



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 12, 2000

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:** August 22, 2000 Regular Meeting
 - 2.2 **Approve Liquor License:** Always Perfect Catering
 - 2.3 **Approve Business Licenses:** Month of August 2000
 - 2.4 **Resolution:** A Resolution authorizing the City Administrator to enter a bid at a foreclosure sale of the real property described as Tax Lot 500 and located in Section 22, Township 1 North, Range 3 East, in the Willamette Meridian in the City of Troutdale.
 - 2.5 **Resolution:** A Resolution authorizing the City Administrator to enter a bid at a foreclosure sale of the real property described as Tax Lot 200 and located in Section 22, Township 1 North, Range 3 East, in the Willamette Meridian in the City of Troutdale.
 - 2.6 **Resolution:** A Resolution declaring certain personal property as surplus and authorizing disposal, repealing Resolution No. 1517.
- (I) 3. **PUBLIC COMMENT:** Please restrict comments to non-agenda items at this time.
- (A) 4. **PUBLIC HEARING / ORDINANCES (Introduced 8/22/2000):**
 - 4.1 An Ordinance adding Chapter 8.36, swimming in the Sandy River, to the Troutdale Municipal Code. (Requires all persons age 12 and under to wear a life vest in the Sandy River) Mayor Thalhofer
 - 4.2 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) 5. **PUBLIC HEARING / ORDINANCE (Introduced 8/22/2000):** An Ordinance repealing Chapter 2.40, Employment Relations, of the Troutdale Municipal Code. Kvarsten

- (A) 6. **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

- (A) 7. **PUBLIC HEARING / ORDINANCE (Introduction)**: An Ordinance amending Chapter 8.28, Nuisances, of the Troutdale Municipal Code. Hanna

- (I) 8. **COUNCIL CONCERNS AND INITIATIVES**

- (A) 9. **ADJOURNMENT**



Paul Thalhofer, Mayor

Dated: 9-6-00

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

September 12, 2000 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 called on Councilor Smith to lead us in the Pledge of Allegiance.

PRESENT: Smith, Thompson, Kight, Rabe, Daoust, Thalhofer, Ripma (7:04pm).

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

GUESTS: Richard Brown, Lorne Mitchell, Bob Whipps, Randy Lauer, Dick Anderson, Norman Thomas, Glenn White, Diane Castillo White, Frank Windust Jr., Jack Glass, Wade Johnson.

Mayor Thalhofer asked are there any agenda updates?

Kvarsten replied we have one addition tonight. That would be item 2.7 on the consent agenda. This is a Resolution that updates the City's signatories.

Mayor Thalhofer stated with the consent of the Council I would like to switch agenda item number 6 and 7.

Council all agreed.

2. CONSENT AGENDA:

2.1 Accept Minutes: August 22, 2000 Regular Meeting

2.2 Approve Liquor License: Always Perfect Catering

2.3 Approve Business Licenses: Month of August 2000

2.4 Resolution: A Resolution authorizing the City Administrator to enter a bid at a foreclosure sale of the real property described as Tax Lot 500 and located in Section 22, Township 1 North, Range 3 East, in the Willamette Meridian in the City of Troutdale.

2.5 Resolution: A Resolution authorizing the City Administrator to enter a bid at a foreclosure sale of the real property described as Tax Lot 200 and located in Section 22, Township 1 North, Range 3 East, in the Willamette Meridian in the City of Troutdale.

2.6 Resolution: A Resolution declaring certain personal property as surplus and authorizing disposal, repealing Resolution No. 1517.

2.7 Resolution: A Resolution designating the Mayor, City Council President, and staff as

signatory/cosignatory for authorized banking transactions of the City of Troutdale, Oregon and rescinding Resolution No. 1455.

Mayor Thalhofer called this item and read the consent agenda.

MOTION: Councilor Thompson moved adoption of the consent agenda with the addition of item # 2.7. Councilor Kight seconded the motion.

**YEAS: 7
NAYS: 0
ABSTAINED: 0**

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

Bob Whipps stated I am here to talk to all of you. I drive for UPS and I get to talk to a lot of people and I have a lot of interesting conversations. All of you remember Imagination Station. When Leslie Daoust came here with the idea of Imagination Station I was watching on T.V. and I thought it was a neat idea and I wanted to be part of it. I donated time and money, my son helped and it was the neatest thing I have ever seen. I said at the time, I wish I could bottle up what happened and sell it. It didn't matter what political, religion, where you worked or how much money you had. Everybody was in there working and we accomplished a goal. That was only five years ago, now what I am hearing and reading, we are 180° from there. I needed to come here this evening and tell you what I am hearing, I am the messenger. We have sunk to new lows in how we treat people in the campaigns, in the articles in the newspapers. Whenever I talk I don't mention any names but just like that everybody knows who I am talking about. People are saying that we are starting to act like Gresham and that it is making it difficult for some of there jobs because some of the other government agencies and different places don't won't to deal with us because we are so negative. My wife has cancer and it puts a different perspective on things. We have got to get along, life is too short to be doing some of the things that we are doing. It is my challenge to you to go to the other side and shake their hand and apologize and say that you are going to try to do better. There is a lot of hatred, anger and bitterness going on, there are power struggles. It was very difficult for me to hear both sides and as I listened I didn't want to hear bad things about people that I care about. People from both sides of the fence need to get together and work the things out. The other thing I wanted to tell you is that some of your supporters have said some things about some of you that you probably wouldn't want to hear. Another thing that is interesting is that some of the people that you don't care about have said positive things about you. It is almost like, if two people were taken out of the pie, the rest of you could work it out and solve the problem. However, I have learned that you have to get along with everybody and if you take out one guy that is giving you trouble there will be another to take his place.

Jack Glass stated on July 30th we had River Safety Day. The revenues have finally came in and we raised money for donations to the cause. I have a \$50.00 donation for the Chamber of Commerce, \$150.00 to donate to the Glenn Otto Park and I am going to work with the Parks staff to purchase an item that would be best used for the park, \$300.00 to donate to the Troutdale Booster Club. I hope to have the event again next year but I guarantee that it will be a lot smaller. We might do something like a volleyball tournament on the beach.

- 4. PUBLIC HEARING / ORDINANCES (Introduced 8/22/2000):**
- 4.1 An Ordinance adding Chapter 8.36, swimming in the Sandy River, to the Troutdale Municipal Code. (Requires all persons age 12 and under to wear a life vest in the Sandy River)**

 - 4.2 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 called this item, read the Ordinance titles and opened the Public Hearing at 7:15pm.

Mayor Thalhoffer stated ordinance 4.1 is the ordinance requiring children twelve and under to wear a life vest. I proposed that same ordinance last March and I also proposed the life guard program. Both of these ordinances were rejected by the City Council at that time. AMR and the Boosters then came forward with a life guard program which is now in operation and has been very successful.

Councilor Kight stated ordinance 4.2 requires everyone at the Glenn Otto Park to use life vests. One of the reasons for this was the age of the folks that are drowning. They are between the ages of fifteen and thirty-four, that is why this ordinance is all inclusive. The chute in front of the bridge is treacherous, we have empirical evidence that shows that it is because of the drownings that we have had. This last season with AMR providing life guards they have had twenty-four assists and six saves. They can speak to the difference, but the short of it is the life guards have pulled people out of the water that did not have life vests on but more importantly they did not know how to swim. Because of the news articles and media attention to this I felt that the folks doing the saving of those folks in the river needed that additional tool in order to make their job easier.

