

Mayor

Paul Thalhofer

City Council

Pat Smith
David Ripma
Bruce Thompson
Jim Kight
Paul Rabe
Doug Daoust

CITY OF TROUTDALE

"Gateway to the Columbia River Gorge"

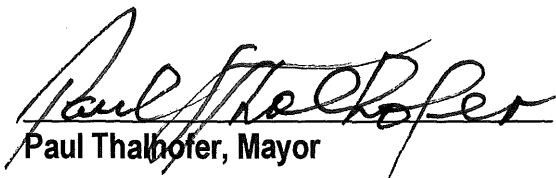
AGENDA

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

7:00 P.M. -- August 22, 2000

- (A) 1. **PLEDGE OF ALLEGIANCE, ROLL CALL, AGENDA UPDATE**
- (A) 2. **CONSENT AGENDA:**
 - 2.1 **Accept Minutes:** July 25, 2000 Regular Meeting
 - 2.2 **Approve Business Licenses:** Month of July 2000
 - 2.3 **Resolution:** A Resolution accepting a declaration of restrictive covenant from Verizon Northwest, Inc. which obligates them to dedicate road right-of-way in tax lot 1N3E26AD1300 when such right-of-way is necessary for future public road improvements.
 - 2.4 **Resolution:** A Resolution authorizing the Mayor and City Recorder to sign Supplement No. 13 to Agreement No. 30129-87 with Multnomah County for road maintenance.
 - 2.5 **Resolution:** A Resolution authorizing a Local Option Levy for General Operations.
 - 2.6 **Resolution:** A Resolution entering into a license agreement with Terry and Jodi Smoke to allow a building encroachment on to city property.
 - 2.7 **Resolution:** A resolution recognizing the completion of the public improvements associated with the Cherry Meadows Subdivision and accepting them into the City's Fixed Assets
 - 2.8 **Resolution:** A Resolution adopting amendments to the City of Troutdale Personnel Policies, Procedures and Rules Handbook and the Management and Non-represented Employees Policy Manual.
 - 2.9 **Resolution:** A Resolution declaring certain personal property as surplus and authorizing disposal.
- (I) 3. **PUBLIC COMMENT:** Please restrict comments to non-agenda items at this time.
- (I) 4. **PRESENTATION:** Multnomah County Animal Control presentation.
Gary Hendel, Animal Control Director

- (A) **5. PUBLIC HEARING / ORDINANCES (Introduction):**
- 5.1 An Ordinance adding Chapter 8.36, swimming in the Sandy River, to the Troutdale Municipal Code; and declaring an emergency. (requires all persons age 12 and under to wear a life vest in the Sandy River) Mayor Thalhofer
- 5.2 An Ordinance adding Chapter 8.36, swimming in the Sandy River, to the Troutdale Municipal Code. (requires everyone in the Sandy River to wear a life vest) Councilor Kight
- (A) **6. PUBLIC HEARING / ORDINANCE (Introduced 7/25/2000):** An Ordinance requiring criminal history record checks on all city volunteers. Chief Nelson
- (A) **7. PUBLIC HEARING / ORDINANCE (Introduced 7/25/2000):** An Ordinance adopting Chapter 5.20, Franchise Requirements of the Troutdale Municipal Code, regulating the use of public rights-of-way in the city and repealing Chapter 5.16 of the Troutdale Municipal Code. Galloway
- (A) **8. PUBLIC HEARING / ORDINANCE (Introduced 7/25/2000):** An Ordinance annexing certain property; amending the City of Troutdale Comprehensive Plan Map; amending the City of Troutdale Zoning District Map. Faith
- (A) **9. PUBLIC HEARING / ORDINANCE (Introduction):** An Ordinance repealing Chapter 2.40, Employment Relations, of the Troutdale Municipal Code. Kvarsten
- (A) **10. PUBLIC HEARING / ORDINANCE (Introduced 7/25/2000):** An Ordinance amending Goal 5 of the Troutdale Comprehensive Land Use Plan and amending Troutdale Development Code for compliance with Title 3 of the Metro Urban Growth Management Functional Plan pertaining to water quality and flood management and repealing Troutdale Municipal Code Chapter 15.24 Flood Damage Prevention. McCallum
- (I) **11. COUNCIL CONCERNS AND INITIATIVES**
- (A) **12. ADJOURNMENT**


Paul Thalhofer, Mayor

Dated: 8-15-00

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

August 22, 2000 7:00pm

Meeting was called to order at 7:03 p.m. by Mayor Thalhofer.

1. PLEDGE OF ALLEGIANCE, ROLL CALL, AGENDA UPDATE

Mayor Thalhofer called on Councilor Daoust to lead us in the Pledge of Allegiance.

PRESENT: Smith, Thompson, Kight, Daoust, Thalhofer, Ripma (7:07pm).

STAFF: Faith, Galloway, Kvarsten, McCallum, Nelson, Sercombe, Stickney, Williams.

GUESTS: Lorne Mitchell, Kim Wetzel, Gary Hendel, Richard Brown, Randy Lauer, Jack Glass, Dave Munson, Ken Fletcher, Wade Johnson.

Mayor Thalhofer asked are there any agenda updates?

Kvarsten replied we have no updates this evening.

2. CONSENT AGENDA:

- 2.1 Accept Minutes: July 25, 2000 Regular Meeting**
- 2.2 Approve Business Licenses: Month of July 2000**
- 2.3 Resolution: A Resolution accepting a declaration of restrictive covenant from Verizon Northwest, Inc. which obligates them to dedicate road right-of-way in tax lot 1N3E26AD1300 when such right-of-way is necessary for future public road improvements.**
- 2.4 Resolution: A Resolution authorizing the Mayor and City Recorder to sign Supplement No. 13 to Agreement No. 30129-87 with Multnomah County for road maintenance.**
- 2.5 Resolution: A Resolution authorizing a Local Option Levy for General Operations.**
- 2.6 Resolution: A Resolution entering into a license agreement with Terry and Jodi Smoke to allow a building encroachment on to city property.**
- 2.7 Resolution: A resolution recognizing the completion of the public improvements associated with the Cherry Meadows Subdivision and accepting them into the City's Fixed Assets**
- 2.8 Resolution: A Resolution adopting amendments to the City of Troutdale Personnel Policies, Procedures and Rules Handbook and the Management and Non-represented Employees Policy Manual.**
- 2.9 Resolution: A Resolution declaring certain personal property as surplus and authorizing disposal.**

Mayor Thalhoffer called this item and read the consent agenda.

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

**YEAS: 5
NAYS: 0
ABSTAINED: 0**

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

No public comment.

4. PRESENTATION: Multnomah County Animal Control presentation.

Mayor Thalhoffer called this item.

Gary Hendel, Multnomah County Animal Control Director outlined the projects that he has been working on.

Councilor Daoust stated I am a member of the Multnomah County Animal Control Advisory Committee of which we haven't met since Hank Miggins left and you arrived. I noticed one of the goals was to establish methods for citizen input, but I didn't specifically see anything that related to the Advisory Committee the way it use to be set up. Do you have any comments on what the future of the Advisory Committee will be?

Hendel replied I am working with a group of volunteers to establish a mailing list of all of the animal groups in not only Multnomah County but in the surrounding counties. I will be meeting with them in September to give them the same report that I just gave you folks. I am confused because the Animal Control Advisory Committee, when it was in place tended to be a little bit divisive. I have heard some of the stories about the meetings and the failure of Animal Control to respond to what the Advisory Committee wanted them to do. I have my bible that I am going to work from and a group of volunteers that I will be working with to try to take us into the future. Originally I thought that the Advisory Committee was superfluous now. I met with my boss, Larry Nicholas, who wanted that committee to be in place. I don't want the committee to micro-manage what we are doing. I do need some method to report back to people, so I am looking at the Advisory Committee to do that.

