



# CITY OF TROUTDALE

*"Gateway to the Columbia River Gorge"*

## AGENDA

### CITY COUNCIL – REGULAR MEETING

Troutdale City Hall - Council Chambers  
219 E. Historic Columbia River Hwy. (Lower Level, Rear Entrance)  
Troutdale, OR 97060-2078

**Tuesday January 24, 2017 – 7:00PM**

**Mayor**  
Casey Ryan

**City Council**  
David Ripma  
Randy Lauer  
Larry Morgan  
Glenn White  
Rich Allen  
Zach Hudson

**Interim City  
Manager**  
Ray Young

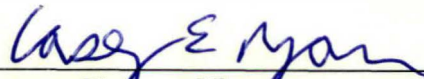
**City Recorder**  
Sarah Skroch

- 1. PLEDGE OF ALLEGIANCE, ROLL CALL, AGENDA UPDATE.**
- 2. PUBLIC COMMENT:** Public comment is limited to comments on non-agenda items. *Remarks shall be limited to 5 minutes for each speaker unless a different time is allowed by the Mayor. The Mayor and Council should avoid immediate and protracted response to citizen comments.*
- 3. PRESENTATION:** A presentation from the Robotic Program at Troutdale Elementary School.
- 4. PUBLIC HEARING / ORDINANCE (Introduced 1/10/17):** An ordinance amending sections of the Troutdale Municipal Code Chapter 8.26 – Outdoor Lighting. *Chris Damgen, Community Development Director*
- 5. RESOLUTION:** A resolution adopting a legal defense policy for tort actions against public bodies pursuant to the obligations of the Oregon Revised Statutes 30.260 through 30.300. *Erich Mueller, Finance Director*

6. STAFF COMMUNICATIONS

7. COUNCIL COMMUNICATIONS

8. ADJOURNMENT

  
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Casey Ryan, Mayor  
Dated: 1/19/17

City Council Regular Meetings will be replayed on Comcast Cable Channel 30 (HD Channel 330) and Frontier Communications Channel 39 on Friday at 4:00pm and Sunday at 9:00pm following the meeting.

Further information and copies of agenda packets are available at: Troutdale City Hall, 219 E. Historic Columbia River Hwy. Monday through Friday, 8:00 a.m. - 5:00 p.m.; on our Web Page [www.troutdaleoregon.gov](http://www.troutdaleoregon.gov) or call Sarah Skroch, City Recorder at 503-674-7258.

The meeting location is wheelchair accessible. A request for an interpreter for the hearing impaired or for other accommodations for persons with disabilities should be made at least 48 hours before the meeting to: Sarah Skroch, City Recorder 503-674-7258.

**MINUTES**  
**Troutdale City Council – Regular Meeting**  
**Troutdale City Hall – Council Chambers**  
**219 E. Historic Columbia River Hwy.**  
**Troutdale, OR 97060**

**Tuesday, January 24, 2017 – 7:00PM**

**1. PLEDGE OF ALLEGIANCE, ROLL CALL, AGENDA UPDATE.**

Mayor Ryan called the meeting to order at 7:00pm.

**PRESENT:** Mayor Ryan, Councilor Ripma, Councilor Lauer, Councilor Morgan (via phone), Councilor White, Councilor Allen and Councilor Hudson.

**ABSENT:** None.

**STAFF:** Ray Young, Interim City Manager; Ed Trompke, City Attorney; Kenda Schlaht, Deputy City Recorder; Erich Mueller, Finance Director and Chris Damgen, Community Development Director.

**GUESTS:** See Attached List.

Ray Young, Interim City Manager, states there are no amendments to the agenda.