Mayor Thalhoffer asked Chief Nelson to come to the table.

Chief Nelson stated I do not have a prepared statement, but I will answer any questions that you have for me.

Councilor Thompson asked do you think it would be difficult to enforce an ordinance aimed at children twelve and under in ascertaining their ages?

Chief replied there would be judgement involved in that. It would be similiar to determining whether a driver of a car is sixteen years of age or not. If we question whether or not they are twelve or under we would approach them and ask their age, they do not carry identification so it would be on a trust basis. I don't think there would be a big issue with getting compliance with that age bracket on how old they are.

Mayor Thalhoffer asked did your Beach Patrol indicate to you that they are having that much of a problem determining the age of the children?

Chief Nelson replied I gave them both proposals and asked them would it be more difficult to enforce the twelve and under or more difficult to enforce the all inclusive or would it be best to

leave things the way they are. Their first suggestion would be to leave it the way it is. If they had to choose between one of the ordinances, they would prefer the twelve and under because it is a smaller group of people that they would be dealing with down on the beach. If I had to choose between the two based on their information, twelve and under would be the preference.

Councilor Kight asked how was the age of twelve and under arrived at?

Chief Nelson replied I did not write the ordinance.

Councilor Kight replied I know that, how did they come up with the number twelve.

Chief Nelson replied I believe that came from the Oregon Marine Board. They indicate that children twelve and under are required to wear life jackets in boats.

Councilor Kight asked so this has to do with people boating and has nothing to do with swimming, is that right?

Chief Nelson replied the Marine Boards law indicates specifically boating.

Councilor Kight asked what are the ages of those people that we have record of drowning?

Chief Nelson replied fifteen to mid thirties.

Councilor Rabe asked would it require, in either one of these ordinances, additional staff time to enforce based on what you are doing today?

Chief Nelson replied with our existing program, I believe, in speaking for the Beach Patrol Officers, they believe that they could enforce the twelve and under at this time the way it is with no ordinance just AMR's program and having the beach patrol presence. They feel that there is no difficulty enforcing twelve and under, there is some concern about trying to enforce the all inclusive because of the number of people and the possibility of different kinds of concerns that we would run into down on the beach. The teenagers and the mid-twenties, there is going to be potential problem there.

Councilor Rabe stated so with the twelve and under probably to a lesser degree and the all inclusive to a greater degree. But with either case we are talking about additional staff time in order to enforce the ordinances?

Chief Nelson replied yes.

Councilor Daoust asked if I recall, the last time we talked about the ordinance that Councilor Kight is suggesting, you mentioned something about the hiring of two additional beach patrol officers. What would that extra cost be?

Chief Nelson replied I will explain it the best that I can. This is the first year that we have had full-time officers on the river. In years past we have had reserve officers working the beach. It started off as a weekend program and grew to a seven day a week program and we hired two reserve officers to work down there. The cost for that was approximately \$30,000. This last season, due

to a Federal Grant award we took the beach patrol money and allocated that towards the School Resource Officer program and since they are off during the summertime we decided to put them down on the beach and use that money to fund it. What we did have this year was full-time officers working down there and a great deal of the time we only had one officer working down there because of scheduling. If we go to an all inclusive ordinance there is going to be a great deal of enforcement on the life jacket ordinance and we will spend a lot of time doing that. There could be a lot of opportunities for verbal and physical altercations between the people they are trying to deal with and our officers. Because of the location of our beach there is poor radio reception down there and it is very difficult to get another person down there. So I was recommending that we have two officers down there full-time. The cost of that, I couldn't hire an officer full-time to just work the beach, I would have to either hire year round which would be approximately \$65,000 or hire reserve officers and pay them an hourly rate and that would be an increase to the budget and that figure would probably be less than \$30,000.

Councilor Daoust stated to summarize the cost, depending on what we decide to do, could range from \$20,000 to \$65,000.

Chief Nelson replied I would say that \$25,000 would be a fair estimate to hire reserve officers. The reserve officers that we had down there over the last several years, we have paid them, they were not volunteering their time so we would be in the same situation in future years. Because we already have two officers that are down there that are full-time on staff, we would be able to shift some of those costs and it would probably be around \$20,000.

Councilor Ripma asked the first choice would be not to have either one of these ordinances but to continue encouraging voluntary use of life jackets?

Chief Nelson replied that is correct.

Mayor Thalhofer asked would the representatives from AMR come forward.

Mike Christy stated we do not have a prepared statement but we will answer any questions that you have.

Mayor Thalhofer asked do you have some statistics on this summer

Christie replied yes. So far the program has been in affect 143 days, in that time there has been forty-three rescues or assists. Five rescues have all occurred during this last summer, twenty-five assists that occurred this year and fourteen that occurred last year. Of those forty-three cases, twenty-one are twelve and under and the rest are thirteen and older.

Councilor Smith stated up until AMR was providing life guards on the river we only had one drowning a year. You have had five rescues. Do you attribute your presence on the river to the possibility that people are taking more chances?

Christie stated since 1993 you had 1.9 drownings per year, prior to 1993 you averaged about 1 drowning per summer. I don't think that I would interpret anybody as being more or less cautious

or loose because the rescue technicians are present. I think that in the past you just have not had a data reporting system for the park. Perhaps the near misses and other events that occurred did not get reported.

Councilor Ripma asked as part of your excellent program you do recommend that people wear life jackets. Do you agree with the Chief regarding ordinances requiring life jackets? Would you rather continue to encourage voluntary compliance and not have a mandatory ordinance?

Christie replied it is not a yes or no answer. The issue is three-fold. The enforcement aspect that the Chief has talked about. We are primarily about prevention and mitigation and from our perspective more accessibility to life jackets is our solution to the problem. The reality is that the dark side of the issue is that we are particularly concerned about the demographic shift. From our census there were just over 15,000 visitors to the park during this summer that were down at the beach and if you add in the River Safety Day that adds another 8,500 plus the other events held in the park you probably were at 25,000 people at the park easily. We would hate to see a shift of that demographic to other places that people who are non-swimmers would drown, that is our primary concern.

Councilor Ripma asked between having a mandatory life jacket requirement or not, do you have a position?

Lauer replied between those two we would probably recommend not having an ordinance. Our main concern is that people will leave the beach and go somewhere where we can't watch over them.

Councilor Thompson stated you are saying that if we pass an ordinance requiring life jackets, that you are afraid that it will drive people who frequent the river to other portions of the river where you are not there, is that correct?

Lauer replied that is what we are afraid of. We think that one of three things will happen with an all inclusive life jacket ordinance and that would be that people would either comply with the law, and we think that is probably least likely. Second is that they would not comply and that would be a huge enforcement issue and one way or another we would probably be drawn into that somehow. And the third and probably most likely scenario is that they would go somewhere else to swim. We think that an all inclusive ordinance would achieve the opposite of what you want to do and that is to have people stay alive.

Councilor Thompson asked do you think it would be more successful with the voluntary program if we made the life vest more accessible like if they were on the beach instead of up at Jack's place?

Lauer replied absolutely. I think that can be done at the beginning of next season. Mike has volunteered to come up with a mechanism to tow the life jackets down to the beach, or possibly the Chief's people could help with that as well.

Mayor Thalhofer asked would you have the same problem with the demographic shift if you had the requirement of children twelve and under having to wear the life jackets?

Lauer replied my sense is that it would not be very much of a shift because the children twelve and under are with an adult and the adult is usually the one who dictates where they are going to be.