Councilor Daoust stated I would be open to any solution to make this plan work. I noticed in the plan that they talk a lot about the shelter here in Troutdale and the increase in staff, that correlates to increased budgets, do you think that the Multnomah County Commissioners are more receptive, now that you do have this study, to listening to increased budget requests?

Hendel replied I have met with all of the Commissioners, they have been supportive. But if after elections, and the levies fail, and we are forced to make cuts, it won't be a friendly atmosphere for anybody.

Councilor Kight asked one issue that has come up is coyotes. Do you get involved with this issue

at all?

Hendel replied I want to say yes. We haven't since I have been here so I don't have any first hand knowledge. I would certainly be willing to talk about how we get them, it is a problem that if it exists we need to deal with it.

- 5. PUBLIC HEARING / ORDINANCES (Introduction):**
- 5.1 An Ordinance adding Chapter 8.36, swimming in the Sandy River, to the Troutdale Municipal Code; and declaring an emergency. (requires all persons age 12 and under to wear a life vest in the Sandy River)**
- 5.2 An Ordinance adding Chapter 8.36, swimming in the Sandy River, to the Troutdale Municipal Code. (requires everyone in the Sandy River to wear a life vest)**

Mayor Thalhoffer closed the City Council meeting and opened the Public Hearing at 7:33pm. The history of this ordinance is that it was introduced by me in March 1999 and in April of 1999 the majority of the Council rejected the ordinance. That was after we had the life guard ordinance presented which was also rejected by the majority of the Council. A life guard ordinance was later developed and is now in place and has been since the later part of last summer. With a combination of AMR and the Troutdale Boosters, they have put on a very successful program. This ordinance which was presented in the spring of 1999 is being presented again because of the concern that I have, and other people have, for children 12 and under that are using the river off of the Glenn Otto Park. (Mayor Thalhoffer read the ordinance which is contained in the packet.) The idea behind the emergency clause is that there are three to four weeks left in the swimming season and this will give the River Safety Technicians another tool to help prevent any incidents which would result in drowning especially of small children. We have life vests for children available and we will be able to get more, we got quite a few from the Coast Guard last year and we can get more of those.

Mayor Thalhoffer asked Chief Nelson Mike Christy and Randy Lauer to come forward.

Chief Nelson stated I think the best way I can address this is to answer any questions you may have about this issue.

Councilor Daoust asked as far as enforcing this ordinance or the next ordinance we are going to deal with, would it not be entirely the Police Departments role to enforce the ordinances and not AMR's role?

Chief Nelson replied that is correct. It is a City ordinance and it will require a Police Officer to enforce the ordinance and issue the citation. AMR would be able to assist us in spotting any violations and report that information to our Beach Patrol Officer.

Councilor Daoust stated can you address how enforceable the two ordinances are that we are considering tonight, children twelve years of age and under versus enforcing an ordinance that addresses everybody. Could you address what impact each one would have on the Police Department.

Chief Nelson stated obviously if we are going to say that everyone that is on the beach will be required to wear a life jacket, that opens the scope larger for us and we have more people to deal with. If it is focused on the children that are twelve and under then obviously there are less people

to deal with. I have a couple of concerns along the law enforcement prospective of being all inclusive. The first one would be that the way the ordinance is written that it would be citing parents or guardians of any child twelve and under. So we are focusing on twelve and under and the majority of time the parent or guardians that are with someone who is twelve or under they are down at the beach with the child. When we get into the older age brackets, late teens and early twenties, they will be down there by themselves and there will some difficulty in trying to locate the parents or guardians to issue the citation. Another concern I have is when you have the age group of the late teens and early twenties that don't really want to comply with the life jacket ordinance that we would end up getting to the point where it would lead to altercations between the people in the water and the police and those tend to lead to either verbal or physical altercations which can lead to officer complaints. We had one law suit resulting from the Beach Patrol, so that is also a concern.

Councilor Smith stated how do you distinguish the age of a child, they do not carry ID on them?

Chief Nelson replied we would have to use our judgement just like children that are driving cars that may not look like they are sixteen, we have to use our judgement. Most of the kids down there that are twelve and under are going to be with a parent or guardian, there is always the exception. You are correct most children don't have ID, if we see someone who we believe is under twelve we would just have to go and ask them how old they are.

Councilor Ripma asked you said that people in there late teens and early twenties don't want to comply, isn't that the age group of many, if not most, of the recent drownings in the last ten years?

Chief Nelson replied fifteen to mid to late twenties.

Councilor Ripma asked have we had anyone drown who is twelve or under?

Chief Nelson replied not to my knowledge.

Councilor Ripma stated it seems like the group that needs them the most wouldn't be covered. Do we have the life vests on hand if we do adopt this ordinance with the emergency clause and it took effect tomorrow?

Chief Nelson replied we have some, I am not sure of the exact count. It is somewhere around thirty. They are stored at Jack's Snack and Tackle, he provides that service for the City and AMR free of charge.

Councilor Thompson asked assuming the ordinance for the twelve and under passes as opposed to the one for everyone, which is easier to enforce?

Chief Nelson replied if I had to choose between the two, like I said earlier the twelve and under because we would be dealing with a smaller population.

Mayor Thalhoffer asked how many of the people who have drowned did so trying to rescue a child twelve and under?

Chief Nelson replied I don't know for sure but two or three that I can recall.

Mayor Thalhofer asked how many near misses did we have of people trying to rescue children twelve and under where they nearly drowned?

Chief Nelson replied I don't know.

Councilor Kight asked we are focusing on twelve and under, how did we come up this arbitrary number as far as age?

Chief Nelson replied I did not propose the ordinance. Twelve and under is the age that I would suggest the break simply because that is the age that the U.S. Marine Board set for anyone twelve and under in a boat.

Councilor Kight stated I know you didn't write the ordinance, since it applies to children twelve years and under, we are talking about children that are in a boat, right?

Chief Nelson replied yes.

Councilor Kight asked what do you think the nexus is between a twelve year old in a boat and somebody on the shores of the Sandy River just south of the bridge in the area we call "the chute"?

Chief Nelson replied I am not sure what your question is.

Councilor Kight asked do you see a correlation in the age group that the Marine Board has for people inside a boat and swimmers using the Sandy River. What do you feel the correlation is if any at all for that particular age group?

Chief Nelson replied there is not really any correlation there, it is just a natural break.

Councilor Kight stated I think you made my point. There is in fact no correlation. It is an arbitrary number that the Marine Board came up with. The Marine Board has to do with boats, we are talking about swimmers in the Sandy River.

Councilor Ripma asked if the adult who lost his life while attempting to rescue a child, if they would have had a life vest on while attempting to rescue the child, might he not have drowned?

Chief Nelson replied I can't say whether he would have survived or not. He would have had a better chance if he had a life jacket on.

Councilor Ripma asked from the Police Departments prospective, if the City Council decided to pass an ordinance requiring life vests either for everybody or for children only, would the Police Department be able to handle it?

Chief Nelson replied we would try to enforce it the best we could. If we are going to do either one of these, the twelve and under I believe we could probably do that with the current staffing. If we are going to be looking at the ordinance that is inclusive of everyone being required to wear a life jacket then I would try to seek some additional funding to have two officers down there full time. Currently we have our School Resource Officers that are out of the schools in the summertime, they work the beach now instead of our Reserve Officers. Prior years it used to be two Reserve

Officers down there. This year is the first year that we changed that. Some days we only have one officer down there and some days there are two. If we are going to make it inclusive I believe that we would need to have two officers down there all the time.

Councilor Kight stated I have before me a Type I life jacket. I understand that this is the type of life jacket that if you are in the water face down it will correct itself. I have a list of all the people that have drowned in the Sandy River in the last ten years. The lowest age is fifteen and the highest age is thirty-four years old. If they would of had a life jacket on, in all likelihood they would not be on this list. Are you aware of the time that is involved by the Multnomah County Dive Team when they do a body recovery?

