



CITY OF TROUTDALE

"Gateway to the Columbia River Gorge"

AGENDA

**CITY COUNCIL - REGULAR MEETING
TROUTDALE CITY HALL
COUNCIL CHAMBERS
104 SE KIBLING AVENUE
TROUTDALE, OR 97060-2099**

7:00 P.M. -September 28, 1999

EXECUTIVE DEPARTMENT

Fax (503) 665-7265

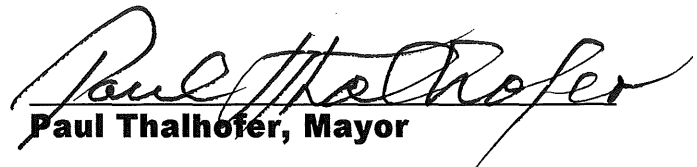
Administration

City Administrator
City Recorder

Human Resources

Community Services

- (A) 1. PLEDGE OF ALLEGIANCE, ROLL CALL, AGENDA UPDATE
- (A) 2. CONSENT AGENDA:
 - 2.1 **Accept Minutes:** September 14, 1999 Regular Meeting
 - 2.2 **Resolution:** A Resolution accepting a Public Access and Utility Easement from the property owned by Mr. Rex Holland and Mrs. Linda Holland, located at 27116 SE Stark Street.
 - 2.3 **Resolution:** A Resolution recognizing the completion of Capital Improvements associated with the SW Kendall Avenue Extension Project and accepting them into the City's Fixed Asset System.
- (I) 3. **PUBLIC COMMENT:** Please restrict comments to non-agenda items at this time.
- (A) 4. **PUBLIC HEARING / APPEAL:** An Appeal of the Planning Commission decision in the matter of Case File No.98-013, Expansion of the Columbia Gorge R.V. Park Conditional Use. *McCallum*
- (A) 5. **PUBLIC HEARING / ORDINANCE (Introduced 9/14/99):** An Ordinance repealing Chapter 8.24 (Noise Control) and adopting a new Chapter 8.24 (Noise Control) of the Troutdale Municipal Code. *Lt. Nelson*
- (A) 6. **PUBLIC HEARING / ORDINANCE (Introduction):** An Ordinance amending Section 2.24.030 of the Troutdale Municipal Code to amend when competitive bids are required. *Wiesinger*
- (I) 7. COUNCIL CONCERNS AND INITIATIVES.
- (A) 8. ADJOURNMENT


Paul Thalhofer, Mayor

Dated: 9-23-99

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

September 28, 1999 7:00pm

Meeting was called to order at 7:01 p.m. by Mayor Thalhofer.

1. PLEDGE OF ALLEGIANCE, ROLL CALL, AGENDA UPDATE

Mayor Thalhofer lead us in the Pledge of Allegiance.

PRESENT: Thalhofer, Smith, Kight, Rabe, Daoust, Ripma.

STAFF: Ortega, Wiesinger, Faith, Lt. Nelson, McCallum, Gazewood, Kvarsten, Sercombe, Stickney

GUESTS: DJ Bleu, Eugene Smith, Ted Copher, Michelle Meyers, Lawrence Turner, Doris Turner, Renee Buckhardt, Frank Gibson, Barbara Gibson, Eunice Wagner, Doris Russel, Glenn White.

Mayor Thalhofer asked are there any agenda updates?

Kvarsten replied there are no changes this evening.

2. CONSENT AGENDA:

2.1 Accept Minutes: September 14, 1999 Regular Meeting

2.2 Resolution: A Resolution accepting a Public Access and Utility Easement from the property owned by Mr. Rex Holland and Mrs. Linda Holland, located at 27116 SE Stark Street.

2.3 Resolution: A Resolution recognizing the completion of Capital Improvements associated with the SW Kendall Avenue Extension Project and accepting them into the City's Fixed Asset System.

Mayor Thalhofer called this item and read the consent agenda.

MOTION: Councilor Ripma moved adoption of the consent agenda. Councilor Kight seconded the motion.

YEAS: 6
NAYS: 0
ABSTAINED: 0

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

Glenn White stated I am approaching the City Council tonight in regards to a potential zoning change concerning my property. Prior to last year, before the town center overlay, I was zoned CBD and was switched to residential neighborhood commercial. One of the things that was taken

away from me in that change was the opportunity for a water oriented recreational facility. Currently that is listed under CBD, however there isn't any property that is associated with water like my property is. I am asking the Council to have the Planning Commission look into this further to see if that would be a feasible use for my property. I have spoken with staff at City Hall and they felt that this was worth looking into. I need the City Council to forward this to the Planning Commission for consideration.

Mayor Thalhoffer stated I think that you would need to go to the Community Development Department and have the process started.

Sercombe stated is the request to do a textual amendment to the code, adding a new use into a zoning district that wasn't there previously. I don't know the precise process for that, but it may require the Council to initiate a text change. He is not seeking a zoning change he is seeking an amendment to the zoning district.

Mayor Thalhoffer stated in any event, this will not happen now. It will still come to us after it goes through the process. Mr. Sercombe could you give us some guidance.

Sercombe stated I admit, I don't know the process but typically to start a text amendment to the zoning code it needs to be started by either the Planning Commission or the City Council and possibly the staff, but typically it can't be started by a private citizen.

Faith stated I haven't spoken to Mr. White on this matter. As our City Attorney indicated a private citizen can not initiate an amendment to the text of the Development Code. That can only be initiated by the Planning Commission or the City Council. Generally it is in conjunction with a plan that we are reviewing, such as the Town Center Plan. A private citizen that doesn't like the uses that are allowed in their zone can not come forward and submit an application to amend the code. This matter should be put on the Planning Commission's agenda to see if this has any merit to bring forward as an amendment.

4. PUBLIC HEARING / APPEAL: An Appeal of the Planning Commission decision in the matter of Case File No.98-013, Expansion of the Columbia Gorge R.V. Park Conditional Use.

Mayor Thalhoffer called this item and asked if there was any conflicts of interest or any ex-parte contacts. If there are none then I will close the City Council meeting and open the Public Hearing.

McCallum stated the applicant is requesting to develop the property for thirty recreational vehicle sites. The applicant owns and operates the existing RV park adjacent to this site. The original land use application was submitted on March 9, 1998, Case File No. 98-013 when the site was zoned CBD-C. An RV Park was a conditional use in that zoning district. The Planning Commission denied the conditional use. The findings from that final order established that the land use application did not meet all the conditional use criteria and standards for development within the Flood Hazard and Water Quality Overlay District. The applicant appealed the Planning Commissions decision to the City Council under Case File No. 98-057 on July 14, 1998. The Council heard that appeal on August 11, 1998. The applicants position was that his property was above the 100 year flood plain and that the Planning Commission should not have denied the use under the Flood Hazard standards. The Council agreed to set aside the appeal, to a date uncertain, in order to give the applicant an opportunity to survey the land and apply to the Federal Emergency Management Agency, commonly referred to as FEMA, for a Letter of Map Amendment , commonly called a LOMA. The LOMA was approved by FEMA for a portion of the site. A LOMA, however, does not