Christie stated I think that compliance on twelve and under would not be as difficult of an obstacle to overcome. The reason that I say that is if you look at last years data we had a lot of repeat warnings and repeat suggestions and in the course of this season that has dramatically dropped. I would also say that the number of visitors has increased. Out of 15,000 visitors we have had about 110 cases where we had to ask someone more than once to get a life jacket for a child. We had 290 for one month last year. We are getting pretty good compliance from the public.

Mayor Thalhoffer asked how many of the five rescues were children twelve and under?

Christie replied two out of the five. One of the five actually falls out of the swimmer category because he was a case where he was wading and got trapped on an under water snag.

Mayor Thalhoffer asked do you now have a device for taking the life vests to the beach?

Christie replied we think we have strong-armed a device.

Councilor Kight asked you indicated that there were 43 assists and 20 of them were children, so the majority of them were actually adults.

Christie replied well actually the majority wouldn't be adults. Out of the rest of the 43 some of those were boaters that we assisted.

Councilor Kight asked what was that number?

Christie replied we had 7 boater assists out of the 23 remaining cases.

Councilor Kight asked do you separate out children?

Christie replied there were 20 children, 7 boaters and 16 adults.

Councilor Kight stated the 7 boaters, were they adults or children?

Christie replied all adults with the exception of one boat that had a couple of children.

Councilor Kight asked so would it be fair to say that the majority of the assists were adults?

Christie replied it is about 50/50.

Councilor Kight asked were the majority of the rescues adults?

Christie replied yes.

Councilor Kight asked in terms of having the life jackets down at the river for the convenience of the

people using them and removing the obstacle of having to go up to the snack shop do you think that having an all inclusive ordinance, do you think that people would comply?

Christie replied I think compliance is high amongst the children, we don't currently pester adults to wear life jackets.

Councilor Kight asked you have never asked an adult to wear a life jacket?

Christie replied we certainly ask from time to time but we don't ask them a second time like we would for a child.

Councilor Kight asked of the rescues, how many of them were able to swim?

Christie replied three out of the five people could swim.

Councilor Rabe asked is the role of the life guards, in addition to the fact that they have assisted people, is that they have been in some way in an educational advisory role?

Christie replied yes.

Councilor Rabe asked would you agree with me that, that role is as important, if not in some cases more, than the actual saves?

Christie replied I would agree.

Councilor Rabe asked would you also agree with me that life guards, who have now become enforcers of an ordinance, are no longer perceived by the participants of the beach in the same capacity, that they are now not necessarily an advisor but an enforcement agent?

Lauer replied I haven't given that to much thought but it makes sense. I think we do a better job of education when people want to hear the message.

Councilor Rabe asked if either of these ordinances were in place, that what you may see is a divergence away from the area that can be monitored, that area where they can learn lessons that they can carry with them. Would you also support the idea that they would then not benefit from any kind of a advisory capacity and learn any lessons from the life guards.

Lauer stated I think the dynamics would be better. Now people view us as we are there to help them, there friends. If they viewed us as an enforcer they would probably want to shy away from us. The reality is if our people on the beach witness a law being broken, they are obligated to notify the police.

Councilor Daoust asked actually AMR would not and should not be in the role of enforcing City ordinances, is this not true?

Christie replied we would keep our folks entirely out of the enforcement role.

Councilor Daoust stated but you have no problem suggesting that children wear a life jacket because I heard that is what you have been doing?

Christie replied it is what we have been doing. It is not really the same issue. We had one instance where a mother got upset when we suggested that her children wear a life vest but they did it anyway. It is not nearly the same as approaching a 19 year old male that really doesn't want to do what you say.

Councilor Daoust stated so what I am hearing is with the twelve and under ordinance the enforcement issues would be shared with the police and AMR but with the all inclusive ordinance the enforcement of the older age groups would be entirely on the police.

Christie replied it would definitely be that.

Councilor Kight asked how many cases of children twelve and under do we have drowning in the Sandy River.

Christie replied I have no idea.

Lauer replied it is probably a very small number.

Chief Nelson replied in the last ten years, none.

Councilor Kight stated one of the points that you make is that you don't want to be an enforcer, you want to be there as a friend to encourage and help people to take personal responsibility. When it comes to the enforcement of the twelve and under age group, it sounds like you are playing both sides of this. You can enforce the twelve and under but the all inclusive you say you don't want to do the enforcement, but if we are going to have either one of these ordinances and you do not want to be in that enforcement role, and I don't believe you should, wouldn't we have to have the police there almost on a full-time basis.

Chief Nelson replied it is almost impossible to have the beach patrol officers down there every minute of the day because there are times when they make arrests on the beach and they have to transport people to jail. There are times when we have had to pull them off the beach to respond to other parts of the city for emergencies. I am not in the position where I can send other officers down there to make sure that they are stationed doing a life jacket check. We would enforce either of these ordinances to the best of our ability just as we enforce any other ordinance.

Mayor Thalhofer asked we have had some people who have drowned while trying to save a child, is that correct?

Chief Nelson replied yes.

Mayor Thalhofer asked do you know many.

Lauer replied I think it has been five in the last ten years.

Jack Glass, Jacks Snack and Tackle. I have a valid interest in this issue obviously because we have the tackle store on the beach and we offer the free life jackets. The whole issue of opening the store and renovating the building and fixing up the grounds and making it more presentable to the public was so that we could benefit from the usage of the beach. Ordinance 4.1 for the children twelve and under I feel is too harsh and will encourage the ten, eleven and twelve year olds to take unnecessary risks and they will go beyond their swimming capabilities to search for deeper and faster water. A lot of the children will do that because they are going to feel safe with that life jacket on. Ordinance 4.2, mandatory life jackets for everyone is totally unreasonable and this will be a sure method of running people away from the beach and Jacks Snack and Tackle will suffer loss of revenue during the summer months and Jacks Snack and Tackle would have no choice but to ask for some kind of compensation from the City because of the revenue loss. Jacks Snack and Tackle will also have nothing to do with the life jacket program because I don't want any liabilities or anything involved with that at all. If there is mandatory life jackets I see a liability risk for the City because people have drowned with life jackets on. I can't help but feel that the City has opened the door to a big liability issue having a mandatory life jacket program. The best way to handle this and satisfy the issue is to offer the life vests at the beach. If they are easily available people will use them. If we are going to haul life vests down to the beach I would encourage the City to build a ramp down the steep bank so they can drive down there. I can't help but feel that the Councilors that have submitted this program are probably the least knowledgeable of the waterway. I swim in this river every year, I don't see the Councilors out there swimming. It is not as dangerous as everybody thinks, it is a game of percentages. We have a lot of people visiting the waterway and there are going to be a few that take unnecessary risks. If we start making people wear life jackets they are going to run away, young kids will take unnecessary risks.

Councilor Ripma asked you would go along with the first choice of the Police and AMR to not have a mandatory ordinance, make them available down at the beach and encourage use.

Glass replied yes.

Mayor Thalhoffer asked you are sure that the children, the most vulnerable group that we have at the beach, if they are required to wear life vests that it will run them off the beach?

Glass replied they will take unnecessary risks because they will have to wear them and it will push more of them out further.

Mayor Thalhoffer stated I have swam in the Sandy River some time ago and I do know what I am talking about.

Councilor Kight asked the young man who drowned that had the life jacket on, wasn't that during the high water season?

Glass replied yes, it was during the winter.

Councilor Kight asked and the other man who got caught, was that again during high water?

Glass replied it was during the spring.