Chief Nelson replied yes.

Councilor Kight asked do you think the visibility of having a life jacket on would help a life guard spot someone in trouble?

Chief Nelson replied I think that is the intention of why they have them that color.

Councilor Kight asked so you will agree that the life jacket is a multi-purpose device, one it is a floatation device and one it provides visibility for the life guards, would you agree with that?

Chief Nelson replied yes.

Randy Lauer, American Medical Response (AMR) stated Mike and I both have a background in water rescue away from AMR and that is why we bring to this program both the professional and personal interest. It has been successful so far. Our motivation has been to not have any body recoveries. Our focus is primarily education and prevention and I think that has been fairly successful. The life jacket loaner program is a good tool. Regardless of which way you go tonight, I think it would be worth our while to look at a way to get the life jackets down to the beach. I have talked to several of the river rescue people this summer and when I was down there people would come up and ask where they can get a life jacket and when they were told up there at Jack's they would say that was too far to go. To answer a couple of the questions that Councilor Kight brought up, the type I life jacket is designed to turn an unconscious person face up in the water. That is the jacket that does the most for someone in the water, but it is not the most user friendly. The most common type is the type 3, that won't turn someone face up but it is a Coast Guard approved life jacket. I talked to the Marine Board because I had the same questions of what is the magic behind the age of twelve in regards to the boats. The fact is there is no statistics or data to show that twelve is definitely the line that needs to be drawn. They arrived at that number as somewhat of a compromise and somewhat a product of a lot of debate among a lot of diverse groups. They arrived there for two reasons, one is that they believe like Chief Nelson, that they could enforce that because parents or guardians could enforce compliance on a child twelve and under as well as the law enforcement. They also wanted to begin to instill in the younger age group that it is a good idea to wear life jackets and as they grow up maybe they can help bring some of that forward to the future generations. Who would oppose encouraging people to wear life jackets? Life jackets save lives, there is no doubt about it. We have two concerns about the potential outcomes from either one of these ordinances. The first would be, whether it would create an incentive for a population shift to an unprotected area of the beach. We have in place right now a pretty good safety net, we can protect the beach off of Glenn Otto Park and the chute area which is the trouble area. If people, because

they don't want to wear a life jacket, move to a different part of the river they are outside of the safety net. The other concern would be the enforcement, we are not law enforcement people and the river technicians are trained to do public education and water rescue and prevention measures. We also made a commitment to you and to the Police Department that when we started that we would be another set of eyes and ears and that we could report when we see illegal activities. If the ordinance is adopted that requires life jackets and someone is not wearing one that is an illegal activity and we would be bound to our promise to report that to the Police. I think Troutdale Police would be spending a lot more time on the beach. If you just look at the festival that took place a couple of weeks ago, there were hundreds of people in the water at any given time. You can enforce anything if you try hard enough but the question is do we have the resources to do that. Whatever you decide to do, we remain your partners and with the others involved in this and we will do everything we can to continue the success that we have at least found this summer.

Mike Christy stated Randy's background is primarily focused from enforcement, mine is from prevention and mitigation. From our prospective one of the "playing with the odds" issues that we really do want to bring out is, the US Life Saving Association is the group that maintains statistics on water rescue in the United States. Up to the year 1999 the rate of drownings in guarded areas, which is essentially what we are talking about here, the area in the park that we can cover adequately, that rate across the Country is 1 in 18 million chance of drowning. The rate that you had in the Sandy River in Troutdale prior to our program was probably, of course we are making a total estimate because we really don't know how many visitor days you had, assuming that 8,000 visitors to a season prior to 1998, that would put your rate at about 1 in 4,000. That is pretty good odds, it seems pretty high. If you ran a rate for the last twenty years on an average of about 1.85 deaths per year, that is unnecessary loss of life, I think we would agree. The problem with imposing an enforcement issue, which is clearly not our business, but from the prospective of prevention that if you enforce a rule that people don't agree with they are going to move. What our goal is, and has been from the beginning of this, is to gain that 1 in 18 million chance of drowning in Troutdale at Glenn Otto Park rather than go back to a situation where we might be at 1 in 4,000. The reality is that if you choose to impose a rule that people don't agree with, they will likely shift their population base. To some small extent I can tell you that it has already happened this season. Obviously there are folks who engage in high risk activities who just move out of the park so that we can't see them. We would hate to see a large exodus of people out of an area where we can protect them versus someplace we can't protect them very well. The reality is in this case, we haven't had any drownings in the last two seasons. The program seems to be working pretty well but the reality also is, as Randy mentioned, realistically from our perspective is a problem of that subgroup of people who have drowned here in the past who were going to help someone else, typically a child. Unfortunately they may or may not have been safer in a life vest. I couldn't sit here and tell you that they would have survived the incident. It depends if the vest was fitted correctly, if it was capable of keeping them upright. The Coast Guard vests and the rules that they use to rate vests are based on open water or ocean conditions and not rough water. The swift water will easily keep you down face first even in a Type I vest.

Councilor Daoust asked when we discussed this before, some of the concerns were of alcohol drinking at the beach. Since the life guards have been in place, has the alcohol problem diminished?

Christy replied in terms of overall law enforcement contact, we log those as a stat for ourselves as to how many times we have to call the Troutdale Police because we see a law being broken. I can't tell you specifically about alcohol, the overall number of police contacts have decreased by 75%

from last season to this season.

Chief Nelson stated I do believe that our stats for this year compared to last year related to alcohol, this year they have gone down compared to last year.

Councilor Daoust stated I tend to agree with your statement that people would move if forced to wear a life vest, adults would move. Children would not move they would stay there because their parents are still there. Have you ever tried to recommend to a child to wear a life vest and have them leave because they did not want to wear one?

Christy replied we actually do that. We don't tell them they have to leave because that is a law enforcement function. We keep numbers on how many people we ask more than once to put kids in life jackets. Last year during our six week operation we were averaging about 90 contacts a week where they had to be asked repetitively. This year for the whole summer we are at 90, so we have had a substantial decrease.

Councilor Smith asked what were the ages of the five people that you have saved this year?

Christy stated we have had five that have been classified as rescues and twenty-two assists. The age range is wide, primarily children. Of the five rescues, three of those were children and two were adults.

Councilor Smith stated in prior years we have only had one drowning per year, do you attribute people being more careless with the life guards there, or the fact that they are not wearing life jackets that they don't want to be bothered.

Christy stated we did fourteen assists last summer in the six weeks we were here and if I understand your question, do I think the public is now taking more risks then they did before. I guess the answer to that would be no. The region as a whole has experienced a very high level of water rescue activity this summer. There has not been a sunny week that has passed so far since the first part of May where there has not been at least one drowning and sometimes two or three within the Western part of Oregon and Southwest Washington.

Councilor Smith asked don't you feel that if everybody was required to wear life jackets that they would have a better chance?

Christy replied I think that they would have a better chance if they continued to utilize the area that we are guarding now. Our concern boils down to, from the prevention aspect, whether adults would move themselves and or their children out of the area that we can protect.

Councilor Ripma asked I have been convinced toward supporting the life jacket ordinance by talking to your people. Is it safer, when you are swimming in the Sandy River, to have a life jacket on?

Christy replied it is in some places certainly safer. There are places in the Sandy River that are basically the same as your swimming pool. The place that most people get into trouble is also the place that most people have drowned and that is in the chute or just prior to the chute. Certainly a life jacket would be helpful to those folks. The rest of the population of river users, I am not sure we actually have a problem with in terms of drownings or hazardous behavior. I think myself as well

as my team would agree that when we talk about our level of frustration over people not wanting to put life jackets on, we are mostly focused on kids.

Councilor Ripma stated I guess I want to hear you say it is a good idea. Your people tell me that they would like to see people wearing life vests, but I am hearing that maybe it is a good idea and maybe it isn't. We are deciding whether we should enact an ordinance and I would appreciate your input, do you recommend life vests or not?