change the base flood elevation of the 100 year flood plain which is approximately 34' mean sea level in this stretch of Beaver Creek and the Sandy River. Although the portion of the site the applicant wants to develop is elevated above 34' mean sea level, the standards for development in the Troutdale Development Code Chapter 4.600, Flood Hazard and Water Quality Overlay District, still apply to the development of this site with respect to water quality. The standards from Chapter 5.600 apply with respect to erosion control and water quality. The policies and goals of Comprehensive Land Use Plan Goals 5 and 6 require protection of water quality, wildlife habitat and other natural resources when a site with these resources or adjacent to these resources is developed. Changes to the riparian habitat associated with both Beaver Creek and the Sandy River contribute to the decline of fish stock and other wildlife species. One way to maintain and improve water quality, protect the riparian corridor and protect fish and wildlife is to require minimum setbacks from the top of the banks of Beaver Creek and the Sandy River and the wetlands, re-vegetation of disturbed portions within those setbacks and in the developing portions, and construction of an efficient and appropriate water quality facility that will retain storm water on site. The applicant has requested a variance from the setback standards. The minimum setback standard of 50' from the top of the banks of Beaver Creek and the Sandy River and a 25' setback from wetlands is from the Development Code. These are tools to help maintain and improve water quality, protect and improve the riparian corridor and protect the wildlife in those areas. An economic social environmental and energy analysis, commonly referred to as a ESEE, of natural resources is an important tool to determine the significance of a resource and possible impacts a development will have on the site. An ESEE may show that the minimum setbacks may need to be increased in order to maintain water quality and wildlife habitat depending upon the impacts the development may have or that the minimum setbacks may be decreased. Neither the City or the applicant has done any ESEE of the riparian corridors of the site. What is know is that Herons and Peregrine Falcons are two bird species that have been observed within this area. The Oregon Department of Fish and Wildlife has also stated that the Sandy River and Beaver Creek contain chinook, coho salmon, trout and steelhead. Chinook and coho salmon are threatened species and the cutthroat trout are a sensitive species likely to be listed as threatened. An inventory of other wildlife within this riparian corridor has not been made. In the absence of an ESEE the State revised the Oregon Administrative Rules to allow cities to comply with State Wide Planning Goal 5 under a safe harbor provision to protect water quality and wildlife resources. The safe harbor requires that a city adopt minimum setback standards for developments adjacent to fish bearing rivers, streams or lakes unless a complete ESEE analysis is conducted. The safe harbor standard is a minimum setback of 75' from the Sandy River and 50' from Beaver Creek. The current setback standards from the top of the bank of the Sandy River do not comply with the new state rule, so the current setback standard from the top of the bank of Beaver Creek and wetlands does comply. Granting them a variance from the top of the bank setback standards without an ESEE on the site would result in the development being further out of compliance with the new safe harbor rule. In addition, it is the recommendation of the Oregon Department of Fish and Wildlife that a 100' setback from the top of the banks of both the Sandy River and Beaver Creek be maintained to protect riparian corridor, wildlife and water quality. 100' is derived from the height of one typical on-site mature cottonwood tree. Retention of existing trees, whether snags or healthy, also contributes to the function of the riparian corridor. Wildlife uses snags for roosting and nesting and the healthy trees keep shade over the water for better fish habitat. The applicant has proposed a storm water detention facility with pre-treatment. This water will discharge to the Sandy River and Beaver Creek. The Oregon Department of Fish and Wildlife has requested retention of storm water with no direct discharge. Staff is of the opinion that water quality and wildlife in these riparian corridors can be protected on this site if; 1) the RV Park is scaled back to comply with minimum safe harbor setbacks; 2) the disturbed areas of the site are planted with approved native vegetation; 3) the

undisturbed areas are retained as a conservation easement; 4) an improved storm water retention facility is constructed. Draft Findings of Fact and Final Order are written for your review and approval and have been submitted with your staff report.

Councilor Kight asked: I guess the main vote of contention on this particular piece of property is the elevation. Does FEMA send out their own people to come up with these numbers or do they depend upon the applicant to provide that material.

McCallum replied I believe it is the applicants burden.

Councilor Kight asked does the Corp of Army Engineers or any other governing agency get involved to verify that those numbers are accurate?

McCallum replied the people that I have had conversations with are back in Washington, DC and it is not my understanding that any other entity verified these elevations.

Councilor Kight stated that being the case and there being a vested interest on the part of the applicant, how do we know if these numbers are in fact accurate if there is no verification from a source that doesn't have a interest in having this property developed.

McCallum replied I rely upon the certification stamp on elevation maps.

Councilor Rabe asked they did several perk tests to determine the water table, they are referred to as infiltration systems, the best proposed methods by which they would like to handle the storm water, is that correct?

McCallum replied they do have an engineers report and I rely upon our Public Works Department to analyze those reports.

Councilor Daoust asked in the draft Finding of Fact and Final Order, we include in there something that the Oregon Department of Fish and Wildlife also mention on page 6 item 2. That talks about the undeveloped portion of the site shall be put in to a conservation easement with an endowment from the project proponent held in trust so that a program of regular systematic and well documented monitoring and maintenance occurs. When I first read this, one of my first questions was, what is to be monitored, how much is to be put into this endowment. It raised a lot of questions. Can you clarify what that requirement would be?

McCallum replied it is almost an exact quote from Greg Robart's letter from the Oregon Department of Fish and Wildlife. When I walked on the site with him, his concern was that the undeveloped portion of the site remain undisturbed and undeveloped. We felt that the concept was good and well intentioned to preserve that area. Most of that area is at the 100 year flood plain or lower and it is in the required setbacks from the top of the banks.

Councilor Daoust asked is this absolutely necessary to set up an endowment, where the owner of the property pays into this to hire somebody to monitor what? There is already setbacks required, there is already vegetation and landscaping requirements. These are requirements to protect that, and I agree with that, but to go this extra step with a so called funded monitoring plan sounds like ODFW to me, they are into monitoring. I just wonder if staff really thinks that is required? I think you have already answered that. My second question is on page 8, item E iii, the special water

quality facility shall be outside the 25 year flood event. So where does this limit the water quality facility to on this property.

McCallum replied the applicant would have to identify, through engineering study, where the 25 year flood event is. That is standard from our storm water standards in the Troutdale Development Code. He would have to submit construction drawings to show that it would comply with the standards.

Councilor Daoust stated I read Mr. Copher's water quality facility would have infiltration pipes, would that be acceptable under the requirements that we are asking for?

McCallum replied I do not have the expertise in the storm water facility design, I rely upon public works staff to review these for compliance with our design criteria.

Councilor Daoust stated on page 9 item 13, no encroachment, including fill, new construction, substantial improvements, and other development is permitted within the floodway. Is my assumption correct that this floodway is the 34' elevation line?

McCallum replied that FEMA makes a distinction between flood plain and floodway. Our current development standards don't deny or prohibit any fill within the flood plain, they do prohibit fill within the floodway. The floodway is a different portion of the flood plain. It is commonly thought of as where the actual water is. In other words, filling in the water area.

Councilor Ripma asked just to understand what we have before us tonight. The staff report recommends that the proposal be scaled back in certain ways, but as I understand it the proposal that we have before us tonight does not meet our established criteria. As far as this proposal, one decision that we could make is to accept or reject this proposal, we don't necessarily have to tell them how to scale it back or do something else tonight do we?

Mayor Thalhofer replied that is correct.

Councilor Ripma stated one thing that bothers me the most is the wild difference in the elevations on the maps presented tonight by the applicant and their previous maps and the City maps and other maps. The large maps that were in our packet that were provided by the applicant, at least one or more of these are what they submitted to FEMA, is that right?

McCallum replied that is my understanding.

Councilor Ripma asked and FEMA has based their decision on the maps that were submitted by the applicant. The applicants map number 2 of 7, for example, shows the bridge at the bottom, then it shows manhole number one, rim 39.1. Does that not conflict with the elevation on the applicants maps submitted with prior applications to this City regarding this site?

McCallum replied yes.

Councilor Ripma asked their most recent map is the land use application they submitted in 1998, that showed the east end man hole at 31.57, is that correct?

McCallum replied that is correct. That was their application for case file 98-013 before the Planning Commission.

Councilor Ripma asked is it not true that the City's own elevation maps, showing the elevation of a man hole at the west end of the bridge in 1996 shows an elevation of 32.04'?

McCallum replied that is correct.

Councilor Ripma asked and the elevations provided by the applicant for their sanitary and water plans in 1992 showed the west end and the east end man holes at 31.5'?

McCallum replied that is what we found on the maps in the record.