Councilor Kight stated so that was not the kind of water that we are enjoying right now or in May or June?

Glass replied it was higher water flows obviously.

Councilor Kight asked how many people do you know that have drowned in the last ten years had life jackets on at the Glenn Otto Park?

Glass replied at Glenn Otto Park none of them.

Councilor Kight asked do you feel that if those folks would have had life jackets on that they would have had a better chance of not drowning?

Glass replied I think if they didn't have alcohol in them they would have had a better chance.

Councilor Kight asked lets go with a hypothetical case, they had alcohol but they had on a Type I life jacket, do you think they still would have drowned?

Glass replied they would not have been there if it was mandatory to wear them.

Bob Whipps stated all of you have heard everything that I have heard. I have listened to everything that was said and it seems like it is really obvious what ought to be done. AMR and the Police say that they would like to leave it as it is. The program has been successful and it seems like that is the way it ought to continue.

Lorne Mitchell stated last time we spoke about this Councilor Kight had brought up a question and it was mostly directed towards AMR on how the definition of a child was derived. Nobody could give a clear answer because they did not know the process and the decision. I have been thinking how, you Mayor Thalhoffer, how did you come up with the definition of swimming as immersing any part of the body in six inches of water or deeper. How did you come up with six inches of water as being considered swimming?

Mayor Thalhoffer stated it was a matter of when you are in six inches of water you are usually going to get in deeper water then that and end up swimming or being swept away in the current. If everyone would just stand in six inches of water and stay there we wouldn't have a problem. It was just a starting place.

Mitchell stated I hope you take the information that has been provided as facts that AMR has given you. I hope you take the feeling and wishes of the citizens who have come forward to testify into your considerations. It appears from last week and this week that the number of us citizens who have come hear to voice our concerns is a small group, I would like to think that there were more citizens out there and they will contact you either by phone or letter. Those of us who have testified, how many people are we representing. Federal Government says that for every one person that writes in there are 20 other people that have the same feelings.

Mayor Thalhoffer asked the last time you were here you indicated that you favored the 12 and under

ordinance but not the all inclusive ordinance, do you still feel the same way?

Mitchell replied that is correct. If we were to pass one, if we were to have one or the other of the two that is the one that I would favor. I have listened to some of the testimony tonight and maybe I might even question myself on that decision. That is strictly from standing back and looking on as an observer of what has been said, taking their information and meshing it in with what I feel personally. Personally I could go with 12 and under but I may have to back up and re-evaluate my own opinion.

Richard Brown stated Councilor Kight keeps bringing up the past of how many people have died. How many was that Councilor Kight?

Councilor Kight replied seven in the last ten years.

Brown asked how many in the last two years?

Councilor Kight replied none. Last season AMR was only in operation for less than thirty days and we had a very cold, wet summer. The most affective measure of AMR's success is this last season.

Brown asked don't you think they are doing a good job and we should give them a big thank you along with the Booster Club for doing what they are doing?

Councilor Kight replied they are doing an excellent job. I don't think that is in question.

Brown asked two years ago when you were approached with the life guard program, were all of you in favor of it?

Councilor Ripma replied it was unanimous when we adopted the AMR program.

Mayor Thalhofer called for a point of order.

Brown stated AMR is doing a great job, nobody is drowning. The life guards save people. Why can't we just leave it alone, if something goes sideways in the next few years then we can deal with it.

Mayor Thalhofer closed the Public Hearing and reconvened the City Council meeting at 8:24pm.

MOTION: Councilor Daoust moved to adopt Ordinance #4.1 which requires children twelve and under to wear a life jacket. Seconded by Mayor Thalhofer.

Councilor Daoust stated Troutdale is the only city in the State of Oregon or the Northwest or actually I don't know of any other city that has a life guard program on a wild river like we do. I applaud the City for taking this on. I applaud AMR for grabbing the ball and running with it and I also applaud the Troutdale Booster Club for funding it. The City has put out zero dollars so far for the life guard program. What we have before us is not a question of who should wear life jackets, it is a question of who we are going to force to wear life jackets. This life vest issue is not new, it has been brought up back in April 1999 and we

were discussing the same ordinance that we are now. Back then the Mayor and I were the only two on the Council to support it. I am not going to get into the history of the comments made back in April of 1999 versus what comments are being made now. But I wonder what has changed since April of 1999 such that we are talking about it again now. The situation has not gotten worse, in fact it has gotten better. We have the public being educated, we have life jackets available for use, we have life guards that are rescuing people. The situation has gotten better since we talked about this last. Lets look at some of the issues as far as the Police go, and the affect on our police force because they are the ones that will have to enforce this. AMR should not be put into a situation where they have to enforce a City ordinance. With the twelve and under ordinance we basically maintain current staffing levels for the police. For the all inclusive ordinance, Councilor Kight's ordinance, what I heard from the police is we would have an additional cost to the City of between \$20,000 to \$65,000 depending on how we approach the situation and how we staff it. There is always concern in the city about spending additional resources on programs, especially with the police force. I question why we would want to spend additional thousands of dollars in an area where it is working just fine right now. The life guard program has reduced the risk of fatalities or drownings in the river almost down to nil. So, what are we buying with those extra tax dollars? I don't know what we are buying. It appears that we are not going to be able to buy much more by investing \$20,000 to \$65,000 of the peoples tax dollars when the life guard program is accomplishing 99% of the job. Why would we want to spend \$20,000 to \$65,000 more to gain that extra 1%. The enforcement issue and compliance issues, for the twelve and under ordinance I see it as more enforceable. The police back this ordinance. You would get more compliance. Children want to wear life jackets, adults don't and you would get less demographic shift. With the all inclusive ordinance, most adults don't want to wear life jackets. I do believe that compliance is least likely with this alternative. It would be harder to enforce, most of the enforcement as we have heard, would fall on the police force. There would be more confrontational issues with teens and twenty year olds and I do agree with the fact that adults will move to another section of the river and take their children with them out of the safety net that the life guards are providing. I agree with that strongly. We as the Council need to walk a fine line between deciding who should have personal responsibility versus those who need help with judgement. The way I see it is children need help with judgement. We have all on this Council made comments about personal responsibility, there were quite a few of those comments back in April of 1999. It is to big of a leap from making parents responsible for irresponsible actions of their children to everybody in the world needs protection in the City of Troutdale. It is to big of a leap for me to make, so I therefore made the motion to stick with the twelve and under life jacket requirement the same as I did back in April of 1999.

Mayor Thalsofer stated going back to March of 1999 when I introduced the life guard ordinance and the life vest ordinance both and they were both rejected. Be it as it may, we are where we are with AMR operating the program, and doing a wonderful job, and the Troutdale Booster Club doing a wonderful job of funding the program. Now where do we go from there? Nobody has drowned last year and one of the reasons was because AMR was there and we had bad weather and a lot of publicity. This year was a true test of how well the life guard program worked, because we had a lot of sunny weather and no one has drowned. From day one when I first got this idea about life guards after the River Safety Committee tried everything else, this is what we had all hoped for, that no one would drown. We have a model program and other jurisdictions will be looking at this program. It has always been my belief that the most vulnerable age group down at the beach are the little

kids. I have been down at that beach a lot over the years, observing it trying to figure out how to stop this senseless loss of life by drowning. The little kids are the ones that just scared me because they are so close to the current when they are on the beach. That was the age group that I wanted to target back in 1999 and again this year. To say that nobody twelve and under has drowned, that is true but what about the statistics provided by AMR that show that half of the people that get into trouble at the river are twelve and under. The police can operate the Beach Patrol with existing resources, they don't have to hire more people and AMR doesn't see where there would be much of a demographic shift with twelve and under where there would be with the all inclusive ordinance. Chief Nelson indicated that enforcement would be easier for twelve and under. For all those reasons I favor the twelve and under ordinance if any ordinance at all is to be passed tonight.