Christy stated we certainly recommend that everyone wear a life vest, but that is really not what we are talking about. Our point tonight has been one from the enforcement aspect of making sure our folks are not put in a position of having to enforce a law. Second is the issue of the change of demographics, that is really what we would hate to see happen. We don't want the drowning problem to pop up someplace else.

Councilor Ripma stated we have a no drinking policy in the park and that has been one of the main focuses of the police. Right now those who want to drink go elsewhere. Those who want to swim safely in the river should wear a life vest and those who don't want to we are not going to be able to forced into wearing one. You mentioned that folks twelve and under you want to start instilling an education of safety, if we were to have an ordinance that would cover everybody that function of instilling education and safety and requiring a life vest for children would still take place wouldn't it?

Lauer replied yes. I hope we are not coming across as being opposed to people wearing life jackets because that is not the case at all. My perspective on it is a number of the drowning victims over the years have been would be rescuers. They have been people that have come off the beach to try to assist someone in the water and either of these ordinances would not address these people anyway because that is an impulsive reaction to a crisis in front of them. They will not take the extra time to put on a life jacket. What will we gain given that we have a river rescue program in place now that is doing a good job, we have good education/prevention measures, we are very closely involved with the Police Department. What will we gain over that versus what can we potentially lose by shifting people to an unprotected area of the river. The last thing that I would want to have happen is to have someone drown just outside the limits of the park because that is where they went because they did not want to wear a life jacket. That would be tragic.

Councilor Ripma asked if we were to enact an ordinance tonight that took affect tomorrow, you said you wanted to see life jackets down at the beach. Is that ready to go if we pass something immediately, would you be able to start that tomorrow morning?

Lauer replied we would be able to start soon, it would be just a matter of coming up with some sort of a cart that would move the life jackets back and forth. Rather than storing them at Jack's we would store them in some sort of a mobile container that we could take to and from the beach as we take the rest of the gear to and from the beach everyday. That is something our life guards could do.

Councilor Ripma stated that sounds more like, correct me if I wrong, something that maybe is realistically implemented next spring.

Lauer replied yes. That feedback has come from my talking to people down there and hearing

people say no thanks because they don't want to walk up there and get it.

Councilor Ripma stated I suppose that the story would be different if they said there are the jackets and you can't swim unless you go get one.

Councilor Thompson asked would the passage of one of these ordinances eliminate the need for life guards on the beach?

Christy replied I don't think so. I think that the percentage of the folks who were drowning were the folks that didn't intend to go into the water in the first place and they are not going to have life jackets on. Our intention is to maintain the program and our partnership with the Boosters.

Councilor Thompson asked if you had a choice, would you prefer an ordinance that would cover just children twelve and under or everybody?

Christy replied it is hard to say from the perspective that we like to deal with data. We don't really have any data to say that if we do this what will happen. I have a great deal of sympathy towards what the Police Department will face. I guess I would say that the twelve and under ordinance would be the easiest to enact for the enforcement side. From our perspective nothing really changes from the way we operate day to day. If we see someone drinking on the beach we pick up the radio and ask for the Beach Patrol Officer. Regardless of which way you go here, we are going to pick up the radio and ask for the Beach Patrol. It may happen a couple hundred times a day instead of once a day.

Mayor Thalhfer asked the State Marine Board addressed this issue of age in a series of hearings as I understand it. You are familiar with these hearings aren't you?

Christy replied yes to a great extent.

Mayor Thalhfer asked could you describe how they came up with the twelve and under.

Christy stated Randy actually talked about why. The reason was that it was a target age that folks in consensus felt was serving two purposes. One it was enforceable. Two, from their perspective it was an opportunity to take a long range goal in terms of fixing a problem. The long range goal was to try to instill in kids that using a life jacket was a good idea.

Mayor Thalhfer asked this age was a compromise then.

Christy replied I think that twelve and under wasn't necessarily a compromise so much as it was a set point that from the perspective of the long term educational goals it was achievable.

Mayor Thalhfer asked do you have the statistics about how many adults have drowned attempting to save children?

Christy replied of the people that have drowned since 1992 I believe it was 5 of the 12 that were going to assist someone else. 2 out of the 12 were probably deceased prior to drowning due to head trauma.

Mayor Thalhoffer asked if a child has a life vest on and you have life guards there, would people be as apt to jump in the river to try to save a child that looked like it was in trouble?

Christy replied people are probably as apt to do that but it gives the technicians on the river an opportunity to warn them off before they go and retrieve the child.

Mayor Thalhoffer asked if the twelve and under ordinance were to pass tonight, it would require probably some sort of a cart or trailer to transport the life vests down to the beach. We should be able to find one of those in a fairly short time so that you don't have to wait until next spring to implement that program. Don't you think that could be handled in the next few days perhaps?

Christy replied I think so. The problem is that there is four players in terms of this. We serve as the prevention and mitigation function, Jack's has taken on the task of doing the loaner program. If the ordinance were to pass then the Police Department would have the task of enforcing it on a regular basis. The Boosters is the other group involved in this. We haven't talked to Jack's to any great extent because we aren't sure exactly what will happen. We would like to try to relieve some of the load off of him and his wife that have been gracious about loaning out the vests. The conceptual idea that we have been kicking around is asking the River Patrol folks to hand out vest as they are able to do so and have the Police Department tow them down on some sort of cart each day when they arrive at the river and retrieve them in the evening.

Mayor Thalhoffer asked you are talking about a cart or a trailer?

Christy replied yes, something that you can lock.

Mayor Thalhoffer asked I don't think that would be too hard to come up with would it?

Christy replied I couldn't tell you, I would hope not.

Mayor Thalhoffer asked how long do you intend to be at the beach and if the weather stays hot I think you indicated that you might stay another week or so.

Christy replied right now we are scheduled through the 10th of September. Our intention is to stay in reserve if it looks like the weather is going to be real good we will put folks down there. The reason we choose the 10th was because last year recreational use of the park dropped after the 5th and then there was a spike on the weekend after Labor Day that ran the numbers up high.

Mayor Thalhoffer asked but you could be there as late as the 17th?

Christy replied we could be if it looked like there was good weather.

Mayor Thalhoffer stated so starting tomorrow we would have about four weeks left that the life vest ordinance would be in affect and helpful to the River Safety Technicians correct?

Christy replied yes.

Councilor Kight asked what would you consider as one of the most dangerous sections of the Sandy River?

Christy replied within the park at this very moment it is just before the chute entrance where a tree is stuck in the river.

Councilor Kight stated there are large boulders, tree stumps, whole trees and parts of trees. It is very easy for someone to get caught in that area?

Christy replied right now there is a single tree in the river and nothing else in the chute right now except the normal bottom.

Councilor Kight asked would you agree that the channel has changed next to the beach since last year?

Christy replied it actually changed three times during the course of this summer.

Councilor Kight asked would you consider the area immediately adjacent to the beach area where you have the life guards, the current is probably one of the more swifter currents in the river currently?

Christy replied yes today it is.

Councilor Kight asked did the current shift to the west?

Christy replied yes.

Councilor Kight stated this last summer you had five saves. Out of those five saves, if your life guards weren't there, would in all likelihood those people have drowned?

Christy replied yes.

Councilor Kight asked if they had a life jacket on would it have made the job easier for your life guards?

Christy replied it would have made it easier on three out of the five.

Councilor Kight asked the two that it would not have made it easier on, why is that?

Christy replied the adult was a fairly large woman who probably would have gone down regardless of the amount of floatation she had attached to her. The gentleman got entangled in a tree and again regardless of the amount of floatation you are going down.

Councilor Kight asked are you concerned about the safety of your own people down there as far as the life guards?

Christy replied of course. That is always our number one issue.

Councilor Kight asked do you think it is critical to have the proper tools, that is for the general public to have life jackets regardless of age?