Councilor Ripma asked so the maps that they submitted to FEMA are about 7½' higher in elevation all around. Is it also not the case that in the upper right corner of map number 3 of 7, there is a long note by the surveyor that states: "the elevations shown are based on USC/GS Bench Mark post No. 1, 1956. It is a bronze cap in concrete at the east end of the I-84 overpass bridge in Troutdale, being in the south curb of the eastbound lane and listed in the National Geodetic Survey Data Work of July 1997, received from ODOT Geometronics. The listed elevation is 18.266 meter or 59.928' feet and this is the elevation I (the surveyor) used for this topographic survey. I ran levels to the site by a combination of trig. levels with an EDM, and standard levels and closed my work back to the bench mark described". Everything in his map was based on that site. Are you familiar with the USGS standard 7 ½ minute quadrant maps?

McCallum replied I am familiar with them but I have not looked at any for the City.

Councilor Ripma stated I will pass it around for Council to look at. The one called Post No. 1, 1956 is shown on this map at 52'. I would like Jerry Ortega to explain how the applicants maps compare with the USGS maps and compare with our own topographical maps that we use throughout this city.

Ortega stated Councilor Ripma I would like to make sure that I gave you the right elevation, if you could give me the exact location that you would like me to look up.

Councilor Ripma stated go to a point on I-84 on the overpass over Graham Road, on my way to the Council Meeting tonight I stopped on the highway and looked at that overpass and the pin no. 1, exactly as it is described, appears right there where you said it was, could you give me the road bed level as it shows on City map.

Ortega replied on top of I-84 in the proximity of where you indicated it is 51.6'.

Councilor Ripma asked the USGS map shows this pin, which is up on a curb about 4 inches high, as 52'. Do you have any other corroborating data from other surveyors that you might have looked into lately to confirm the accuracy of our maps?

Ortega replied we have several. It just so happens that there is a developer interested in a piece of property that is just south of Harlow Place and Graham Road. He had to survey the property and he has just obtained the vertical control to establish their elevations. Today he indicated to me

that the survey had just been completed and it checked right on the money in accordance with our cad plots, which are the snap shop readings of this elevation. The information that I saw on the FEMA map, I notice that their benchmarks are very close to our elevations, specifically where Historic Columbia River Hwy. is right before you enter the RV Park, it is within a tenth of a foot. The difference could be attributed to the fact that they are not on the same benchmark although they are very close.

Councilor Ripma asked how about at the bridge into the RV Park, or the manhole and any similiar thing that would not have changed over the years with fill or anything.

Ortega stated this is a spot elevation on the entry of the entrance, the pavement surface of the entrance going into the bridge going from the west to the east, I see one there for 33.9', which is really close to the elevation that we see on the FEMA map.

Councilor Ripma stated much closer then the numbers that appear on the applicants map which are about 7½' off. If FEMA based their decision on the applicants map, it could be that FEMA made a mistake. Were we invited by FEMA to contest these elevations in any way?

McCallum replied we knew that the applicant was requesting a letter of map amendment from FEMA and I did raise some questions on the phone with some representatives of FEMA, starting with Mark Eberlein and I was referred to a company called Baker, I can't remember the exact name, which is back in Washington D.C. or Virginia and said that we understood that there was some fill on this property, is this difference in these elevations based upon that? FEMA's position was that they have a standard that if the land is a certain elevation then it is outside of that flood insurance elevation. The City has development standards with respect to fill and so FEMA granted the letter of map amendment and they made the statement in the letter that states: "we determine the property described below is not in the Special Flood Hazard Area, the area that would be inundated by the flood having a 1% chance of being equaled or exceeded in any given year. The property was elevated by the placement of fill after the date of the earliest National Flood Insurance Program map showing the area in the Special Flood Hazard Area. It was not necessary to elevate the property above the base flood, nor was fill placed in the regulatory floodway for the Sandy River or Beaver Creek." I did call FEMA and wanted clarification on that statement because staff was aware that there was a certain amount of fill, although an undetermined amount of fill on this property, and I did not get any other answer then that their determination is that it is now above the 100 year flood plain.

Councilor Ripma asked is it not true, that no amount of fill or any other change in the topography of the site would make any difference to this pin on I-84 on which their surveyor based his numbers? It is obvious that it wouldn't have made any difference. The number, that he admits on his map, 59.9' is about 7½' to high as compared to the USGS and our own City maps and other surveyors.

Ortega replied some clarification that I would like to offer. The City of Troutdale's Sanitary Sewer System, its elevation throughout the City has been based on the NGVD29 which is the National Geodetic Vertical Datum, which was established in 1929. That is what the City of Troutdale and most of the jurisdictions throughout this area have chosen to go by. A few of them, such as the City of Portland, have continued to use the 1901 mean sea level and they choose not to make the conversion because sometimes the sea level rises or goes down. When that happens and they do this adjustment every so often, then everything has to be transferred, elevated or lowered. What

I wondered is if there is a discrepancy there as far as where they are coming from as far as the point of origin. What datum is that related to, is it the most recent one which was done in 1988 which is called NGVD88. I am not sure, but I do believe the difference between the NGVD29 and the NGVD88 was approximately one meter higher. That could explain some of the difference, I am not sure. If that is the case then that number needs to be transferred down to our number which is the 1929 version.

Councilor Ripma stated that the discrepancy in this, even if it was based on the 1988 version still would not account for a 7½' difference. We are entitled to rely on our maps and our own judgement.

Ortega stated certainly every map that we have in the City of Troutdale has gone off of the 1929 version.

Councilor Ripma asked in our Development Code, we are allowed to use our own judgement in local conditions and are not completely bound by FEMA maps, is that right?

Sercombe replied that is correct. It comes up first, the City refers to the FEMA maps in making its own map of what are flood hazard areas and if you are in a flood hazard area you are required to get a special permit and to shape the development in different ways. The City uses the FEMA maps in making its own map as well as its own information in designating those areas that are prone to flooding, that show up in our code. We can use the City's own maps, we can use FEMA's maps we could use all sorts of maps in assessing whether or not a particular conditional use should be allowed or not allowed. What you are deciding tonight is a number of things, you are deciding a conditional use permit which has criteria that talks about the affect on other properties and whether or not it is going to be injurious to the property itself by siting a development there and a number of factors that you can then assess whether or not this property is going to be prone to flooding. You can use any evidence as part of this record in making that assessment and if you believe that the evidence is substantial that suggest that it is prone to flooding and it wouldn't be an appropriate conditional use then you can make your determination that way. So your answer is yes, you can use any quantity of evidence that you regard as substantial in making your determination about flood prone nature of this property and you are not bound by the applicants submission.

Mayor Thalhoffer asked we have maps with the surveyors stamp on the map certifying that the map is correct and FEMA used the map that was provided by the applicant. Do they use independent evidence, in other words, besides the applicants map in making their determination?

Sercombe replied I do not know that answer. I know that there was, from last years hearing on this, a FEMA map that showed different elevations for this site and the issue before the Council was whether or not certain portions of the site were in the flood plain or not. The Council asked the applicant to go get a survey because they had questions about the survey that had been submitted and to check with FEMA about the correctness of the map and the applicant has done that.

Councilor Ripma stated it is the only information, I called them today.

Mayor Thalhoffer asked is there any evidence that you have that could help us in this matter?

Ortega replied what I noticed today in looking at the maps and reading the description that

Councilor Ripma just read was the surveyors narrative on how he arrived at this elevation. I noticed that the benchmark that he took off from which was described as being on the south east corner of the south east bound lane of I-84, is different then a benchmark or a reference mark that is given by the FEMA map which is on the west side and north side of the west bound lane on I-84. It seems to me if we are trying to get or confirm an elevation that perhaps the datum that they should have started from, or at least the benchmark or reference mark should have been this reference mark that appears to be not where they took off from but on the north west side of the bridge. Again, our elevations match the FEMA maps elevations. There is also a reference mark shown on the FEMA map that is very close to the intersection of Historic Columbia River Highway and the entrance to the RV Park, it is my understanding that it is not there, nevertheless there is one very close to where they took off from before, that is on the other side of the bridge to the west and to the north, perhaps we are talking about two different datums and we are comparing apples to oranges. I offer that as a possibility.