Councilor Smith stated last year when this came up, I still feel the same way. I don't feel that we as a city should be responsible for people that should be responsible for themselves. The river is dangerous, it has been all along. There are signs down there listing the people that have died there. We are putting the river technicians in danger. We are being pushed by the Club and the Mayor that we are going to have to make a decision one way or another. I feel that we are to the point that we are spending money down there now. You say that it will cost an extra \$20,000 if the police have to enforce the all inclusive ordinance. Under the circumstances I can't vote for just twelve and under because it does not solve the problem. It is just like putting a bandage on a dike that is about ready to break. If we are going to do something we should do it one way or another but not half way.

Councilor Ripma stated the life guard program is great and it does work and I support it and the Council voted for it unanimously. I agree that we didn't adopt the first proposal that came along but I really don't think in my opinion, that we would have the excellent program that we have today if we had adopted the first proposal. I think we should all congratulate AMR and the Boosters for doing this program. We should probably listen to what the police and AMR are saying, which is leave it alone, support it, don't stir this up. I want to make it clear that I have not made up my mind yet. Since the last meeting I have been down to the beach and talked to the technicians, the police, the Chief and my neighbors. I think there is a lot of questions about the wisdom of going forward with this program. It would help me make up my mind what to do if I would ask the Mayor and Councilor Daoust, would you be willing to go along with the first choice of your Police Department, AMR and particularly Jack Glass and would you be prepared to just drop the idea of a mandatory ordinance and try the approach that they are pursuing now? We still have the other ordinance to consider, I don't believe that I can support the current one. As part of this debate I think that is a fair question and I wonder if you would be willing to consider dropping the mandatory ordinance. Did you listen to Jack Glass, he said he would not even participate if we had the mandatory requirement for very sound reasons, he thought it would expose us to a lot of liability. I would then invite Councilor Kight to drop his proposal too. I need to know what you are thinking.

Mayor Thalhofer stated I think we ought to proceed with this and vote on it.

Councilor Ripma stated I would ask if at your next turn would you respond to the police, AMR and Jack, why can't we just leave well enough alone, it is working. Why can't we try it for another season.

Councilor Daoust stated I was under the impression that we were going to vote on two ordinances tonight and I think we should proceed with that. We can always, after we are done voting, talk about follow-up actions that the Council should take and I would be glad to enter into a discussion after we vote on the two ordinances.

Councilor Thompson stated I am not going to vote in support of either of these two ordinances because I think that voluntary compliance is always better than mandatory. The life guard program has been very successful, we haven't had any drownings for the last two years. If we make the life jackets available anybody can wear them if they want to, they are just not required to. I think that is the best policy. If it isn't broke don't fix it. I think we should continue as we are.

Councilor Kight stated I am not going to support this ordinance. AMR has had an excellent program but we can't ignore the fact that there have been saves and assists, that is what triggered my bringing forth the ordinance originally. The twelve year age group is that age group within the Marine Board, they are dealing with boaters and have nothing to do with recreation and swimming. We have heard evidence tonight, that nobody age twelve and under has drowned. You can't ignore the evidence that is before us that it is the age group that is older than that taking the chances. The other thing we have to keep in mind is just because you have life guards on duty that doesn't mean there is going to be a save, there could be a drowning. That happened at Blue Lake Park.

Councilor Rabe stated I do not support either of the ordinances for the five reasons that I put into a memo two weeks ago. AMR is doing a good job. Don't fix it, it is working just fine.

Councilor Daoust stated I would like to correct a statement that Councilor Smith made. She made the statement that we as a Council were being pushed by the club in regard to these two ordinances. Let me make it perfectly clear because I am on the Board of Directors of the Club, I am familiar with where they stand and what policy they have. They have not made any stand whatsoever on the life jacket program. They have not expressed any opinions at this meeting or the meeting before. They do not care what happens with the life jacket program, the Booster Club is involved with the Life Guard Program with AMR. I wanted to make that very clear because the statement you made was totally false.

Councilor Smith stated there was an article in the paper by Mrs. Yoshida. Mr. Yoshida is the one that formed the club.

Councilor Daoust stated Mrs. Yoshida is a private citizen and she spoke as a private citizen, she is not on the Board of Directors.

Mayor Thalhoffer called for point of order.

Councilor Ripma asked I am interested, if you care to address the issue it might influence my decision. If 4.1 goes down are you prepared to support 4.2 as an alternative. Are you that much in favor of a mandatory life jacket program that you would go along with 4.2.

Mayor Thalhoffer stated I am only dealing with 4.1 at this time. I am sure that I will vote against 4.2. Chief Nelson has stated that he could enforce this ordinance. He also indicated that it would be harder to enforce 4.2 and it would take more resources. AMR indicated that

the incidents involving people, about half of them involve children twelve and under. Two out of the four saves this year have been children. The children are the ones that are vulnerable. I would like to respond to Councilor Smith, she accused the Mayor and the Booster Club of pushing this. The Booster Club is not pushing this in fact the article that you referred to by Linda Yoshida was more along the line of why don't you quit talking about life vest ordinances and be happy with the life guard program. I am not pushing this any more than Councilor Kight is, we are just having a good discussion here.

Councilor Kight stated I keep hearing that this is revenue neutral for both of these ordinances and I am not sure if we are hearing different things or not. I think anytime you have the inclusion of a new ordinance there is always a cost component to that. Maybe one ordinance would require more resources than the other. The other component has to do with the fact that the Police are actually backing neither one of these ordinances. They would like to keep both ordinances off of the books.

Councilor Ripma asked Councilor Daoust do you have a feeling about ordinance 4.2?

Councilor Daoust stated my comments that I made when I was talking about 4.1 indicated that I would not support ordinance 4.2.

YEAS: 2
NAYS: 5 (Smith, Ripma, Thompson, Kight, Rabe)
ABSTAINED: 0

MOTION: Councilor Kight moved to adopt Ordinance 4.2 adding Chapter 8.36, swimming in the Sandy River, to the Troutdale Municipal Code. Second by Councilor Ripma.

Councilor Kight stated this is all inclusive and it covers the age groups of the folks that have drowned. There is always a cost component to any ordinance. The twelve and under is an arbitrary number that the Marine Board came up with which has nothing to do with recreation and swimming in the Sandy River. What triggered this was the amount of saves and assists that AMR has had this last season. I felt that AMR needed the additional tool of requiring people to wear life vests. Testimony from AMR representatives and comments from the life guards saying that when they tell people they can get a life jacket from Jack's the people say that Jack's is to far to go to get a life vest. This is a comment that they hear on a daily basis. People are taking chances as indicated by the saves and assists by AMR and many of these people do not know how to swim. I think the life guards need the additional tool and this ordinance would provide that.