Christy replied we believe in life jackets. The road you want to go down is one that we are really just here to answer your questions. We think personal floatation devices are good.

Councilor Kight stated I am hearing a mixed message and that is why I am asking you these questions.

Christy replied it is a mixed message. The mix is we honestly don't want the demographics of the situation to change very much from what we think we can manage now to what we are not sure we can.

Councilor Kight asked did you earlier mention that there are parts of the Sandy River that are like a swimming pool because the current isn't moving swiftly?

Christy replied yes.

Councilor Kight asked like we have done in the park in the past, where we have enforcement of no alcohol, we are not going to stop people from drinking but those people are going to drink irrespective of the ordinances that we have specific to that park. Wouldn't you also say that if you require people to use a life jackets that those high risk takers would in fact go swimming somewhere else and in all likelihood they would swim in an area that is much safer then the area in front of the chute?

Christy replied I honestly don't know.

Councilor Kight stated we all agree that the most dangerous part of the Sandy River is right in front of the chute.

Christy replied in the Glenn Otto Park that is true.

Councilor Kight stated what we are trying to come up with tonight is we want to save lives. What I am seeing though is a disconnect between the arbitrary number of twelve years of age, when in fact there is nobody on this list that is twelve years of age. So it appears, from what I am hearing from you, that we are in denial of reality when we are only addressing those twelve years and under.

Christy replied if you take out the seven that were going to help someone else that probably would not have taken the time to put on a life vest anyway and the two that were deceased from head trauma then you are down to about seven that it would have helped.

Councilor Kight asked would that be worth it?

Christy replied we think any life saved is certainly worth it.

Councilor Kight asked so one life is worth, in your opinion, requiring people to wear a life jacket?

Christy replied in my opinion it is a complex issue beyond just forcing people to wear life jackets. I don't want to be on the opposite side of the fence, I just want us to think about the demographics.

Councilor Kight asked do you use a seatbelt in your car?

Christy replied I do indeed.

Councilor Kight asked do you see a disconnect in the idea if we passed a seatbelt law that only applied to twelve years and under because we are worried about the ease of enforcement?

Christy replied I understand what you are saying. But the same disconnect would be true because we allow people to recreate on Mt. Hood. The fact is we don't force people to wear climbing helmets and carry compasses.

Councilor Kight stated not yet, but I think that time is coming.

Mayor Thalhoffer asked as I understand it the enforcement of the ordinance for everyone would be a bigger job than the enforcement for twelve and under, is that correct?

Chief Nelson replied yes.

Mayor Thalhoffer asked and it would require more resources for the Police Department?

Chief Nelson replied yes it would.

Mayor Thalhoffer asked Mr. Christy isn't that what you said also?

Christy replied to a certain extent we are really not equipped to speak to it, but I believe that it is probably going to be the issue that twelve and under is probably easier to enforce.

Lauer replied with the boating community with my enforcement role, with my other hat on, they have gotten very good compliance with twelve and under. Again that is why they went that route, because we believed it was enforceable.

Mayor Thalhoffer asked Mr. Christy when you are at the beach now, I believe that Councilor Kight brought up that the current is closer to the beach and swifter than it was last year. You see toddlers in the water with their parents there and they are very close to the current when they are in the water aren't they?

Christy replied they are. The current is closer to the beach this year and certainly a lot of kids do end up in there with or without the adult paying attention.

Mayor Thalhoffer asked they would be safer with a life vest on isn't that correct?

Christy replied they certainly would be.

Councilor Kight asked are we concerned tonight about what is easier to enforce, or are we concerned about saving lives, Chief?

Chief Nelson replied I think we are concerned about both Councilor but I think we have to look at the realistic enforcement issue and that we don't have the manpower to do what you are asking

us to do.

Councilor Kight asked do you think you could have your manpower available in May?

Chief Nelson replied that would depend on the budget process.

Councilor Kight asked do we still have Reserve Officers in Troutdale?

Chief Nelson replied yes we have three that could go out and work the beach. All three have full-time jobs and it would depend on how often they could be out there and we have three that are still in the training phase.

Councilor Kight asked so they could be pressed into service to work the beach is what you are saying?

Chief Nelson replied this year?

Councilor Kight replied next year, May 2001.

Chief Nelson replied by May of 2001 I would hope to have the three that we have in training now up to speed so they could work the beach.

Councilor Kight asked Mr. Lauer, would you agree or disagree that there is empirical evidence that people using boats, twelve years and under that have floatation devices on, has the amount of children in that age group has it dropped as a result of the enforcement of the requirement of the floatation device?

Lauer replied in my contacts with the Marine Board, who does have that data, they said that the fatalities or injuries to children twelve and under has decreased.

Councilor Kight asked wouldn't you also take it to the next level and say that anybody using a floatation device, the chances of survival of the people who are on this list would have increased dramatically by having some type of floatation device? There are a variety of different scenarios, but out of the dozen people on this list wouldn't you say that at least one of these twelve people would be alive today if they would of had a life jacket on?

Christy replied I certainly would agree that all of them would of had a better chance of survival.

Mayor Thalhoffer asked how many cases, that you are aware of where little kids have been in danger of drowning, close calls so to speak?

Christy replied in the park this year there were probably about half of the total number of assists and rescues, somewhere around 12 to 13.

Lorne Mitchell stated up to about a minute ago I was calm. We got off track of the original reason that we started this discussion, we were talking about agenda item 5.1 and then 5.2 came in. I am tired of government getting into my life. Seatbelt laws, helmet laws, gun laws - give me a little credit for being a responsible citizen of this town. If you pass a law dealing with life jackets on city

property, are you going to start passing rules that those who have swimming pools have to have life jackets or floatation devices. We have to stop someplace. As far as protecting children, I agree. Most kids don't know how to swim and they do need protection. I don't think we need a law or a rule such as this that strictly affects children under twelve. I think we have enough rules already on the books of state and federal laws for the protection of children. The simple fact is there are child protection laws, abuse laws, why wouldn't the misconduct of the parent or guardian not fall under those laws. Those laws have teeth. Pass the rule yes, we want you to have some kind of a floatation device on your children and leave it at that. Don't assess a penalty, tie it to the child abuse law so if you don't take care of your children and be responsible to protect their safety and well being, you will throw them in jail. You have those laws already on the books now. When you talk about the Sandy River, the area that you speak of is the most dangerous in the State. If you want to pass a rule saying children under twelve need some type of floatation device, I agree. Parents need to be responsible for their children. As far as for the adults under the 5.2 ordinance, you bet they are going to move. They will probably move to a safer location. But another aspect which could also be looked at is the City of Troutdale has actually assisted in an unknown manner to create a potential of the dangerous swimming in the Sandy River near the Glenn Otto Park. The parking lot is where it is at, rather than make it at the other end of the park where people could go down to the river where it is a much safer place. The parking lot itself and the bridge location are located where it is, that is quick easy access. If you put the parking lot at the other end of the park, further away from the most dangerous part of the river and the access was there where it is a safer place to swim you wouldn't have the problem. Right now the City could almost be looked at as having helped produce the dangers of people swimming because of the location of the parking lot. I raise the point, if you really want to fix it, get some heavy equipment down there and clean it out, get rid of the rocks, boulders and hazards and widen the channel. If you want to pass the rule, I have no problem with protecting children but tie the penalties to existing laws with serious consequences other than just a \$200.00 fine.

Councilor Daoust asked so if you were to pick one ordinance that we are dealing with tonight, which one would you favor?

Mitchell replied of the two, the twelve and under.

Councilor Smith asked you said that it is dangerous, it is not a swimming pool, you don't think they should have life jackets. Aren't you contradicting yourself? If they have to have life jackets in the Sandy River and they don't want to wear them they can go someplace safer. To me it looks like it would be safer for everybody to have them and yet all you want to protect is the children. Do you think that the adults that are taking their life in their hands that they shouldn't have to wear anything?