Sercombe stated Councilor Ripma if you had a conversation with a FEMA Official about a fact that is relevant in this record, you should probably declare that conversation and say what it was and place it on the record.

Councilor Ripma stated for the record I called FEMA, I was referred to this engineering company, I believe it was Baker Engineering, I spoke to a women there who had reviewed this application. I asked the question, do you do any independent check on the numbers that are submitted to you. Her answer was, no, we always rely on the signed submitted survey of the applicant. I asked, don't you give the City a chance to review it, and she replied they don't. I also spoke with a gentleman, I believe his name was Mr. Cook, it was just before the meeting tonight, to ask him if FEMA does field checks of any kind on the data, he said no, they have to rely on the applicants maps or they would be overwhelmed. Sorry I didn't mention that earlier, I didn't think they would constitute some sort of ex-parte contact.

Councilor Kight asked if the benchmark is done by the City maps that we have, where he started off at 56', the fact is it is 51' plus, he puts that first man hole cover at 39', would it be clear to assume that the other numbers on the map are inaccurate?

Ortega replied perhaps not inaccurate, but if they came off of a different datum that is not being compared to the same datum that Troutdale uses.

Councilor Kight asked but in fact if they are using the benchmark that they've indicated in their notes, at 56', and everyone else has it at 51'. As evidence of that, you named a developer that just recently used that as a benchmark and he used the same number, then somehow there is this differential.

Ortega replied there is some discrepancy, yes.

Councilor Kight asked that being the case and all the other developments that have gone forward are using the 51', and for some reason the applicants are using 56'.

Councilor Ripma stated it is 59.9' not 56'.

Councilor Kight stated 59.9', that is a major differential. This whole development hinges on these numbers being accurate.

Councilor Rabe asked lets go back to the perk tests, I was not able to find in the boring logs what the elevation of the samples were. But when I look at the map where number 1,2 and 3 where done, I can approximate that it was between 38' to 39'. There were two things I was interested in, number one was what elevation was sited by those who did this, Northwest Geotech, Inc., and I was unable to find that. I was curious as to what elevation they may have that may either refute or collaborate with the applicants elevations. That was one of my concerns, because if we say we are going down twelve feet but we have as much as a seven foot differential between the stated elevations and the actual elevations then the data is inaccurate. The other questions is, is it typical to do a perk test in the driest season of the year? These were done in August, so if in fact you were to drive down twelve feet and no ground water was arrived at, for one reason that does not surprise me to much being that is the driest season of the year. We all know that the Sandy and Beaver Creek are subject to quite a differential in water level. If I were to place my oil water separators at an elevation of six feet, they would be submersed in water potentially and be totally useless in terms of any kind of oil water separation. I would then use that as evidence to support the finding that the detention facility be mandated. Even with that I am beginning to wonder if such a thing could be built to a sufficient depth where it too isn't being infiltrated by ground water. That was an observation that I made, and I was just wandering if you can support or refute that.

Ortega stated we have done the bores or testing at approximately the same time of the year that the construction will most likely be under way to show us that during the design phase the true characteristics that the contractor will be faced with and also to tell the design engineer what to design to adequately serve the site. In this circumstance, according to the bores and the tests that they ran, I think everybody would agree that in the summer it is drier then the winter. Two years ago when Beaver Creek was pretty high and the first house when you go down the hill here, Marge Whitelock, was full of water.

Councilor Rabe stated and those elevations, if I am not mistaken, are higher than that of the proposed project.

Ortega replied I am not sure.

Councilor Rabe asked I looked at the maps and I was particularly interested in map number 7 of 7, that is the storm water site plan. I was looking at sites one through nine, and I was trying to figure out how they were drained. All of the other sites have drainage.

Ortega replied according to map number 7, prepared by Eugene Smith, I don't see anything there either.

Councilor Rabe stated we would assume then if nothing was corrected there, that those slabs would drain to whatever the downhill side is.

Ortega stated according to the contours on this map it would indicate to me that some of the runoff would go towards the creek.

Councilor Rabe asked and that would not be a permissible system would it?

Ortega replied if I remember correctly from Beth McCallum's comments, that Fish and Wildlife stated that they don't want any draining, they don't even want a detention, which is a temporary

holding of the water, they want retention which is permanent.

Councilor Daoust stated with all of our consternation over these elevation markers, whether they are 4 or 7 feet off, I can only assume that some members of the Council are making the point that this piece of property is within the 100 year flood plain. If any event was a 100 year flood event, it would have been the floods of February 1996. In our determination to determine if this is a flood prone site, could we also use the flood of February 1996, which was in my mind a 100 year flood event. Could staff illuminate on what actually happened on this piece of property in February 96, as far as the flooding that occurred?

Ortega replied I did not go over there to observe where the water was.

McCallum stated in the City Council meeting of August 11, 1998 there were photographs submitted by Councilor Kight and they are a record and I can show those to you. It does show water on the site that he is proposing to develop.

Councilor Daoust stated I was wondering about a little more information other than whether an elevation point is 4 to 7 feet off when we actually had experience of a 100 year flood event, so that helps.

Mayor Thalhoffer called for a break at 9:48pm.

Councilor Smith asked because this development is between two bodies of water and there is a lot of erosion, what did they have planned in the way of retaining the banks?

McCallum replied the application has four scenarios and they are linked to the variance request. He is intending on the perimeter of the property to be elevated so everything slopes towards the middle of the development and he does have a proposed landscape plan that includes some planting within the grading area around the perimeter. The staff has drafted conditions that the disturbed areas within the setbacks between the top of the bank and the development be further enhanced and planted with native plants that would control the erosion of these banks.

Councilor Rabe asked there is a letter from Multnomah County which discusses the issue of vehicular trips and there were some requirements of the development that were to be imposed, but within this packet did I miss the plans for the sidewalks that were suggested in exhibit 6?

Ortega replied I do not see one.

Mayor Thalhoffer asked for the appellants to come forward and present their case.

DJ Bleu stated I would like to let the residents speak first.

James Bergstad stated you were concerned about the bridge flooding over and how a person would get there motor home out of there. Up on the end where I live there is a big fence and a road that goes up on one end of the property where a gate could be put in for an emergency exit and they could have a second way out. As far as people wanting to get out of there when there is only two inches of water over the bridge, there was no immediate danger. It only takes about five minutes to unhook from the connections and pull out of there. If the people would let them clean out

Beaver Creek and get the debris out of there the water would flow better and it wouldn't flood as bad.

Mayor Thalhoffer asked where would the motor home go if they went through the gate that you are talking about?

Bergstad replied right out on the highway in front of the City park.

Councilor Kight asked you are talking about another exit for your RV's, who owns that property?

Bergstad replied Ted, I guess.

Councilor Kight stated I am assuming that it is probably Mr. Whites property. You would have difficulty exiting over somebodys property unless you either got an easement or they sold the property to Mr. Copher.

Bergstad replied I am sure something could be worked out.

Councilor Rabe asked were you a resident at the park during the last flood?

Bergstad replied no.

Shirley Bigilow stated I am not afraid of being in a flood area. The thing that most of us need to realize is in a RV Park we all look out for each other and help each other. Not one trailer would go under. My main concern is, the RV Park in general is a real asset to the City of Troutdale. There are many people who need a place to stay off the road and those people have money. They come here and stay in our park and they spend their money here. They are impressed with your city and they have a place to stay and they believe you have provided this opportunity for them. We are in the city yet we are in a rural area and we are proud of our park and you should be proud of it to. The people who come here bring others here and they stay in surrounding hotels and shop at area stores. We have checked every park from here to Washington and this is the best, prettiest, nicest and safest park, and we have lived in many. I am here in defense of the RV Park, it is a wonderful place and we will do everything we can to make it an asset to you.