Councilor Ripma stated I am not sold on a mandatory life jacket ordinance but on balance I definitely favor this one over 4.1. Really I am mostly persuaded to support this by the refusal of the Mayor and Councilor Daoust to drop the idea of the mandatory life jacket ordinance all together. I think if they would have indicated that they were willing to drop a mandatory ordinance all together, I would have joined in that. They both care deeply about the citizens of Troutdale and the City and I respect that. I know that they will continue to want a mandatory ordinance, this will not go away if we don't do something I am convinced. I believe, on balance, probably for the reason best stated in the Gresham Outlook editorial,

if we are going to do this we should do it right. We should have an ordinance that would cover the people that have drowned. I wish we didn't have to but I think an ordinance that covers the people who have died is the only reason to do an ordinance. To just cover an age group just because the kids look vulnerable on the beach, while well meaning, is not answering the issue. My preference would be to leave the issue alone but it seems like the majority of us are in favor of some sort of an ordinance, I think it has to be 4.2.

Councilor Smith stated I don't agree that we should have an ordinance in the first place. On the same token, if we have to choose between one or the other, one-half the job isn't finished if we only cover one. Considering the condition of the river and the amount of people who use it, especially the adults. I am going to go along with this ordinance, I don't really approve of it but I guess that something has got to be done because people are demanding decisions and this is one of those hard decisions that we have to make.

Councilor Thompson stated I have no further arguments to make.

Mayor Thalhoffer stated I oppose this ordinance for the same reasons that we heard from the people who have testified. I think when we have a public safety ordinance before us we should probably listen to the experts and the people who would have to use the life vests. Chief Nelson indicated that he could do the twelve and under ordinance with existing resources and it would cost from \$20,000 to \$65,000 to enforce the all inclusive ordinance. We don't have that kind of money in our budget. It is money and demographics as far as I am concerned. Those who did testify before us were not in favor of the all inclusive ordinance. For those reasons I am voting against this ordinance.

Councilor Rabe stated I do not support this ordinance.

Councilor Daoust stated I can not support this ordinance for all the arguments that I made previously. It is interesting that when we were talking about the last ordinance Councilor Smith said that people should be responsible for themselves, and in this ordinance she is saying that Troutdale should take responsibility for everybody.

Councilor Smith stated if I said that it was a mistake.

Councilor Daoust stated a question that Councilor Ripma had for me, would we continue to pursue the original ordinance. I can guarantee you that I will not pursue any life vest ordinance. Once the Council has spoken, the Council has spoken and I am not about to bring it up again. Why should I.

Councilor Kight asked what if there is a drowning?

Councilor Daoust replied the Council has spoken, if someone else wants to bring it up, then let them bring it up again.

Councilor Ripma asked Mr. Mayor, do you join Councilor Daoust in the feeling that this decision here would be final, I ask because it would make a difference to me.

Mayor Thalhoffer stated I am not going to respond to that.

YEAS: 3
NAYS: 4 (Thompson, Thalhfer, Rabe, Daoust)
ABSTAINED: 0

Mayor Thalhfer called for a break at 9:13pm.

5. PUBLIC HEARING / ORDINANCE (Introduced 8/22/2000): An Ordinance repealing Chapter 2.40, Employment Relations, of the Troutdale Municipal Code.

Mayor Thalhfer read the Ordinance title and opened the Public Hearing at 9:30pm.

Kvarsten stated Chapter 2.40 of the Troutdale Municipal Code was adopted in 1977. It dealt with a breadth of employment relation matters. This part of the code is now obsolete and superseded by State Statues, collective bargaining agreements as well as City's Personnel Policies. In the interest of clarity and consistency we recommend that Council enact the proposed ordinance repealing Chapter 2.40 of the Troutdale Municipal Code.

Council had no questions.

Mayor Thalhfer asked is there anyone here who would like to speak to this issue.

No public testimony received.

Mayor Thalhfer closed the Public Hearing at 9:32pm

MOTION: Councilor Thompson moved to adopt the Ordinance. Seconded by Councilor Kight.

YEAS: 7
NAYS: 0
ABSTAINED: 0

7. PUBLIC HEARING / ORDINANCE (Introduction): An Ordinance amending Chapter 8.28, Nuisances, of the Troutdale Municipal Code.

Mayor Thalhfer read the Ordinance Title and opened the Public Hearing at 9:34pm.

Hanna stated this is the introduction of an ordinance which is an amendment to section 8.28 of the Troutdale Municipal Code. 8.28.020, nuisance control ordinance, is an amendment to the definition section only. It includes in the definition of "Abandon Vehicles" those vehicles which have either shown no registration plates or expired registration plates. Section 8.28.140 would require, if amended, that the city advise the property owners that are in violation that the abatement by the City would be filed as a lien against the property. Section 8.28.170 of the nuisance ordinance is an amendment to change the ordinance. Currently it reads that if the lien is filed against the property for non-compliance and the city has to abate the nuisance, that the Council is the body that would file the lien. We are asking for an amendment to that, that the Director of Community

Development be given that authority.

Mayor Thalhofler asked what process would you go through to determine whether a vehicle is registered or not?

Hanna replied we find a number of vehicles are parked on the street and they have no registration or they have a temporary registration that has expired. Under the current definition of "Abandon Vehicles" the vehicle has to appear to be inoperable. Looking at a vehicle, if the engine is gone or the door is missing, that is a given. Some of the vehicles are parked there for a period of six to eight months and they are never moved.

Councilor Kight asked liens against property, since you are dealing with personal property do you need to make that delineation between real and personal property?

Hanna replied no, that doesn't deal with an amendment to that section. The code does not deal with automobiles, we are dealing with the cost of the City to abate a nuisance.

Mayor Thalhofler asked is there anyone here that would like to speak to this issue?

No public comment was received.

Mayor Thalhofler closed the Public Hearing at 9:38pm and stated that this is the first reading of this ordinance and action will be taken at the September 26th Council meeting.

6. 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 Thalhofler read the title of the Ordinance and opened the Public Hearing at 9:40pm.

Councilor Kight declared a conflict of interest.

Councilor Ripma stated I also have a conflict of interest that has been put on record.

McCallum stated at the last meeting a question did arise about the opportunity to construct stormwater quality facilities within the prescribed vegetation corridors without a alternative analysis. I did inquire with Metro and have received Metro's response and I will summarize it for you. Water quality facilities are proposed to be allowed in our draft ordinance within the first 25' of the vegetation corridors if it can be determined that there is no other alternative location. Mr. Fletcher had requested that we strike the requirement that they prove that there is no other alternative location. Metro responded that striking that provision would not meet the intent of the vegetation corridor. Staff does recommend that it remain as a requirement and as further clarification I am proposing that the existing language be modified to clarify that the way that someone would be able to determine that there is no reasonable alternative location is that they do go through the three-

part alternative analysis as provided by the Metro standards. Staff does recommend adoption of the draft ordinance with the various revisions that have been brought before Council.

Mayor Thalhofer asked could you review what happens when a residence is demolished by fire that it can be rebuilt on the same footprint.

McCallum replied under the prescribed condition our draft ordinance will include: rehabilitation or replacement of a structure that is damaged or destroyed to any extent, whether it is partially or fully within the vegetation corridor slope district, in compliance with section 4.315E Prescribed Conditions of this chapter. Any structure deliberately removed or demolished may not be rehabilitated or replaced except as provided for in section 4.315A New Development. The prescribed conditions are as follows: The structure was in existence prior to the effective date of this ordinance; the use is allowed in the underlying zoning district at the time the application is made to rehabilitate or replace the structure; the rehabilitation or replacement is rebuilt on the same footprint of the original structure; the rehabilitation or replacement satisfies the applicable standards in the Flood Management chapter, Erosion Control and Stormwater Management chapters of this Code and other applicable federal, state or county standards and that they do submit a site development application to the Community Development Department. It will not require special variances or the alternative three-part analysis, but they do need to comply with underlying standards. We do have built in provisions in this chapter in order to get them out of the vegetation corridor as much as possible. They would be allowed to rebuild on the same exact footprint.