Mitchell replied they are reasonable adults. That is there God given right to make their own judgements on how they live their life and how they swim, how they motorcycle. That is my right as a citizen and an adult to make choices for me, it is not your right to make a choice for me that I have to wear a seatbelt or a helmet. You are taking away my rights to make my choices. I disagree with that. If I want to choose to own a handgun, because it is my right to, and if I am responsible and use it properly that is my right and responsibility. If I break a law, punish me. Don't punish me before the fact. Don't take away my right to make the choice to swim with or without a life vest anywhere. I grew up here and I don't swim in the Sandy River but that is my choice. Don't take the choice away from other people. The children who are not of the age or mental knowledge to know right from wrong, they need to be protected.

Richard Brown stated item 5.1 is sponsored by the Mayor and 5.2 is by Councilor Kight is that correct?

Mayor Thalhofer replied yes.

Brown stated I agree with item 5.1 for the kids under twelve. It is my duty as a parent to protect my children. Item 5.2, I was wondering who are you representing on this? Did you go knock on doors or did this just come out of the blue? Did any of you Councilors go around and talk to people, I know the Mayor did because he talked to me about it.

Councilor Ripma stated I talked to people.

Brown stated last year when you were talking about closing down the river I went to your neighborhood and I knocked on every door and they told me you did not talk to one of them.

Councilor Ripma stated I talked to AMR, the Chief and I talked to the people who use the river, I have gone down to the beach.

Brown stated you need to talk to the citizens of Troutdale. I went down on Jackson Park Road, I knocked on doors and they all said nobody had talked to them but they are all in favor of life guards. Now all of sudden we want to go from no life guards, shut down the beach to everybody wear a life jacket. Are you getting out and talking to the people in this town or are you just making decisions off the top of your head?

Councilor Ripma stated Richard we have life guards and we supported it unanimously.

Brown replied I know you do, but last year you did not support it.

Councilor Ripma we did support it last year.

Brown replied finally.

Mayor Thalhofer called for a point of order.

Brown stated I did talk to people of Troutdale about what they think about the life guard issue. They all said we are adults, we should protect our children. Are we going to start regulating stupidity. If you are going to represent this town, lets start with the people who do the voting. Mike Christy, it was like he was on trial here, he was just trying to answer questions. I felt sorry for him. It should be twelve and under, when my kids go down there they are in life jackets already. It is just common sense. I have talked to a lot of people in this town and they all agree on the twelve and under.

Jack Glass stated I am a resident on the river and I also feel that I am an experienced person on this river as far as knowledge of the waterway because I do make a living on the river as a fishing guide. We only have about fifteen days left of the swimming season. Historically in the Glenn Otto Park there has not been a drowning after August 18th. Trying to impose something right a way might be rushing things. The chute is not the most dangerous place in the Sandy River, upstream there are some areas that are class four and five rapids that are extremely dangerous. We had a kayaker that

drowned several years ago up in Bull Run River that ended up under the Troutdale Bridge after the high water washed him in. In the chute it is not necessarily that dangerous, it is just that we have a high volume of people that happen to be in the area so it is a game of percentages. Total life jacket ban is unreasonable because this is not something that is, it is going to be difficult to enforce as there have been many comments on. If I do recall, the City didn't want any responsibility of a life guard program but now they're interested, I mean they didn't want to be responsible for it, but now they are interested in imposing a law now that we do have a life guard program and have life jackets. If a law must be imposed, to be reasonable, I think twelve and under because the State Marine Board does suggest twelve and under in the boats because historically they find that the twelve and under are the ones drowning in the boats, but in the chute only and not throughout the entire park. With the life guards stationed at the head of the chute this is something that might be reasonably enforced. In some pools they require life jackets in the deep end of the pool only. If this is going to be the case and you want life jackets down at the beach to provide for people, I think if we are going to do this that would be a good idea. To get that stuff down there is really tough. The access to get down that bank is very difficult. I encourage the City to step up and concrete that ramp down to the beach so they can drive a vehicle up and down there.

Councilor Ripma asked it sounds like you don't really favor either of these ordinances. You favor just requiring life jackets in the chute.

Glass replied yes for twelve and under only.

Councilor Ripma stated that is an interesting idea. You don't really favor these ordinances and particularly going forward with something this year that takes affect tomorrow.

Glass replied it would be tough. We are nearing the end of the swimming season. It is something that could be looked at for next season and be realistic and I think twelve and under maybe in the chute is something that possibly AMR and the Troutdale Police could enforce that for the youngsters. AMR could have the life vests out there in a cart. AMR is out there later then Jack's Snack and Tackle is open.

Councilor Ripma asked last year when we were considering this you told us about how you grew up on the Sandy River, whether you meant it to or not, one thing I found persuasive in having my doubts and correct me if I am wrong, you indicated that when the kids were wearing life vests in front of your house that they did tend to go out further and feel more confident.

Glass replied absolutely.

Councilor Ripma asked so you still feel that life jackets are a good idea for people to wear?

Glass replied yes. When they get out in that chute if they have a life jacket on the risk factor goes way down.

Mayor Thalhoffer asked how many kids life vests do you have?

Glass replied around 40 and maybe 15 for adults.

Mayor Thalhoffer asked if we could figure out a way for the River Safety Technicians to get them

down to the river they could issue those right on the beach. If there was a way to do that in the next day or two, wouldn't it be feasible to have an ordinance that requires life vests in the next day or two if we could get a cart to bring them down there with four weeks left in the swimming season to aid the River Safety Technicians in saving children.

Glass replied the Sandy River is at almost 62°, that is pretty cool and there is not near the number of swimmers that there was when it was 79°. It certainly could be done. I don't think we are going to see very many swimmers now with cooler nights and shorter days and the water temperature. It could certainly be done. As far as making it an ordinance, it might catch people off guard, but if they were to come into it next season, possibly a sign at the entrance to the beach saying that life jackets are required near the bridge for twelve and under. Anything is possible.

Mayor Thalhoffer stated we have talked about both ordinances. The first ordinance item 5.1 was to require life vests on children twelve and under and it contained an emergency clause that would make it affective immediately. The second ordinance would require everyone to wear a life vest in the Sandy River and that would start on May 1, 2001. Is there anyone here who would like to comment on ordinance 5.2?

No further comments received.

Councilor Ripma asked Mayor Thalhoffer, you indicated, I read in the paper, that while you favor your ordinance you would support the other ordinance.

Mayor Thalhoffer replied I am not sure I said it exactly like that. It was several weeks ago. I wanted to see what happens here. This is a very complex question for me. I definitely would like to see one for twelve and under, they are the most vulnerable age group. It also gives the River Safety Technicians a better chance to save the children if they have a life vest on. If I were to swim the Sandy River I would wear a life vest, but does that mean that I am going to require everyone to wear a life vest that swims in the Sandy River? I am not sure I am there yet. If we don't have an unanimous vote, it really doesn't matter as far as putting it into operation this year. Unless we had the unanimous vote of those present, that would mean that we would have a second reading on September 12th.

Mayor Thalhoffer asked is there any Council member that would be voting against Ordinance 5.1?

Councilor Ripma stated I would. I don't think we are ready for this year. Jack, AMR and the Police, from what I have heard from them is that they are not really ready to go this year. Fortunately, the season is winding down and I think it ought to be something that we plan for and do a good job on. I prefer that we don't do the emergency enactment of ordinance 5.1.

Mayor Thalhoffer stated my reason was that we are set up to take care of the kids twelve and under. We have the life vests and we could get them down to the river, that would not be a big problem.

Councilor Ripma asked I am interested to know if I am the only Councilor, that might make a difference with me. Is there anyone else who feels the way I do?

