K&W Septic from
3 Mt. Hood. We have 5500 to 7500 people up here on septic tanks
4 only who've used the Troutdale facilities since the early '80's.
5 You're talking about being local here, no, but I'm sure every
6 one in this room comes up there skiing, snowmobiling, stops at
7 service stations and restaurants, has a hamburger. We're the
8 one that takes care of the rest of it.

9 COUNCILOR BURGER-KIMBER: The after-hamburger, huh?

10 MR. RAY: The after hamburger.

11 MAYOR BUI: Next.

12 MR. SMELSER: I'm Jerry Smelser. I'm Drain Doctor out
13 of Estacada and Colton area, servicing basically Clackamas
14 County. We service a lot of pit toilets and whatnot, we have
15 -- we go (indiscernible) up the Clackamas River, and we take
16 care of all that area. We have a lot of grease traps and stuff
17 that we were doing which we're no longer doing anymore because
18 we don't have any place to put it. We need Wastewater
19 Management.

20 MAYOR BUI: Thank you. Next.

21 MR. ZOE: My name's John Zoe (ph). I don't currently
22 own a septic business or anything, but I think something that's
23 kind of interesting that an issue's been made about waste being
24 dumped on Troutdale. In a sense that's sort of like saying,
25 well, Portland's saying, well, Wonder Bread can't go outside

1 the city of Portland. And I'm sure the city of Troutdale would
2 like to have people at Hanford -- I know there's radiation in
3 the water and everything else, and you guys draw the water out
4 of the Columbia River, that you wish that people would have taken
5 a little bigger scope of things. And I think that needs to be
6 addressed and you can't just worry about what's just happening
7 in Troutdale.

8 MAYOR BUI: Thank you. Next.

9 MR. MORRIS: My name's Randy Morris. I represent
10 Spencer Environmental Company. We're based near Ross' in Oregon
11 City, and in Portland -- the Portland area and throughout the
12 state, actually. Most of the waters that we bring to the
13 facility come from excavation sites that's basically
14 (indiscernible).

15 MAYOR BUI: Thank you, next.

16 MR. JERNSIDE: I'm Bob Jernside (ph) with Shultz
17 Sanitation. We're basically Parkrose, haul out of Corbett, a
18 large amount in that area and Troutdale.

19 MAYOR BUI: Thank you, next.

20 MR. FURLEY: I'm Steve Furley (ph), the owner of Avco
21 Sanitation, and we're presently the only licensed company that
22 can do grease traps in Vancouver, and that is our only source.
23 Vancouver will not take grease traps. I've talked to the City.
24 I've talked to EOS who runs it. They don't have the proper
25 technology to do it. So that is the only legitimate place we

1 have. The other pumper was dumping illegally and he's being
2 investigated by the EPA presently. So that's what can happen,
3 I guess.

4 MAYOR BUI: Thank you. Next.

5 MR. WATSON: I have one other comment that I forgot.
6 Those of you that are ecology-minded, this waste that we dump
7 at Wastewater is treated before it goes into the treatment
8 plant. I've dumped at the city of Portland before when they
9 were maxed out, and my whole load that I had paid for and charged
10 somebody else for went straight into the river. At least you
11 know, the City of Troutdale, that you're doing your best for
12 ecology. Thank you.

13 MAYOR BUI: Thank you. Is there anyone else?

14 Mr. Zupancic, I'll hand it back to you.

15 MR. ZUPANCIC: Mr. Mayor, just a couple of minor and
16 closing comments, please, for Mr. Lee, and then I'll close.

17 MR. LEE: My prior comments were primarily comments were
18 primarily directed at Mr. Ripma's questions, and I realize I
19 spent more time than I probably should have at answering his
20 questions, but I needed to get the background for your benefit.

21 This process is a bit unique. There are other solutions
22 to solving the problems. There are landfills and other places
23 that can take some of these wastes but at significantly greater
24 peril. This process is simply basically a matter of taking
25 things like Purex or Clorox which we all use in our households

1 to render a product which is rather high in oils and grease and
2 bacteria and organic matter somewhat sterile and bleached. The
3 paper industry uses chlorine a great deal. The textile industry
4 uses chlorine a great deal. And there is a great deal of concern
5 about the use of chlorine in our environment. There are many
6 more things we don't know than we do know.

7 I heard behind me the suggestion that we analyze the
8 effects on the rivers and so forth, and those issues are being
9 done and will continue being done.

10 Based on the library research that I've done these past
11 couple of days and my prior research in this matter, the system
12 can work. It can fail if it's not properly operated and
13 maintained. That's another issue. But the fact is it can
14 work, it will work. The problems I've identified in the past
15 deal primarily with the control of the process so it's easily
16 dewatered and what you get off of it is something that can be
17 treated at your wastewater treatment plants. It needs to be
18 controlled which I think the public works is requiring of this
19 process; and that would be appropriate. Those controls will
20 add somewhat to the expense, but, nonetheless, it is still a
21 viable process.

22 DEQ has not voided the process. EPA has not voided the
23 process. There's been great debate about it at EPA. I have
24 many of their articles that they published on it. To this date
25 there is still no identifiable reason not to allow it if it's

1 still properly operated and maintained.

2 With regard to the water quality studies, the health
3 division studies, the Columbia River and the Sandy, DEQ studies
4 it. There was an independent consultant retained by the EPA
5 that did a lot of studies, something Tech -- I can't remember
6 their exact name. I have their interim report in my office.
7 The Rockwood Water District will be studying the water quality
8 issue this summer; at least that's the intent along with a joint
9 agreement with the City of Portland in which they will be doing
10 pilot studies and analyzing disinfection byproducts and other
11 matters related to the use of chlorine and the radionuclide
12 issues and many others downstream of the confluence of the Sandy
13 River which will include your effluent discharge to the Sandy.

14 So these issues are a concern. They will continue to
15 be addressed so far as I'm aware. The programs are in place.
16 The budgets are in place to accomplish these things. To my mind
17 there is no reason not to allow this to continue to operate with
18 proper controls to give you the assurances that you need that
19 this process does not upset your plant and to give the public
20 the confidence it needs to assure that we're not harming the
21 environment. Thank you.

22 MAYOR BUI: Thank you. Let me just say that we are going
23 to have a public hearing on this matter on the 9th. I'd like
24 to thank all of the different haulers and processors who came
25 tonight and the opportunity to meet them, and you, yourself,

1 as well. And I'm sorry that you have to go through this again,
2 personally, but that's sometimes the way, what do I say, the
3 ball bounces, since this was not a technical public hearing and
4 we cannot act unless we go through that, as I understand it.

5 So with that, do you have anything else to say?

6 MR. ZUPANCIC: I would just like to thank the Council
7 for the understanding on the temporary discharge issue, and my
8 apologies. I did not mean to infer that anybody did drop the
9 ball on this tonight. But I've been very pleased to work with
10 your negotiating committee, and we look forward and are
11 optimistic that within the next week or so we can get everything
12 resolved, get it before you, so everybody will have a full report
13 at the next meeting. Thank you.

14 MAYOR BUI: Thank you.

15 That closes that matter.

16 (Requested portion concluded.)

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(B) that I personally transcribed the electronic recording of the proceedings had at the time and place hereinbefore set forth;

(C) that the foregoing pages, consisting of pages 1 through 86, represent an accurate and complete transcription of the entire record of the proceedings, as requested, to the best of my belief and ability.

WITNESS my hand at Oregon City, Oregon this _____ day of _____, 1993.

Patricia Morgan
Official Transcriber