**2. PUBLIC COMMENT**

Paul Wilcox, Troutdale resident, states I'd like to start by apologizing for going a little long during public comment last meeting. I don't want to give the Mayor an excuse to reduce the allotted time below 5 minutes as Mr. Trompke seemed to be suggesting in his report. By the way, the gentlemen representing the 40-Mile Loop also went well over his time. I'd also like to take this opportunity to bring to the attention of citizens that if they wish to make a longer presentation before the Council anyone can request being added to a future meeting's agenda by contacting the City Recorder. My next topic has to do with the recent, and on-going, delays in garbage collection. I fault both the City and Waste Management for doing a very poor job of keeping the public informed. Once collections were cancelled on January 11<sup>th</sup>, customers should have been informed to hold off until the following Wednesday, or expect further updates, rather than leave the containers sitting at the curb indefinitely. There have been bins sitting out continuously for nearly 2 weeks in our neighborhood, and I assume the same throughout the city. For those who have complained that Waste Management should have just chained-up their trucks and kept rolling, I'm sure the decision had more to do with the safety of their employees. Troutdale collection routes are unique in that the driver has to exit the cab at every stop to unlatch the bungee straps, risking falling every time in the ice and snow. This can be several hundred times per day. The container also has to be re-positioned if the truck is not equipped with the extending clamp arm. Next up is a direct request to Mayor Ryan.

In your candidate interview with The Outlook regarding transparency you said “The laws and the City want transparency, and that’s exactly what we should do. There should be nothing going on that we don’t talk about in front of the cameras.” Major discussions and decisions occur during work sessions, so those meetings should also be video recorded and broadcast as well, if possible. Recent examples from work sessions were the selection of an Interim City Manager, and previously the choice of a replacement for Councilor Anderson, which as we know was later over turned in regular session. I talked to the EastMetro Media tech after the last meeting, and was told that EastMetro Media doesn’t record work sessions, so that’s a problem. The current audio recordings are also very low quality, and of course without a face it can be difficult to discern who is speaking. Last up is another direct request to Mayor Ryan. I would like to see the Council meeting dress code relaxed. I feel that business suits create a separation from the public. If the Council were paid, as in Gresham, more professional attire might be appropriate, but I think it’s unnecessary for a volunteer Council. Also, Troutdale Councilor’s are permitted to dress down in work session meetings, where much of the City’s actual business is done. Of course, that might be because they are not being video recorded and broadcast.

John Wilson, Troutdale resident, states regarding Waste Management, I know we got a call several times at our house from an 800 number advising us when the trash was going to be picked up and the recycling and grass clippings. Safety is #1 so if the streets aren’t safe I would rather have 2 weeks of garbage than have my car bashed up or have somebody get in an accident. The other thing I want to speak on tonight was last week at the first meeting Ed Trompke spoke in regards to how the meetings work, what is open to the public to speak and what isn’t open to the public to speak. These rules have been around for years and in many other cities around the state. After that the CAC came up to say that they all voted 100% to change them. I’m not sure it’s up to the CAC to tell the City Council how they need to run their meetings. I know that Zach had come in one time to talk to us about it. I would suggest to the CAC and Zach to talk to the City Attorney or the City Manager to find out why these rules are in place and maybe take a civics class on how government works.

**3. PRESENTATION:** A presentation from the Robotic Program at Troutdale Elementary School.

Mayor Ryan states we have a presentation for the Robotics Program at Troutdale Elementary School. Thank you for being here tonight.

Kazu states the Troutdale Tigers Robotics Team is made up of 5<sup>th</sup> through 8<sup>th</sup> grade students from the Troutdale area. Our team has won many awards. In the 2013-2014 season, our team won the 2<sup>nd</sup> Place Champions Award which also qualified us to move on to the State Tournament where we won 1<sup>st</sup> place award for Project Presentation. The next season, 2014-2015, our team won 1<sup>st</sup> Place in Robot Design, sending us to the State Tournament again. Our team ended the 2015-2016 season with the Rising Star Award.

Juliette states the core values are the heart of First LEGO League. They include discovery over competition, integration, inclusion and cooperation. In the robot challenge, we build

a Lego robot using Minestorms EV3 software then program it to complete tasks on the mission table.

Jasmin states the robot uses a basic 2 wheel drive system. We have 2 attachments. One to collect and another to deliver. The robot has 2 sensors. One touch sensor and one color sensor.

Ethan states in the project portion of the FLL competition the team identifies a theme for the year. This year's theme being Animal Allies.

Miranda states this year with our project we decided to help our local elementary school that we went to, Troutdale Elementary. This year we decided to get a therapy dog to help the students at the school with such cases of anxiety or depression.