Councilor Ripma stated realize that nothing before us tonight would affect the park, it is not going away.

Mayor Thalhoffer stated this does not deal with the park you are living in now, it deals with the expansion.

Mayor Thalhoffer called on Mr. Bleu and stated I would like you to testify one at a time and then we will ask questions.

Bleu replied I would like to suggest Mr. Mayor, in dealing with the discussion, Eugene Smith is our engineer and as I am going through the material as we bring up the soils and hydrology he could input to that and then the questions would not have to be done twice. It would make it easier.

Mayor Thalhoffer stated it may or may not, it might make it more confusing. He is not your

surveyor, he is an engineer.

Bleu stated if we would of had a hint that this elevation was coming up, we would have had our surveyor here. I have been into the city many times and didn't even have a hint that there was a question on this. I was with the surveyor and I was involved directly with FEMA.

Ted Copher stated I would like to know if it would be appropriate to delay this hearing until we know what elevation we have because I am totally confused. I have hired experts and I guess we have other experts that say it isn't and I don't know. I would like to delay the hearing until somebody does know.

Mayor Thalhoffer asked how would you ever know. What would you do to dispel the confusion?

Copher replied we have some people that say it is this and some say it is that, I don't know. I am not an expert.

Mayor Thalhoffer asked if we delay this, what good will it do? Who is going to come in here and clear up the confusion?

Copher stated when I talked to Elizabeth McCallum and Jerry Ortega about a year ago, nobody said anything about not taking this mans word for what he has done. Right now we have several people that are questioning my surveyor, whether he is right or wrong.

Councilor Ripma stated nobody is questioning your surveyor.

Copher stated if the City wants to question it, why don't you hire an expert?

Mayor Thalhoffer stated you are the appellant, you are the one that wants to do something.

Copher replied I have done the best work that I can do.

Mayor Thalhoffer stated it is not up to the City to try to prove anything. It is up to you to prove that your surveyor is the accurate one and that the FEMA letter is the one that we should go by.

Copher replied but if somebody would have contacted me or said anything I would have had my surveyor here tonight. I feel he should be able to represent himself.

Mayor Thalhoffer stated that I can understand. That would be something that would be beneficial. So what you are requesting is to put this over until he is here. That is a reasonable request and that would probably get us someplace.

Councilor Ripma stated his surveyor has made detailed notes on his maps explaining how he got at his numbers. Those were sent into the Federal Government. Having him come here and say that he didn't mean it or something. The applicant has submitted these maps to FEMA with these numbers, they conflict with our own City maps, we are suppose to make a determination on whether there is substantial compliance with our established criteria for a conditional use on this site. We have plenty of information to base that decision on and having his surveyor come in here and explain that his notes don't mean what they say and what they sent into FEMA doesn't mean what

they say is a waste of time. I don't agree with your comments, we are suppose to be taking the applicants testimony and not dealing with some procedural request.

Mayor Thalhoffer stated in this type of hearing you always deal with procedural request, it is common courtesy to the litigants. Mr. Sercombe, do we have to vote on whether or not we would set this over so that the applicants surveyor could come in and testify?

Sercombe replied the rules of the Council are that you are the presiding officer of the Council and you can control the hearing and if you wish to grant a continuance you can. If two Councilors disagree with the ruling of the Chair, they can appeal it and force a vote of the entire Council.

Councilor Kight stated it is clear that there is a difference of numbers. It is clear that the surveyor, for whatever reason, came to use a different elevation which obviously skewed the numbers for your particular development.

Bleu stated I object to that statement, that our surveyor skewed the numbers. If you understand what he says here, it says.

Mayor Thalhoffer called for a point of order. What we are discussing now is whether or not we will give you a continuance.

Blue stated lets just say there is a difference of elevations and not point a finger saying we have skewed the numbers.

Mayor Thalhoffer stated that is a fair statement. Councilor Kight could you comment on whether you would grant a continuance or not.

Councilor Kight stated I want to apologize, maybe skewing the numbers is the wrong choice of words. I think we would all agree that there is a difference of numbers. How they arrived at those numbers, our particular surveyor versus other surveyors, we know not. Obviously your surveyor has done the best work that he possibly can. I think to have him come in and explain that, I agree with Councilor Ripma, would obscure the process. I would not vote for a continuance.

Councilor Rabe stated I would echo that statement. It has been submitted to a Federal Agency in which I would assume that you feel it is competent data and you feel confident that the material that you have supplied us is accurate. We have reiterated this issue for over a year now, I would prefer to take care of it tonight.

Councilor Daoust stated I don't care one way or the other. I have no objections to putting it over to the next Council meeting. Any time one Councilor brings to the Council such strong evidence that nobody else is aware of, that kind of bugs me. Nothing against you Councilor Ripma, if any of us were to bring substantial evidence to any Council meeting, especially an appeal, it seems unfair to me that we would just accept that and move quickly through. I don't have a strong objection to finishing it up tonight but I don't have an objection to putting it off either. In fact it may be more fair to the appellants to put it off if they would feel more comfortable dealing with it with their surveyor here. Any of the conditions of approval that the staff has dealt with has little to do with the elevation. Most of the conditions of approval have to do with site factors, protecting environments and stuff like that.

Councilor Smith stated I am surprised you didn't have your surveyor come tonight. I would like to see it over with, but I am negotiable.

Councilor Ripma stated the applicants over a year ago, wanted time to go and come up with information about whether or not the site was in a flood plain, which was the reason the Planning Commission denied the conditional use for this site. They have done so, they have submitted to FEMA their information. If they are not prepared to stand behind it, we should be prepared to take them at what they submitted to the Federal Government in writing by a licensed surveyor. We don't normally have surveyors come here and ratify or testify to the veracity of their surveys. The question that I raised came up today when I started reviewing the material and the idea that the surveyor could somehow explain why his notes that he submitted to the Federal Government, either he is going to defend them or say that they are wrong. I don't see anything to be gained by having him come here and expect him to do anything but defend them. The discrepancy is part of the fact finding that we need to do tonight. We were faced with this very same issue a year ago, whether this was in the flood plain, and the applicants have chosen their way of proving to us that it wasn't. We have to make a finding of fact tonight as to whether this is or is not in compliance with our criteria for a conditional use. Councilor Daoust, you mention that the condition of appeal doesn't talk about elevation very much, the conditions of the denial of this conditional use permit in the Planning Commission, was based entirely on that. The applicants have had all the time in the world, we granted them a de-novo hearing and gave them time to go out and do anything they wanted in the way of a survey, they have come back with their survey and now they are asking for more time to explain their survey. I can not possibly support a continuance.

Mayor Thalhoffer stated I support a continuance in fairness to the parties but at best I can count three Councilors in favor. It appears that there isn't support for continuing this hearing at a later date so we are going to proceed with this hearing.