Councilor Kight stated I am not going to vote for ordinance 5.1. For some reason there seems to be a disconnect on part of the City Council and part of the people in this audience with the list that

I hold in my hand. I keep raising it and people keep talking about children twelve and under and I keep looking at this list and the numbers don't change. They are from the age of fifteen to thirty-four. They are not people from Troutdale, they are coming from other surrounding communities and they are not familiar with the Sandy River. This is the age group that is drowning, not twelve and under. Several times it has been said that age twelve is an arbitrary number. That is for people in boats, that is not people recreating and swimming in the Glenn Otto Park, I don't get it. If they are just picking an arbitrary number out of the sky, why isn't it thirteen. Those people aren't drowning. People fifteen to thirty-four are drowning. Unfortunately some of them are not English speaking and they are not familiar with the river and that it is glacier fed. I am not going to support ordinance 5.1, I still think ordinance 5.2 is the more comprehensive, it addresses the age group that is drowning.

Mayor Thalhoffer stated I would like to respond to that. Of course ordinance 5.1 will not pass tonight so there will be a second reading on both of these ordinances. What seems to be a disconnect is that people don't understand. Some people, its been said here time and time again tonight, that virtually half of the people who either would drown or are having trouble are children and the part of the people that are drowning are drowning because they are going in to try and save children. If the children didn't need to be saved then we probably wouldn't have those people drowning. Anyway, it isn't going to pass tonight, there is no reason to discuss this further. We will have a second hearing on September 12th.

Mayor Thalhoffer asked is there anyone here that would like to speak to us on either ordinance?

No further comments received.

Councilor Ripma asked for the City Attorney's opinion, do we need to have a vote on ordinance 5.1?

Sercombe replied I don't think you are compelled to have a vote on 5.1. If the presiding officer says that there is no point in going forward with the vote because it lacks unanimous consent to be adopted at this time.

Councilor Ripma asked would there be a second reading at the next meeting?

Sercombe replied yes. There would be a vote on the adoption of the ordinance.

Councilor Ripma asked without the emergency clause?

Mayor Thalhoffer replied yes.

Mayor Thalhoffer closed the Public Hearing at 9:39pm and reconvened the City Council Meeting.

Mayor Thalhoffer called for a break. The meeting reconvened at 9:50pm.

6. PUBLIC HEARING / ORDINANCE (Introduced 7/25/2000): An Ordinance requiring criminal history record checks on all city volunteers.

Mayor Thalhoffer read the Ordinance title, closed the City Council meeting and opened the Public

Hearing at 9:51pm.

Chief Nelson reviewed the staff report contained in the packet.

Council had no questions.

Mayor Thalhoffer asked is there anyone here who would like to speak to us on this issue?

No public testimony received.

Mayor Thalhoffer closed the Public Hearing and reconvened the City Council meeting at 9:53pm.

MOTION: Councilor Daoust moved to adopt the Ordinance requiring criminal history record checks on all city volunteers. Seconded by Councilor Kight.

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

7. PUBLIC HEARING / ORDINANCE (Introduced 7/25/2000): An Ordinance adopting Chapter 5.20, Franchise Requirements of the Troutdale Municipal Code, regulating the use of public rights-of-way in the city and repealing Chapter 5.16 of the Troutdale Municipal Code.

Mayor Thalhoffer read the Ordinance title, closed the City Council meeting and opened the Public Hearing at 9:54pm.

Galloway reviewed the staff report contained in the packet.

Councilor Kight asked does this cover the subject of the utilities making cuts in the roads. Is there a cost reimbursement to the City?

Galloway replied this Ordinance does not. It simply establishes a requirement that an entity wanting to utilize the city right-of-way would have to enter into an agreement. Such an agreement that might result could include that as well as many other matters.

Councilor Kight asked do you plan on including that component?

Galloway replied I don't think within the franchise agreement because they are usually long term, I think what we would typically do is putting into those franchise agreements requirements that they restore to a like manner and that they pay whatever fees and charges the city has and would probably address the recovery rate through a fees and charges.

Councilor Kight asked we do not have that in place now do we?

Galloway replied we do not. The only thing that someone is required to do if they are going to have a cut within the pavement is to pay a \$50.00 permit fee and get a permit from the city.

Councilor Kight asked are you in the process of changing that?

Galloway replied we are looking into that. We wanted to make sure we had this component locked in first. Eventually we would like to see something like that.

Mayor Thalhofer asked is there anyone here who would like to speak to us on this issue?

No public testimony received.

Mayor Thalhofer closed the Public Hearing and reconvened the City Council meeting at 9:56pm.

MOTION: Councilor Kight moved to adopt the ordinance adopting Chapter 5.20, Franchise Requirements of the Troutdale Municipal Code, regulating the use of public rights-of-way in the city and repealing Chapter 5.16 of the Troutdale Municipal Code. Seconded by Councilor Daoust.

Councilor Kight stated it makes common sense. It is a housekeeping measure brought forward by our Public Works Director.

Councilor Daoust stated it is a growing industry that needs to deal with the city. I agree that it is a prudent action.

Mayor Thalhofer stated I think it is something that needs to be done definitely.

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

8. PUBLIC HEARING / ORDINANCE (Introduced 7/25/2000): An Ordinance annexing certain property; amending the City of Troutdale Comprehensive Plan Map; amending the City of Troutdale Zoning District Map.

Mayor Thalhofer read the Ordinance title, closed the City Council meeting and opened the Public Hearing at 9:58pm.

Faith reviewed the staff report contained in the packet.

Council had no questions.

Mayor Thalhofer asked is there anyone here who would like to speak to us on this issue?

No public testimony received.

Mayor Thalhoffer closed the Public Hearing and reconvened the City Council meeting at 10:00pm.

MOTION: Councilor Daoust moved to adopt the Ordinance annexing certain property, amending the City of Troutdale Comprehensive Plan Map, amending the City of Troutdale Zoning District Map. Seconded by Councilor Kight.

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

9. PUBLIC HEARING / ORDINANCE (Introduction): An Ordinance repealing Chapter 2.40, Employment Relations, of the Troutdale Municipal Code.

Mayor Thalhoffer read the Ordinance title, closed the City Council meeting and opened the Public Hearing at 10:02pm.

Kvarsten reviewed the staff report contained in the packet.

Councilor Ripma asked 2.40 covered employee relations and negotiations by Municipal Ordinance, since we don't have that here, is that what we are repealing because the State Law covers that.

Kvarsten replied that is correct.

Mayor Thalhoffer asked is there anyone here who would like to speak to us on this issue?

No public testimony received.

Mayor Thalhoffer closed the Public Hearing and reconvened the City Council meeting at 10:03pm and stated this is the first reading of this ordinance. A second Public Hearing will be held at the September 12th City Council meeting.

10. PUBLIC HEARING / ORDINANCE (Introduced 7/25/2000): An Ordinance amending Goal 5 of the Troutdale Comprehensive Land Use Plan and amending Troutdale Development Code for compliance with Title 3 of the Metro Urban Growth Management Functional Plan pertaining to water quality and flood management and repealing Troutdale Municipal Code Chapter 15.24 Flood Damage Prevention.

Mayor Thalhoffer read the Ordinance title, closed the City Council meeting and opened the Public Hearing at 10:04pm.

Councilor Ripma declared a conflict of interest and excused himself from the meeting.

Councilor Kight declared a conflict of interest and excused himself from the meeting.