Wendy Stevens, Troutdale Elementary teacher, states that was our first team. It's a team from Walt Morey. They come back to Troutdale to help with the Robotic Team and also to give back to the school by raising money to buy the therapy dog. This is our second team and they are made up of all 5<sup>th</sup> grade students at Troutdale. They would like to talk about their project and their robot.

Brooke states for our project our team got together and brainstormed ideas. We wanted to figure out a way that we could work with animals already available to us at our school. We also decided we wanted to help combine the animals and work with the students already at our school.

Tristan states our question we investigated was, how can we improve the life of a classroom pet at our school and how can we use the animal to improve the lives of the students at our school?

Lou states once we came up with a question to focus on we enlisted all the classroom pets currently at our school. Those included a snake, bearded dragon and 2 fish tanks. Through voting we decided on the bearded dragon. We learned that bearded dragons are very social animals and enjoy spending time with humans.

Ashton asks, did you know that bearded dragons can be trained? They can even be trained to jump through a loop of fire. We decided that was a little too much. Our robot works off the EV3 system. Also it uses wheels to get around. The robot has 2 large motors. Our robot does not have any sensors. It has 6 programs stored in it.

Wendy Stevens states my husband, Mark, and I head the Robotics Team. The progress that these kids have made and growth is amazing. Over the last 3 years we've had 1 team representing Troutdale and this is the first year we've had 2 teams. The State Competition has over 120 teams compete. These kids will be competing in that in February or March.

Mayor Ryan asks, will the new principal raise his hand and introduce himself?

Ed Krankowski, Troutdale Elementary Principal, states thank you again for giving us the opportunity to show off our dedicated and smart students.

**4. PUBLIC HEARING / ORDINANCE (Introduced 1/10/17):** An ordinance amending sections of the Troutdale Municipal Code Chapter 8.26 – Outdoor Lighting.

Chris Damgen, Community Development Director, states I have no new information from the previous hearing. Staff hasn't received any additional testimony or written correspondence from anybody. I have the PowerPoint available if you need it tonight. Otherwise, no further comment or action and I recommend approval.

Mayor Ryan asks, are there any questions for Chris? Or does anybody want to speak on this in the audience? If not, can I get a motion?

**MOTION: Councilor Ripma moves to adopt the ordinance amending sections of the Troutdale Municipal Code Chapter 8.26 – Outdoor Lighting. Seconded by Councilor Lauer.**

**VOTE: Councilor Lauer – Yes; Councilor Morgan – No; Councilor White – Yes; Councilor Allen – Yes; Councilor Hudson – Yes; Mayor Ryan – Yes and Councilor Ripma – Yes.**

**Motion passes 6-1.**

**5. RESOLUTION:** A resolution adopting a legal defense policy for tort actions against public bodies pursuant to the obligations of the Oregon Revised Statutes 30.260 through 30.300.

Councilor Allen states I cannot participate in agenda item #5 as I am the litigant in an active case and I will not be able to respond.

Erich Mueller, Finance Director, states part of what I want to make clear tonight is that the resolution is related to adopting a general defense policy and is being triggered by a specific case. The resolution related to a general policy for the City in order to fulfill an obligation it has under the Oregon Revised Statutes. Those statutes that require defense are specific on the ORS and date back to 1967. It's an obligation that the legislature has made clear that public bodies will provide defense for officers and agents etc. who have elected or appointed against any tort claim or demand that whether it is groundless or otherwise arising out of an alleged act or commission occurring during the performance of their duties. The statute is specific about it being either a yes or no answer. The duties that are at issue in the lawsuit are within the scope of the official's duties and there is not malfeasance or willful neglect of duty then the statute requires that the public body provide a defense. If it's found that it's not part of the duties or that it's based on malfeasance then it's required not to provide defense. It doesn't provide a lot of latitude and there isn't a lot of gray area. Troutdale has been fortunate up until this point that we haven't really had a need to address the policy unlike other cities. The resolution is to address an obligation that the City has under the statute. Part of what I try to make clear in the staff report is yes it's being prompted by a specific lawsuit but the resolution doesn't take a