Bleu stated I was with the surveyor at all times and to apply for a FEMA letter of map amendment you have to have a survey by a registered surveyor, you also have to start from a USGS benchmark. In so doing, we looked for a survey benchmark and the one at the other end or town where the freeway comes off has been covered by a foot or more of dirt. So consequently, we identified the two on the bridge through the help of ODOT and we received from USGS there post mark number one and two, which showed the two markers as having the elevation wrong, they were switched several years later, when they came out and redid it they made a correction on the elevations. As Mr. Ortega was saying number two and why didn't we use the other one, well we did use the right one, it turns out that the data that they had identified when they put them in, they got it mixed up and now they have corrected the data. There data showed that the elevation was 18.366 meters and we converted that to feet which is 59.928'. That is the only marker that FEMA will use, they will not use that map or your city maps. When we found out after the first survey that we were 7.4' different from previous surveys, the surveyor came out a couple of days later and redid the survey and came within 5/8 of an inch and felt he was correct about the survey from those benchmarks. Those benchmarks here do not correspond with the map, I can't answer that question, all I can answer is our data from USGS, the printed data received from USGS on these benchmarks identified as submitted by the surveyor. I would also make a note that if you submit knowingly false data to FEMA there is a large fine and a year in jail and our surveyor understood that and again he did a second survey. In looking at some of the background data, Troutdale has there elevation at the southeast end of the site where the old Historic Highway makes a turn, there is a elevation marker in the center of the road that the Multnomah County Road Department uses and

we were going to identify with our survey but if you read that statement on top of that survey marker it says it is not to be used for elevation surveys, just road surveys. So I tried to go back to the history of how Sandy received there elevation data and it appears they got it from Multnomah County and there survey marker that we would be using would be the corner section marker on the road coming off the railroad and if you use that data it is off, so we could not coordinate any of the data. Most of the markers that FEMA had were on telephone poles and the poles, during the ice storm of 1996, were destroyed. We did have lengthy discussions with the people at FEMA on this and they wanted to know why there was such a discrepancy. Is Mr. Ortega a licensed surveyor?

Ortega replied no.

Bleu stated there was a 1901, 1929 and 1988 and in trying to run this data we found, I wish I had his name and if we would have had a hint that this was a problem after we submitted the FEMA letter, evidently there was quite a bit of discussion at the city and why it never got back to us is bewildering to me because we could have explained where we came from on our map amendment. FEMA would not have given it unless they were confident. They also contacted Baxter Land for information on the original survey and if you look at the original survey, which was brought up by Councilor Ripma, and that was the first thing that caught my eye when I looked at it was the elevation on the rim, but if you go back to the bridge, where he apparently started, he has an assumed elevation of 31.5 feet. It doesn't make sense for a surveyor to use an assumed elevation with a .5, so I question that. Most surveyors that are going to use an assumed number will pick an even number of feet. As far as our datum, we found that the City of Portland's dike system coordinator, I don't have his name here I have all that data at home and I would have brought my file if I had realized that this was a question. We didn't receive all this data until Wednesday of last week so we weren't privy to what the Planning Commission had in mind when they reviewed the application and there is nothing in there that mentions or brings up elevations. This dike coordinator went through the different datums and on the I-5 bridge where the elevation sea level marker is for the cities to look to see what the water height is at that point for anybody. That, between the City of Portland and different cities, can be off 4.5 feet, more than a meter, which is getting close, so we are still a little under 3 feet difference and we couldn't answer that. I do know that FEMA spent a lot of time in an investigation with a number of agencies trying to find out the differences and finally through their study they accepted the 7.5 feet. I would suggest that the City of Troutdale's elevation markers could be off. I don't know that anybody has gone back to a USGS survey marker, I know Mr. Ripma is saying it is different on their map but that map doesn't correspond with what USGS has as the elevation of those markers. FEMA will not accept a map amendment application unless it starts at a benchmark and we had two of them. We were concerned and that is all I can say on that. I am confident that we had a good surveyor, he has been in the field and is a licensed surveyor. We talk about the area being prone to flooding, in the 1996 flood and why we had so much water and there was potential that it could have been over a 500 year flood in certain areas. If you remember, during that day we had ice storms that put over 6 inches of ice in the area. Also on that particular day we had approximately 7 inches of rain fall, and to add to that we had an extreme high tide. When you have a high tide the water backs up clear to Sandy, so consequently we have a high tide, we don't have water flowing because during a high tide the water is going very slow. At that point we did have water on the bridge, there is no question about that. We also had a lot of debris coming from up stream. There is a tendency to restore the stream by putting logs and different things in it and we had logs come down that Mr. Copher had to clean up. By late evening the tides were going out and the people knew that the water was going to recede, which it did, I myself wouldn't have left the area at that point. Mrs. Smith asked the question, what is there

to retain the river along the Sandy River part of the site. The concrete blocks around the site protect the site. Councilor Rabe asked if we had a design for the curb, sidewalk and road and we do not because we didn't know what the conditions of approval were until this letter came out. I also talked with John Dorst and he had an engineer out on the site this morning, we questioned the eighteen foot road work because of the width of the road. John Dorst told me that he would revise this and it doesn't need to be widened that we would only have to put in a curb and sidewalk. I think I have answered all of your questions. I am taking to fact, as far as I am concerned, that we are out of the 100 year flood plain. If you look at the staff report page 9 item E, landscape plan includes the removal of dead trees, that is not correct. If we go to our landscape plan you will see that there are two dead trees on the site and we are not planning on taking them out if at all possible because the birds use them for nesting. We did propose grass, which we have on the other site between the RV's and around them. Here it says we could have impacts upon the water quality in the rivers if fertilizers and weed killers are used. To my knowledge they haven't used any fertilizers or weed killers, there may be private residents that may fertilize once in a while. We plan on keeping as many trees as possible on the site. As far as erosion control devices we did identify a silt fence, and everybody understands a silt fence to be at or above the 100 year flood level. We also identified using other methods of mulch to protect soil from erosion and that was done in conjunction with Valerie Lantz. On page 11, item "G". The original plan, two years ago, identified as running the storm water into one of the detention facilities that is presently on the park and in dealing with the engineering firm we found that would be questionable, 1) could we reach it and 2) the feasibility of taking water from that site to the other site. Under the Stormwater Management manual for the Puget Sound Basin we had either a bio-swale or a subsurface disposal of water and bio-swale is generally used if you are going to run water off of the site into some surrounding area, otherwise the subsurface disposal, such as we are proposing, is acceptable and in this case is preferred. In exhibit IX, the percolation test and fieldwork, elevation isn't something that they would deal with as far as the percolation holes were concerned and the identity of them. They were interested in the type of sand that was available and its density of compaction and the percolation test determined how much flow the soils would accept over a given period of time. There calculations were done, we had three engineering firms on site working with us to develop these particular plans. We have not calculated the size of the pipe, we have identified two catch basins with oil-water separators on the two lines and then additional lines going out to distribute the water, in this case twenty-four inch. We haven't calculated what size of pipes we would need because we were informed that we possibly would not be able to use the whole site since we were asking for variances. If the variances weren't allowed then we would have to make a modification on the plans and from what I am seeing they are recommending that the variances be denied which you folks will probably agree with. So, we have to work with set-backs that work within the city regulations and we didn't re-draw the plans to fit in with what the Fish and Wildlife suggested because we weren't sure what the Fish and Wildlife or the safe-harbor regulations were, so to redo the plans and spend money on them when we aren't sure which way it is going to go, Fish and Wildlife is asking for 100 feet, safe-harbor says 50 feet on Beaver Creek and 75 feet on the Sandy River. I would like Eugene to explain the soils.

Eugene Smith, I am a registered professional engineer in Arizona, Oregon and Colorado. I have thirty plus years of experience. I have worked for the Corp of Engineers, US Air Force, US Forest Service and I am the owner of Smith Engineering and as of a week ago I work for the City of Gresham in the Engineering Department. The percolation rate was done by NW Geotech. They have calculated it to be 14 inches per hour. The percolation rate is generally not determined by the ground water level, you need to understand that. That is why the hole is filled and saturated before

the percolation rate is done. In sand, in this part of the city, you can expect that the water will dissipate as we have shown here.

Bleu stated on page 11 of the staff report, concerning the Friends of Beaver Creek statement that they are concerned that the location of the water quality facility, which in this case is the underground piping that will distribute the water subsurface and the oil-water separator can still be impacted by flooding. Depending on the water and the severity of the storm, this is true. On this same page there has been discussion that we do not show how sites #1 through 10 and #29 and 30 are drained. I am surprised that we missed that, if you look on the left hand side of the sites #1 through 8 and at the top of site #9 we have a 1% grade. At this point we have a 40' elevation at the edge of the site. If we look down at the roadway it is 39.4' so all the sites drain into the road, from the road they drain to the catch basin, and from the catch basins they go into the oil-water separators.