McCallum stated at the last meeting one of the major points that was raised pertained to replacement of pre-existing structures that are destroyed. A concern was raised whether they could be replaced and the question was whether they could be rebuilt if they were destroyed over 80% of its fair market value. If an existing structure that is an allowed use in the underlying zoning district is built within the required setbacks in a protected water feature, which is understood to be the vegetation corridor, or is built on a slope of 25% or greater, or the impervious area exceeds 30% of the floodplain, these structures are understood to be nonconforming. The common terminology is "grandfathered use". I told the Council last month that a nonconforming structure that was destroyed over 80% of its fair market value could not be rebuilt exactly as it was unless the owner could establish through the alternative three-part analysis, under the provisions of the revisions, that rebuilding within the vegetation corridor, slope or floodplain was justified. I also based my response to that question upon the existing Development Code standards with respect to nonconforming development. A nonconforming structure or use must be discontinued or terminated under the following instances according to subsection 5.340(B) of the Troutdale Development Code: "when the structure which is nonconforming has been destroyed to an extent exceeding 80% of its fair market value as indicated by the records of Multnomah County Assessor." The criteria regarding discontinuance of nonconforming structures or uses apply in all zoning districts, not just the proposed Vegetation Corridor and Slope District and Flood Management Area. Since the last hearing on July 25, I contacted Metro staff and they contacted their legal counsel as to whether the City could allow pre-existing structures that were catastrophically destroyed to be rebuilt. We were told that cities may adopt "prescribed conditions" regarding replacement of existing nonconforming structures. The existing proposed amendments attempted to accommodate this provision for "prescribed conditions" as allowed by Metro's Title 3 standards in the Vegetation Corridor and Slope District in Section 4.315(B) but there was no corresponding provision in the Flood Management Area chapter and, as written those standards were unclear. Prescribed conditions are distinct from a conditional use in that the former is listed in the Code independent of any approval of a particular proposal. Under prescribed conditions, the City may allow replacement of structures that are destroyed by a catastrophe so long as the footprint is not increased. However, the proposed amendments prohibit the expansion of nonconforming uses within these Districts. Adoption of prescribed conditions for rehabilitation or replacement of existing structures within the Vegetation Corridor, Slope District and Flood Management Area, which comprise the Metro Title 3 Water Quality Resource Areas, does not apply to the expansion or continuance of nonconforming uses or structures outside of these districts. Evaluation under the existing standards of Troutdale Development Code 5.300; Nonconforming Uses, will still be required. Staff has drafted the following changes to the proposed text amendments that will allow the rebuilding of a pre-existing structure which is partially or fully within the Vegetation Corridor and Slope District or Flood Management Area (proposed changes can be found in the packet). These draft changes have not been made available until this evening to the public or to you. In addition to these draft changes we did receive a letter from our City Attorney this evening written by Steven Abel for the McMenamins Bros. who are responding to these proposed amendments. (McCallum read the letter which is contained in the packet.) There attorney's request and the fact that these proposed changes had not previously been available to interested parties, staff would also concur that there request to postpone a decision in this matter for at least two weeks is appropriate. However, staff does recommend adoption of the draft Comprehensive Land Use Plan and Development Code Text Amendments recommended originally by the Planning Commission to you on September 22, 1999 with the recommended revisions as described earlier this evening and the staff report dated July 17th.

Mayor Thalhoffer stated as I understand it we will not be voting on this tonight, we are going to have a third hearing on September 12th. That will give us a chance to review the new information presented to us this evening.

Mayor Thalhoffer asked if there was anyone here to testify to us on this issue.

Ken Fletcher stated I live in Wood Village and own property in the City. I have sent letters to you regarding this issue. My only remaining concern is with the placement of bio-swales and retention ponds in the vegetation corridor. I have spoke with the Division of State Lands, Corp of Engineer, Mary Weber at Metro and another person from Fisheries. There is a couple of issues that staff doesn't concur with. One of the issues is because Metro said we have to do it. I don't think, when I talked to Mary Weber, you don't have to do everything, you don't have to buy the whole thing. If you did, there is no sense on you even voting on it. The second item is if you look at the staff report dated July 25th, it refers to restrictions needed because Metro's Title 3 regulations allow cities and counties to allow development in water quality resource areas. I guess my definition of a development in a water resource area, I guess it isn't a development, if you are going to build a parking lot or a structure, to me that is a development. But this is an enhancement, so maybe it is a definition issue. To me it is a win win situation. They are hardly maintained anyway and if you put them all together everything is going to do better. To me it is common sense, the staff doesn't really state their case as far as the merits of the proposal only that it is not allowed because Metro says they don't allow it. I think if it was worded right, when I talked to Mary Weber, she thought if it was written right they would certainly consider it.

Councilor Daoust stated see if this catches part of what you desire. Under placement of a water quality facilities they shall be limited as follows: the water quality facility shall not be placed on land with slopes of 50% or greater or within the vegetation corridor or within a 25 year flood area or within a wetland or within a defined floodway area. Exception, here is what I am talking about, a water quality facility may encroach a maximum of 25 feet into the required vegetation corridor associated with a protected water feature if there is no reasonable alternative location on the site. Does that address what you are looking for?

Fletcher replied no. Number one, that is subjective. Number two, you are saying that if no other place practical exists then we will allow you to put it there. What I am saying is, the city should be encouraging that they be placed there. What it does is it essentially takes additional property off of the tax rolls for development. You have a piece of property that you can't do anything with anyway, but it is actually a win win situation. You can use the property for beneficial use. That is my position.

Councilor Daoust asked how do you address the amount of ground disturbance that would be required to put in a water quality facility like that?

Fletcher replied you have a buffer there. When you take that buffered area, it is actually going to be a better area then the buffer area that is there. The buffer as it exists, you do nothing with. When you design this area it will be more maintained, it will be a higher quality buffer area.

Councilor Thompson asked could you clarify for me, you are proposing to put in a bio-swale in a vegetation corridor?

Fletcher replied only in the first 25'. I think with proposals there are different vegetation corridors depending on which piece of property you are talking about. It would be on the outer most portion of that.

Mayor Thalhoffer asked could you tell me how that would work? Could you draw it on the board.

Fletcher drew an example on the board.

Mayor Thalhoffer stated I would like to get staff's response to that.

McCallum stated I did consult with Metro and under the provisions of our draft standard for the Storm Water Management Chapter, which is tab 10 page 2, without any justification on the part of the applicant the water quality facility may encroach a maximum of 25' into the required vegetation corridor associated with a protected water feature if there is no reasonable alternative location on the site. We have had a number of conversations with Metro since we prepared that draft, I want to check if we have changed that. I did receive comments from Ray Valone of Metro prior to the July 25th meeting and his comments are provided in the staff report of July 25th.

Councilor Daoust stated I think what Mr. Fletcher is trying to say is that this type of water quality facility is an enhancement to the vegetation area but yet we are treating it as something to stay away from in the vegetation corridor.

McCallum stated the water quality facility is not just limited to a bio-swale. It can also be in-ground vaults so there is not always a re-vegetated area associated with a water quality facility. The provision is written with that understanding because of the various types of water quality facilities.

Councilor Daoust stated it does make sense to have some kind of water treatment facility in the lowest elevation which would tend to be in the vegetation corridor. I am thinking of the apartments that are going in along Stark Street across from the college, they have a retention pond at the bottom of the property before it drops off into Beaver Creek.

McCallum stated Mr. Fletcher does bring up an interesting aspect about bio-swales and maybe it would be appropriate that I ask Metro about the bio-swales specifically but I don't think it would be appropriate for every water quality facility.

Mayor Thalhoffer stated if you could do that and bring it back to us at the next hearing on September 12th.

Jack Glass stated I am a resident of Troutdale and live on the Sandy River and I am greatly affected by this proposal. I appreciate the Council for the reconsideration of possibly re-wording this to make it a workable plan.

Mayor Thalhoffer closed the Public Hearing, reconvened the City Council meeting at 10:34pm and stated that this Public Hearing will be carried forward to the September 12th City Council meeting.

11. COUNCIL CONCERNS AND INITIATIVES

Mayor Thalhoffer called this item.

Council had no concerns or initiatives.

12. ADJOURNMENT

MOTION: Councilor Thompson moved to adjourn the meeting. Councilor Daoust seconded the motion.

**YEAS: 4
NAYS: 0
ABSTAINED: 0**

Meeting was adjourned at 10:37pm.



Paul Thalhoffer, Mayor

Dated: 9-13-00

ATTEST:



Debbie Stickney, City Recorder