position whether it's one way or the other on the merits or not of the lawsuit. It doesn't take a position one way or the other on the nature of the comments that were taken of issue made by Councilor Allen. It doesn't indicate that there's support or lack of support for the individual comments. It's part of why the legislature has this protection in place to provide for a free speech protection on public issues or public interests. The regulation requires that there be an investigation to evaluate and that once that investigation is done that defense counsel is to be provided. The policy that's incorporated or laid out in the resolution to be considered provides for defense policy for complying with the ORS requirements, further considers the duties of elected officials in Troutdale is representing the voters includes communicating with the public in person, electronically or through conventional news media methods on matters of public policy if the City Council finds that that's a duty of an elected official in Troutdale. Specific findings in the resolution make it clear that that activity as part of that free speech and public advocacy process is a duty of an elected official in Troutdale. Again, doesn't take an opinion or render whether it agrees with that free speech content or agrees or disagrees with the underlying lawsuit. It's important to point out that this is not a blank check or a bailout or anything like that. This is an obligation in terms of providing defense but it reserves and in fact the statute provides we cannot really address any liability that might be at this stage. Those are matters for the court whether the allegations raised in the lawsuit are found to be successful or not on the part of the plaintiff. That's a matter not for this Council but it's a matter for the court to decide. Whether there's any subsequent penalty or judgements awarded by the court is not something that the City is obligated for. That will be dependent upon what the court rules once the court goes through the matter of finding the facts. This is not to say as the lawsuit requests damages of \$250,000.00 this general policy by no means says that the City is agreeing to accept that obligation. Whether that obligation is even rendered by the court still remains to be seen. It's important to note that there are important reservations that are maintained by the City that are protected for by within the statute and indeed there are parts of the statute that would prevent the City from paying some damages depending on what the court finds and rules. The policy also is attempting to provide a process for conducting an investigation and make an impartial and going forward a consistent interpretation. It helps minimize political conflicts and helps minimize there being a differentiation of one case versus another based on who might be involved and who may have support or lack of support from a political standpoint. It helps to provide for a consistent and impartial adjudication and disposition of cases that are brought. The general policy will have an application to the specific case that's prompting us to do so. It is not yet adopted so the staff process which includes 3 members, myself as the Risk Manager, the City Manager and the City Attorney will find that the communication was on a matter of public policy and therefore would be covered by the general policy. That evaluation has not been done yet and so I am speculating but I think it's likely. It also makes it clear that in that evaluation and investigation that staff would do, that staff would also take no position or make no judgment on the validity of the claims or on the nature of what was communicated. Ultimately it is a matter of implementing the policy which, if we find it's applicable in this specific case, then it would be a matter of us conferring with CIS and/or addressing special legal counsel related to defense. It doesn't mean that we're going to have a particular outcome of a legal case or that there's going to be specific penalties paid by the City. It simply provides an overall policy that effectively allows for elected officials to communicate whatever view they feel is appropriate to their

constituents without being at jeopardy of a lawsuit without some defense mechanism whether any individual ultimately goes across the line that would be an opinion that the court would render not which the Council would render.