Councilor Kight asked your calculations here are based on bringing in how much fill?

Bleu replied no fill.

Eugene Smith stated we anticipate utilizing the material on site to make the contours flow the way that we have shown.

Councilor Kight asked won't that change your elevation? If you are re-grading the site and moving dirt, won't that change the elevation level?

Bleu replied yes it will. Bleu referred to the letter from Oregon Fish and Wildlife which states "all storm water shall be retained on-site and allowed to near-surface infiltrate only in accordance with site-plan, page 7 of 7 dated 4/8/99", we discussed that and he liked this particular application of the sub-surface disposal of the water. This is not seeking any other type of water control other than to let it infiltrate into the soils. If you look at page 14 of the staff report and page 2 of the exhibit 1. ODFW requested that the undeveloped portions of the site be put into a conservation easement with an endowment from the project. I agree that it makes sense to do that for that size of a site. There are a lot of requirements, the City is asking us to put up a bond of 125% for the restoration of it. It has been untouched for years and we are being asked to go into that site and disturb land and to me it doesn't make sense because it is a pristine area with a lot of wildlife and fish. We talk about the site being sensitive to Beaver Creek and the Sandy River, especially Beaver Creek use to contain a lot of chinook, coho, trout and steelhead and over the last two years Mr. Copher brought in a lot of gravel and starting restoring part of Beaver Creek along his site and three years ago there were a couple of fish in there spawning, this year there was between five and ten.

Councilor Kight asked what are you recommending for that area?

Bleu replied lets leave it this way and if there is work that needs to be done it can be done but lets not disturb the area any more then we have to because we are going to bring people in and equipment and create erosion. It is established now with grass and vegetation and to go in and remove it all, I find that hazardous to a wildlife area that is sensitive, especially in this creek area because you do have slopes. How are you going to maintain those slopes without erosion if you go in and cut all this out, usually nature takes it course and takes over things. Now if you turn to the letter from Oregon Division of State Lands, the letter states that when she did her inventory, she

found that on one corner of the site it looked like we had put fill in that area that she identified as a wetland and that the soils were under 50 cubic yards and that it would be nice if we removed it as a courtesy. But then after we had done our survey, if you look at the May 13, 1999 letter she reviewed the letter from Tim Haderly of Ecological Landscape Services who did the wetland delineation and agreed with his. If you look at any of the maps, the wetland delineation is way outside of where that fill was so consequently that would negate us having fill in a wetland area. As far as the fill and the amount of fill. If we go back to the 1998 drawings that were originally submitted by Bruce Schwegler, and it showed elevations. If you look at where the two driveways converge on the map, that says 33', now if we look at the survey map number 4 of 7 and in that same area it doesn't look the same.

Eugene Smith stated that in re-arranging the material we are going to end up moving about 50 cubic yards out of this area and that is what is going to create the high outside of the pads.

Councilor Rabe asked where did the fill come from? Because in order to bring fill in would require the City to be involved. What was the elevation difference between those two figures, it was and is?

Copher replied approximately one foot.

Councilor Rabe asked when was that done?

Copher 1996 or 1997.

Councilor Rabe asked was that done with the City permit?

Copher replied no.

Councilor Rabe asked is that suppose to happen?

Copher replied you are allowed 50 yards, I guess 51 wouldn't kill nobody would it?

Bleu stated I was trying to clarify the amount of fill that was brought in from the two surveys.

Mayor Thalsofer asked how much more do you have?

Bleu replied I think we have covered everything in the plans. Fish and Wildlife would like to have 100', but basically we have come with the safe harbor setback of 75' and we end up with the 50' on the creek like we originally planned but that is where we are.

Mayor Thalsofer asked Mr. Copher do you have anything to add?

Copher replied no, I am ready for you to vote.

Councilor Daoust stated if we were to look at the draft conditions that are proposed and have a 75' setback from the Sandy River, and you look at your original plan, that cuts into about eleven trailer spaces out of the thirty that you had planned, so obviously you would have to redesign that. The possibility that you may lose eleven out of thirty spaces, how does that affect your ability to meet

your financial objectives?

Bleu replied we wouldn't lose eleven spaces because we are allowing a 20' two-way road. We had planned on a circular driveway, we can go to a singular driveway of 20' to 22' which meets all the State and City requirements for a access road in and out. We may only lose five spaces.

Copher stated I don't think it is going to happen. I think you have wasted long enough.

Councilor Daoust stated actually I respect the rebuttal you made to Councilor Ripma's concern about the elevation markers. I think you have satisfied my concern about Councilor Ripma's concerns.

Councilor Ripma asked you said that FEMA had a lot of discussions about the discrepancy between these maps and these elevations. You said that they had talked to your earlier engineers, Schwegler, that you noticed the assumed elevation on the map and then you noticed that there was a 7 1/2' discrepancy, that was the word I jotted down that I thought you said, and even you were startled by that discrepancy. I guess I have to ask you, did you think we weren't going to be startled by that discrepancy. You have come here tonight saying that you are just astonished that we ask about this discrepancy and yet FEMA talked about it for apparently quite a long time because that was your answer to a question. You noticed it, they talked to your earlier engineers. You realize of course, that if your new map is correct, the bridge is at 39' and couldn't possibly have had a couple of inches of water over it during the 100 year flood. You had clear warning about that issue, I guess I am asking, did you not have fair warning that it was going to be an issue? It startled you, it should have startled us, did you think we were not going to notice?

Bleu replied I would suggest that if it was an issue, one it wasn't in any of the data we received from the City Planners, it is not listed in there as an issue.

Councilor Ripma stated you said FEMA brought it up.

Bleu replied FEMA brought it up and gave us our letter of map amendment which we have here. It wasn't an issue after FEMA had their discussions, I know the City of Troutdale had input to FEMA and if they would have turned us down I wouldn't of had a problem with that either. We met their requirements.

Councilor Ripma stated please understand that the reason that your application was denied at the Planning Commission was elevation. It is perfectly reasonable for you to assume that the issue might come up.

Copher stated how could anybody give a fair vote on this with the attitude of discrepancy of the height of what the park is.

Councilor Rabe asked I should evaluate this application based on the data that I have before me, is that correct?

Mayor Thalhoffer replied yes.

Councilor Rabe stated if I were to put myself in the position of the applicant, I would want to make

sure that any application that I make is comprehensive, meets the requirements that I know I must meet and if I felt that I had information or an incomplete application then I would ask to be withdrawn off of the agenda until I could regroup. The history of this particular application is lengthy and here we are faced with it again with a complete package and there are discrepancies and they may be unfortunate discrepancies but it is the applicants burden to supply us with accurate information. It is my feeling that we should come to a conclusion based on what is before us. I am suggesting that we should evaluate what we have, individually, and vote accordingly.

Mayor Thalhoffer closed the public hearing at 10:39pm and reconvened the City Council meeting. If I had been the applicant, I agree with Councilor Rabe, I would of had everybody here. I would of had the surveyor here to back up his survey knowing that it may be a bone of contention since that is why we delayed the last hearing. Since this does involve a lot of money on the part of the developer, I would of thought the applicant would of had the surveyor here. That is not to condemn the applicant at all, but when you come to a hearing like this you need to be prepared and have your people here that can testify to the facts and issues. I think if we didn't have this elevation problem I certainly would go along with the staff recommendation but that is not the case. We have a elevation problem and it hasn't been resolved to my satisfaction.

Councilor Kight stated Mayor you have described some of my very own thoughts. Although the benchmark is a question here, we did here collaborating evidence from Jerry Ortega. Apparently this particular marker is used with some frequency and in fact we have a current example of that. I feel as the Mayor does, that this applicant wasn't properly prepared knowing that this was a major point of contention. He should of had overwhelming evidence since there was such a great difference of height on the property. I also will not be supporting this applicant.