Councilor Rabe asked if my home were to be destroyed now I would be able to put it back as it was before, I would not be able to increase the footprint. Once this has been adopted and I have a new house built I would be subjected to these conditions, correct?

McCallum replied yes.

Councilor Rabe stated I not sure I understand the three-part analysis. If I feel strongly to build and I know that my permit would be denied, how does one circumvent that? Is there a way to contest that?

McCallum replied just to clarify, in the vegetation corridor and the flood plain areas, any use is permitted in those corridors that is permitted in the underlying zoning district so long as they are in compliance with this development standard section. If someone were to apply to build in the vegetation corridor or partially build in the vegetation corridor or flood plain, they do have to have a three-part alternative analysis. It is not a given that it would be denied, there is a limitation on how much of the vegetation corridor or flood plain can be used.

Councilor Daoust asked regarding the placement of bio-swales or stormwater detention ponds, in reading Metro's reply to that question my assumption is that the lowest place on the property is probably typically down by the stream or river and the best place to put a stormwater detention pond would be in the lowest place in the property which would tend to put that down in the same vicinity. It seems like what Metro is saying is that these facilities are identified as conditional uses, but they are permitted in the vegetation corridor without a alternative analysis. But yet we are going back and saying that they are not permitted and we need to do a three-part analysis. It doesn't

sound like Metro is to hung up about these stormwater retention ponds, and is the restriction more in the Troutdale Development Code rather than a Metro requirement.

McCallum replied on page 2 of Metro's letter it states "These facilities may only encroach a maximum of 25 feet into the outside boundary of the vegetated corridor and the area of encroachment must be replaced by adding an equal area to the vegetated corridor on the subject property. If it is not possible to replace the area of encroachment an alternative analysis would be necessary to demonstrate that there are no practicable alternatives to the placement of the facility". They have explained to me verbally that the model ordinance that Metro has allows for the use of the first 25 feet of the vegetation corridor if an applicant establishes that there is no other alternative place on the site and that they can mitigate for it. In other words, they want an equal mitigation area on the remaining part of the property. So we are not being more restrictive, we are implementing Metro's intent by requiring an alternative three-part analysis to use that first 25 feet of the vegetation corridor.

Councilor Daoust asked so we are skipping the part about replacing and just moving right to the three-part analysis?

McCallum replied the three-part analysis includes the mitigation also.

Councilor Daoust stated but Metro says if you replace an equal area that is all Metro needs.

McCallum replied that is part of the three-part analysis.

Councilor Daoust asked what I read Metro saying is you must replace equal vegetation corridor if you are encroaching into that first 25 feet. And then they say it must be replaced by adding an equal area, if it is not possible to replace that equal then you do an alternative analysis. I thought we were being consistent with what Metro said, but in reading ours it looks like they are not allowed in the vegetation corridor, if there is no alternative location we have to do a three-part analysis. In other words we don't allow, the Troutdale Code doesn't allow if they go into the 25 foot zone to just simply replace equal area like Metro would.

McCallum stated we are not requiring people to come before the Planning Commission to ask for conditional uses for all the permitted uses. Metro's model ordinance would have wanted everything to be conditional uses before the Planning Commission. So their letter is talking about it as a conditional use, it is not going to be a conditional use under our standards, it will be allowed if they can justify that there is no other alternative location and they comply with the three-part alternative analysis. Metro's model ordinance had a provision, and I think what you are asking Councilor Daoust is you are trying to find out if they are going to allow it outright so long as they mitigate the same amount of area somewhere else.

Councilor Daoust replied exactly.

McCallum stated in the model ordinance Metro says stormwater pre-treatment facilities may only encroach a maximum of 25 feet into the outside boundary of the water quality resource area of a primary protected water feature and the area of the encroachment must be replaced by adding an

equal area to the water quality resource area on the subject property.

Councilor Daoust replied so they don't say anything in there about a three-part analysis?

McCallum replied under their model ordinance it is a conditional use.

Councilor Daoust stated okay, they are putting it as a conditional use and we are not.

Mayor Thalhoffer asked you did have meetings with property owners, is that correct?

McCallum replied we held open houses, yes.

Mayor Thalhoffer asked the ESEE, could you explain that and how much it costs a property owner to have one done or does the City do that and how much does it cost the City.

McCallum replied the Economical Social Environmental and Energy analysis (ESEE) is a provision under the Statewide Planning Goal 5. It was adopted in 1996 by the State. That is why we are looking at our Comprehensive Land Use Plan to revise the language in our current Goal 5. We are proposing to enter under the Safe Harbor Provision, which is a minimum setback of 75 feet from the Sandy River and 50 feet from other streams and wetlands. Under Title 3, I am not real certain if conducting the ESEE analysis will enable the City to automatically be able to build closer or within the vegetation corridor along the Sandy River. The three-part alternative analysis is probably the lessor of the two evils here. The ESEE analysis, I do not have any idea of what the cost would be, it is a pretty involved process. The cost would be the responsibility of the developer of the property. Under the current language of Goal 5 policy in our Comprehensive Plan, it says that the city will conduct an ESEE analysis. That was adopted some years back now and I am not aware of any progress towards conducting an ESEE analysis of our Goal 5 resources.

Mayor Thalhoffer asked is an ESEE available to a property owner if they want it or do they have to qualify somehow?

McCallum replied I believe I am going to have to get more instruction from Metro with respect to whether an ESEE is available under the Title 3 standards or if the three-part alternative analysis supersedes this provision of Statewide Planning Goal 5.

Mayor Thalhoffer asked when can you get that information?

McCallum replied I will make a call tomorrow. I would comment that Metro Title 3 is not addressing Goal 5, it address Statewide Planning Goal 6 for water quality and Goal 7 for flood hazard areas.

Tim Sercombe stated there are more regulations to come in the Goal 5 area. Metro is working on what sort of regulations should be imposed on local governments to additionally comply with Goal 5 and to do fishery protection. That is coming around the corner after the Title 3 stuff and that is where the ESEE will come into play more then in the Title 3.

Councilor Smith asked will this increase our growth boundary due to the loss of building sites along the streams and rivers?

McCallum replied Metro has indicated in there literature regarding Title 3 that they have already factored in the needed housing with respect to these setbacks, so it is not going to increase our urban growth boundary.

Councilor Smith asked do you have any idea how many businesses and homes it will affect in Troutdale?

McCallum replied approximately 554 acres within the city. That is the gross acreage of every tax lot affected.

Wade Johnson stated there are 5 properties here that were purchased in 1988 (Wade showed overheads of these properties). We bought those properties from Multnomah County Library. On my property the bottom line shows what Title 3 with the 75' setback would do. That 75' setback, how you determine that has been changed. In the past we had ordinary high water marks, top of bank and escarpments. Sue Barker and I worked on this in 1992 and the idea was to put in a phased development. We developed a shop building with a temporary apartment in it. The future building site was approved by the Gorge Commission in 1993. We did everything we could think of to try to guarantee that at a later date I would be able to build a house. I went back in 1988 to start construction, five years after our initial approval, I was notified that the Gorge no longer managed the approval process and I would have to go through Multnomah County. I have been working my tail off and so far I have spent \$15,000 and I am a long ways from winning this battle. When I went back to the County, all of a sudden a project that had been pre-approved by the Gorge, all of sudden we have to meet new requirements and have studies done. On the map the blue line is Title 3 which is at 75', the next one is where Goal 5 will go if it goes to 200'. The next line, which you haven't even been told about, is Fish and Game gets thrown in this deal also and they are at about 240'. The next area up above is a 100' setback that is required by the Gorge ASA to stay off of the Crown Point Highway because that is also a key viewing site. My site is 435' deep, it is a lot deeper then most any other lot along the river. What I have had to do is take my dream house and gutted it, I took 600' out of the middle of it and now my house is 44' deep. Title 3 might cause me to take another 20' off of the depth of my house, how am I going to build a house that is 20' deep? My first question is why don't we adopt it at 50'? Why do we have to go 75'. There is no reason why these rivers can't be protected by conservative building methods.