Ray Young states I want to reiterate it's really important to remember that the City has a statutory duty which means we are required to do something in this situation. It is not discretionary. We don't get to decide either way. If we find that an elected official's general behavior was within the performance of their duties, we have an obligation. That key phrase the City has to define is, what is performance of duty? The statute gives us no definition. Case law gives us really no useful definition except in extreme cases which the situation we're facing now is not one of those. There's really no direction from the courts or from the legislators how to define performance of duty. What the staff is recommending that when we apply the statute in these situations that one of the duties of an elected official will be defined as communication with the citizens of Troutdale on matters involving the City. Of course, if you don't agree that that's one of the duties of a Council member or Mayor is to communicate on issues related to the City to the constituent then you might tend to vote no on the resolution. That's kind of the question, is that the behavior engaged in by a Councilor were they communicating on a matter relating to the City is that one of your duties? You have to answer that question yes or no essentially. If it's yes, it's pretty much the end of discussion we have to defend him or any of you in the same situation. I want to comment on a couple questions that some people may have about this situation and how it may apply in the policy. Some may argue that because our insurance carrier has denied it that that's the end of the story. That's not legally correct because the insurance company makes their decisions based upon our contract with them, the written agreement that we have with the insurance carrier to decide what we will pay and what will we not pay. The City's obligation is based on a statutory requirement. The insurance company made a decision based on a separate legal standard than what the City is asked to make in this situation. They look at what he's being sued for, whether it's libel or defamation etc. in the situation while the City, we're not so concerned about that. We have to defend based upon what he did. Was it something that was in performance of his duties? In the resolution if he spoke out publicly on a matter before the citizens or within the City that would be a covered performance of duty. The insurance carrier doesn't really impact our obligation. Second of all, some may argue that they don't like what Councilor Allen said and what he said was wrong and Councilor Allen deserves to be sued so we shouldn't defend him. With all due respect to Councilor Allen, the staff doesn't care. We're not being asked under the statute to make a quality or qualitative decision as to whether what he said was wrong or right because that argument puts the proverbial cart before the horse. The only legal way to determine if any Council member's behavior was libel or slanderous is for a court or jury to make that decision. Sometimes the arguments and concerns and the feelings that were raised during the election sometimes will crowd over into the New Year. We all understand that. Whether you like or don't like what Councilor Allen said in that article we can't consider that in making a decision under the statute. As a side note, if the court finds that in fact he committed an offense that is actionable and he is liable for damages the decision to defend a Council member does not make us responsible for those damages. We don't have to pay essentially if the Council member loses. In general the Council needs to understand that the staff's recommendations were based upon on 3 beliefs. First, we have no opinion whatsoever on whether what Councilor



Allen said or did was wrong. Reasonable people can disagree on that and that's why we have a court system. Let them decide whether it was actionable or not. Second, we as a staff need to have from you a neutral general policy that gives the staff direction on how to handle this situation and in the future. It comes down to, how will you define performance of duties? If speaking with the public on matters of interest to the public citizens of Troutdale was what he was doing we're suggesting that that's what you adopt as one of the performances of your duty. Finally, the failure to approve the resolution has a potential to cast a chill on every Councilor member's free speech rights because if you find that your duties are to speak on public issues you will always be concerned if you said the wrong thing or if you annoyed somebody or will somebody sue you. If you don't have the resolution the City doesn't have any clear direction that you're going to get defended. As you know, and I will guarantee, you are not paid enough for these awesome duties that you have to pay for a lawyer. The only way to ensure that your free speech rights are protected to speak out on issues important to the citizens is to pass this resolution so staff has a clear direction as what to do in these situations. While some may want to describe this situation as Rich Allen versus Eastwind or one is right or one is wrong that is not how staff has to deal with this issue. This simply defines for us what you define as the statutory allegation of performance of duty.

Ed Trompke, City Attorney, states as of one of the three people who is being asked to make the decisions in this, it is most appropriate for you to pass this on to staff to make the initial decision and if the staff decides not to proceed we will have to push it up to you if we decide not to defend somebody. It's appropriate for you to make those decisions yourselves because the courts have said that this statute was adopted in order to encourage citizen involvement in local government and in State government. Your resolution really only just applies to Councilors but the statutes also talk about State employees, boards and commission members and other folks in local government. That's always been the position of the State of Oregon to make it possible to encourage folks to serve in the positions that you're in. The City has been very fortunate up until now not to have had to devise a way to deal with this. You've been through some very difficult times with a former Mayor and with some other Council issues that have come up and so nobody has been sued in the past so you've been very fortunate. Most cities and counties don't have the track record that we have here. I really encourage you to adopt this tonight. The City doesn't have an option, it either has to defend or not based on whether or not somethings done in performance of the duty. Before the public comes up to talk I would like to remind them that you can agree or disagree with people and you can get very heated about what people in political positions say. The other newspaper reported something and the headline is "Oregon Congressman called Donald Trump Liar in Chief." That is politics and sometimes politics get heated and sometimes it gets a little over excited and people do take it seriously. By delegating that to us we'll overlook all of that and see that it got heated and over excited and put this in its place and the public interest requires that people be able to get excited and get heated. I would recommend that you do adopt this.