Councilor Rabe stated I think my comments are on the record.

Councilor Daoust stated regarding the elevation issue I think there is just as much of a chance of the City maps being off as there is a chance of the certified surveyors work being off. In my mind the starting points were verified by the certified surveyor who did the work a couple of times and the comparison that was being made was to City maps and other maps that we use and who is to say which starting point was the correct revised elevation. In my mind I was sitting on the fence with the elevation issue, it was not a major issue to me. What I like was the staff work. I thought the staff did an excellent job of taking care of every single concern and issue in the condition of approval. I wish the elevation thing would have been addressed better, I think I would have gone along with it.

Councilor Smith stated this has been drawn out quit a while and you have all done a lot of work. The elevation issue because of it being in a flood plain and the fact that you have done all of this work and the gentleman that could back up his survey work isn't here tonight, I feel that was negligent on your part.

Councilor Ripma stated we have, as a City, bent over backwards on this. We have tried to accommodate this application, since I have been on this council it has taken the most staff time of any application I know of. We had a very confused presentation when we heard the appeal in August of last year. But, we granted the applicant unlimited time to get there act together and come back with a reason why we should consider overruling our Planning Commission and they certainly failed to do that in my opinion. The discrepancy in elevations is just something that, I think we all

know the City well enough we know that area, it is prone to flooding, and the maps that were in that staff report were startling. I don't agree with Councilor Daoust that our maps might be wrong and there maps might be right because this one surveyors maps are the only ones that show elevations like this. The time that the city has spent on this and the time that we gave the applicant to come back with a clear answer, we deserved a better explanation then what we got. If there map was correct the bridge had to be at least three or four feet above the 100 year flood and we have all seen it under water.

MOTION: Councilor Ripma moved that this proposed development does not meet the minimum established criteria for public health and safety of the City and would present an unreasonable risk to health and safety of the citizens who reside in the development as well as all of the citizens of Troutdale. The development also degrades the ecosystem of Beaver Creek and Sandy River, the Sandy River including riparian levels. I move that the decision of the Troutdale Planning Commission be sustained, that the conditional use permit application for the expansion of the Columbia Gorge RV Park be denied and that the City Attorney develop findings in support of this decision consistent with the facts developed tonight. Seconded by Councilor Kight.

YEAS: 5
NAYS: 1 (Daoust)
ABSTAINED: 0

<p>5. PUBLIC HEARING / ORDINANCE (Introduced 9/14/99): An Ordinance repealing Chapter 8.24 (Noise Control) and adopting a new Chapter 8.24 (Noise Control) of the Troutdale Municipal Code.</p>
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Mayor Thalhofer called this item and closed the City Council meeting and opened the Public Hearing at 10:47pm.

Lt. Nelson stated this is the second reading of the Ordinance to repeal Chapter 8.24, Noise Control and adopt a new Chapter 8.24 Noise Control. We have incorporated the changes that the Council requested from the first reading and they are listed in the staff report. I would note that there was one typographical error on the third page of the Ordinance, second paragraph the number should be 8.24.040 not 8.24.40.1 and on the next page under 8.24.050 item 3 and 6, I would suggest to change the language to read "during the hours of 7am and 7pm". The other issue brought up by Councilor Kight about conditioning community events, we will be looking at a secondary ordinance to address that.

Councilor Kight asked what kind of time table are you looking at for bringing back the ordinance for the community events?

Lt. Nelson replied by the end of the year.

Councilor Daoust stated I think in your attempt to make the hours clearer, they got muddier. Lets look at 8.24.040 item 8, these are prohibited noises and number 8 says construction equipment

Monday through Friday 7am to 9pm, that means during the day they are prohibited. If I may recommend some wording changes, I think we should say, Monday through Friday before 7am or after 9pm, that is what we mean. So it would be Saturday before 8am or after 7pm and Sundays before 10am or after 7pm.

Sercombe stated that the general prohibition on 035 says that a noise is unreasonable if the noise is made between the hours of 10pm and 7am and that is the parameter that is one of the many variables that you use to decide if the noise is unreasonable. I think that may be the reason why in the general exceptions in 050, there is exceptions provided that the noise occurs between 7am and 10pm because of the use of those parameters in the general definition of what an unreasonable noise is. I wonder if we might want to re-think whether or not we want to change the 10pm to 7pm because they parallel.

Councilor Ripma stated I really didn't agree with that change, I think they ought to be left at 10pm.

Glenn White stated in Troutdale we have had our power go out for up to five days where I needed to run a generator. I don't know if you have addressed that.

Councilor Ripma stated there are exceptions in there for emergencies.

Mayor Thalhoffer closed the Public Hearing and reconvened the City Council meeting at 11:05pm.

MOTION: Councilor Ripma moved to adopt an Ordinance repealing Chapter 8.24, Noise Control and adopting a new Chapter 8.24, Noise Control of the Troutdale Municipal Code as set forth with a couple of changes. 8.24.40.1 be re-numbered as 8.24.040 and in item 8 in section A of 8.24.040 the wording after the colon be changed to read; Monday through Friday before 7am or after 9pm, Saturday before 8am or after 7pm and Sundays before 10am or after 7pm. Seconded by Councilor Kight.

**YEAS: 6
NAYS: 0
ABSTAINED: 0**

6. PUBLIC HEARING / ORDINANCE (Introduction): An Ordinance amending Section 2.24.030 of the Troutdale Municipal Code to amend when competitive bids are required.

Mayor Thalhoffer called this item, closed the City Council meeting and opened the Public Hearing at 11:10pm.

Wiesinger reviewed the staff report contained in the packet.

Councilor Kight asked was \$2,500 the cap?

Wiesinger replied if the contract was \$2,500 or more then three competitive bids would be

required.

Councilor Kight asked how often does that come up in the course of a month.

Wiesinger replied in a month I am not sure, over a year 10 to 12.

Mayor Thalhofer closed the public hearing and stated that this is the first reading of this Ordinance and we will take action at our next meeting.

7. COUNCIL CONCERNS AND INITIATIVES.

None

8. ADJOURNMENT

MOTION: Councilor Ripma moved to adjourn the meeting. Councilor Kight seconded the motion.

**YEAS: 6
NAYS: 0
ABSTAINED: 0**

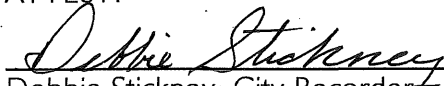
Meeting was adjourned at 11:17pm.



Paul Thalhofer, Mayor

Dated: 11-10-99

ATTEST:



Debbie Stickney, City Recorder

CITY OF TROUTDALE PUBLIC ATTENDANCE RECORD

September 28, 1999
CITY COUNCIL REGULAR MEETING

PLEASE COMPLETE THE FOLLOWING

NAME <small>to</small> (please print) <small>to</small>	ADDRESS	PHONE #
DJ BLEU	43900 SE Music Camp Sandy ⁹⁷⁰⁵⁵	668-9211
Eugene Smith	PO Box 553, Sandy, Or. 97055	668-0743
JERRY ARTSEA	CITY	668-5175
Rich Faith	city	" "
Kyra Wisinger	City of Troutdale	" "
Bob Casewood	✓ ✓ ✓	✓ ✓
David Nelson	" "	" "
ELIZABETH McCALLUM	CITY of Troutdale	665-5175
TED CAPHER	TROUTDALE	665 6722
Michelle Meyers	Oregonian	294-5937
LAWRENCE TURNER	COLUMBIA GORGE R.V. PARK	492-5100 x 112
DORIS TURNER	COLUMBIA GORGE R.V. PARK	492-5100 x 112
Renee Barbant	Columbia Gorge R.V. Park	492-4318
Frank Gibson	COL. GORGE R.V.	492-5100-707
K. Barbara Gibson	Columbia Gorge RV Park	492-5100-103
Eunice Wagner	Columbia Gorge RV Park	492-5100-280