Councilor Rabe stated it would seem that really the issue is the same one that you have been battling and has been your particular desires relative to what the County is telling you. The initiative that you would hope that we would take is to, as I understand it, is on slopes less than 25% you would like to see a reduction of 25'?

Johnson replied I think so.

Councilor Rabe stated lets just say that that happens. How much of an advantage to you would that be with all of the other legislative bodies that are imposing setbacks on you and other conditions.

Johnson replied I don't know yet but the difference might be that I go and get my approval and you pass 75' and all of a sudden I have to cut another 20' out of my house versus none at all.

Councilor Rabe stated it doesn't really seem as though the City is your biggest obstacle.

Councilor Daoust stated unfortunately we have land within Troutdale that is in the Columbia River Gorge National Scenic area and that is where your property is. When they start bringing in the Fish and Game and other things, I would have to agree with Councilor Rabe that those are your limiting factors, not necessarily what we are talking about here with Title 3. If it was just Troutdale that you were dealing with all you would have is the 75' setback. You have a much larger problem given that you are in the National Scenic area and you have to deal with the County.

Diane White (submitted information to the Council which can be found in the packet) stated I have a lot of points to make but I will try to make it brief. I discussed setbacks with three Metro Planners today and I found out that before Title 3 some of the cities had zero setbacks, some 25' some 30'. Metro's minimum setback for the Sandy River under Title 3 is 50', it is Troutdale that is adopting an extra 25' to try to encompass the upcoming Goal 5. When I talked to the Metro Planner today, he said it is way to early to know if that 25' will address Goal 5 needs. When I heard all of the procedures that Metro went through to establish the 50' setback, I am in question of Troutdale wanting to add the other 25', which is not a Metro requirement at this time. I have given you a survey that is dated February 2000, these were some of the questionnaires that Metro had in addressing Title 3. What I am trying to state in showing you these surveys is that Metro did have concern for the rights of the property owners with adding additional setbacks, which in Title 3, I don't believe any of that is addressed. I don't like the idea of things being adopted without issues being addressed. The Sandy River is one of the cleanest rivers, we don't get shut down like the Willamette does. The only thing I can think of is that they want to reclaim the banks back and at what costs. They are not considering the property owners. They have all these surveys but where have they addressed these issues. I don't feel that Metro has. The City of Portland has asked for an extension from Metro to be in compliance with Title 3 until 2002. The only reason I can see is that they want to say hold on and wait until Goal 5 comes through, they are all attached. Regarding the three-part alternative analysis, it is not another opportunity the way I am reading it. You can only build in the area that is going to have the least impact.

Councilor Thompson asked Ms. McCallum, Diane said that Metro is proposing a 50' setback but Troutdale has increased that to 75', is that true?

McCallum replied yes. That was explained in the original presentation. The State of Oregon, because there is an overlap with the Goal 6 resources that include wetlands, wetlands are a part of Goal 5. We asked that question of Metro, because of the Safe Harbor regulations that the State adopted under Statewide Planning Goal 5, the Safe Harbor says you don't have to do an ESEE analysis of this resource so long as you have a minimum setback of 75' from the Sandy River and 50' from wetlands. Our Goal 5 says that we will do an ESEE analysis, we haven't done that. So when Metro started looking at these setback requirements which then causes us to go to our ordinance and also amend our ordinance, it is true our current setback is 50'. It was our understanding that to satisfy the Department of Land Conservation and Development's (DLCD) Goal 5 Safe Harbor requirements which were adopted after our Comprehensive Land Use Plan was acknowledged, that

Safe Harbor standards require a minimum 75' setback from the bank of the Sandy River because it exceeds 1,000 cubic feet per second of flow. Title 3 standards are a minimum of 50' setback from any primary water feature. We asked DLCD, does Troutdale have to apply Goal 5 Safe Harbor standards as part of the Title 3 related amendments. Their response was yes, adopt the 75' because of the Goal 5 riparian protection requirements. They are looking ahead, however we are looking more intensely that Title 3 is based on Goal 6 & 7 not on Goal 5 yet. Because we were looking at riparian corridor setbacks, that is not the language that is used in Metro Title 3, they use vegetated corridor, the State has said then that to comply with the provisions of Statewide Planning Goal 5, that we as a City need to look at either adopting and being in compliance with the State's Safe Harbor standard or going ahead and doing our ESEE analysis. The Council, I believe, would have an opportunity to not look at modifying our Comprehensive Plan Goal 5 at this time and setting aside 75'. Maybe Mr. Sercombe would have an answer on post acknowledgment plan amendments when there have been revisions to the Statewide Goals and something touches on that, do we absolutely have to revise our Comprehensive Land Use Plan the minute we touch any ordinance that relates to that.

Sercombe stated I don't know the answer to that. There are provisions of when you have to update your code or regulations to comply with things that have happened. I would have to research whether or not by virtue of the Title 3 stuff we have to be in full compliance with the Goal 5 rules as it was amended in 1996. I don't think that is what other jurisdictions are doing but I would be glad to check that out further.

Mayor Thalhoffer stated the hour is getting late and I think we should hold this over for another hearing. Mr. Faith what is our deadline for getting this done?

Faith stated the end of October.

Mayor Thalhoffer closed the Public Hearing at 11:24pm and stated that we will continue the hearing at the September 26th meeting.

8. COUNCIL CONCERNS AND INITIATIVES


Mayor Thalhoffer called this item and stated due to the late hour we will not hear any Council concerns this evening.

9. ADJOURNMENT

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

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

Meeting was adjourned at 11:25pm.


Paul Thalhofer, Mayor

Dated: 10-12-00

ATTEST:


Debbie Stickney, City Recorder

CITY OF TROUTDALE PUBLIC ATTENDANCE RECORD

**September 12, 2000
CITY COUNCIL REGULAR MEETING**

PLEASE COMPLETE THE FOLLOWING

NAME <input type="checkbox"/> (please print) <input type="checkbox"/>	ADDRESS	PHONE #
RICHARD C. BROWN	3660 SE RUANS	666-6038
LORNE MITCHELL	767 SW 12	669-7760
BOB WHARPS	2120 SW BURLINGAME AVE	606-4950
Randy Lawer	1982nd PLEO	736-3445
Dick Anderson	701 E. Historical Col. Riv. Hwy	665-9927
Norman Thomas	2751 SW CLARE CT	667-4320
Clem White	1225 E. Historical Col. Riv. Hwy	669-9759
Diane Castillo White	1225 E. Historic Col. Riv Hwy	669-9759
FRANK A. WINDUST JR.	37938 SE RIVERVIEW CORP	695-5132
JACK GLASS	1208 E Historical Columbia River Hwy	665-2257
WADE JOHNSON	PO BOX 159 TROUTDALE	661-3311