Councilor White states it mentions in the staff report that this case would be covered, even though it's pending now.

Ed Trompke states it's pending and that's part of the problem here is there has been no mechanism in place to address it. The request for defense was mailed in November 29<sup>th</sup> to the Risk Manager and came in on the 30<sup>th</sup> and almost 2 months later we're finally getting to where the investigation is done because it's very hard to get the Council together to do an investigation. It's still a pending decision at this point in time.

Councilor White states I want to point out that frivolous lawsuits are very taxing on taxpayers, staff and resources. It's very unfortunate this is occurring in our City. We're a tight knit community and we're all neighbors and I would sure appreciate it if we could act like that.

### **Mayor Ryan opens public comment 7:41pm.**

John Wilson, Troutdale resident, states in looking over the State ORS that you refer to in your resolution report there's really no reason to have this resolution because it's already covered by the State. That being said I've looked through this report and it looks like it's going to go through. Part of what the 30.2871 states is that unless the investigation is determined that the claim or demand does not arise out of an alleged act or omission occurring in the performance of duty, or that the act of omission complained of amounted to malfeasance in office or willful or wanton neglect of duty, in which case the governing body shall reject defense of the claim. In Rich Allen's article he talks about the URA and the value of the URA being 6 million dollars. This is a fabrication and it did not hold up. The true amount is not 6 million dollars but Councilor Allen continues to use that figure. So it is Glenn and Dave and this attorney know that figure is wrong. He is deliberately lying to the public. Rich also said that I was at the same meeting to support a Government Affairs Committee. The GAC had already been set up 6 to 7 months prior to that meeting so it already existed. I sent information out to the City Council on formation of the GAC. He also states that I was there to support forming a PAC (Political Action Committee). The PAC had already been formed. I was not at the meeting that the PAC was formed. Because I was there Rich Allen just assumes that I was there for support. Rich Allen and Glenn White were there at that same meeting. They didn't say a word against the PAC being formed. This by itself is a reason not to pass this. As I read the report there's a lot of bias in this resolution of findings (before the investigation) it uses terms like "would likely find" and "which is likely" are biased to the decision. Whoever wrote this already has their decision made that Rich Allen acted with in his official elected capacity. It is unclear who the staff is that will be investigating. I find out tonight who it is and I understand from listening to the City Manager and the City Attorney that we're running by different rules than CIS. Who on the City Council voted to have the Sheriff elected and not appointed? I know that Rich and Glenn did because they posted on their Facebook pages. The reason I did this is they didn't want the Sheriff obligated to the bidding of the County. Under this resolution you're going to have the same problem with the City Manager and Attorney working for the City Council. If the Councilor that is being sued does not get the City Manager and Attorney to support them all they have to do is get 3 other Councilors, which Rich has already done with Glenn and Dave and Corey to cause an early retirement of City Manager Craig Ward. If he doesn't agree with it all he has to do is get 3 other members to agree with him and they can vote both the City Attorney and City Manager out. Why would businesses want to relocate to Troutdale if any Councilor can say

whatever they want about any individual or company? If a Councilor wanted to lie about the Piper Project this resolution would allow them to be protected. ORS 30.285 already gives this Council protection and there's no reason for a resolution to be adopted. If the decision is to move forward, I would ask that you add the following to this resolution: Any statement should be first submitted to the City Attorney for approval to ensure there are no obvious falsehoods, City Councilor's are only allowed to write in the Champion, other writings are not protected: does not include criminal conduct and not to be applied retroactively.

Paula Goldie, Troutdale resident, states when Councilor Morgan first started with the City one of the first things he was passionate about was being able to speak to the citizens about the events and things that were going on in the City. He was very passionate about updating the website, getting the newsletter going and Twitter and Facebook and everything humanly possible so that the citizens of Troutdale can understand what's going on in their city. I would hate to think that his plan to communicate with the only approved communication from the Council as a whole and not just come down on somebody for using their First Amendment rights. One of the things that apparently the City has to look for in their investigation is to see if it was done with malfeasance. I don't believe that there's anybody in this room truly believes that whatever was said was done out of anger or malfeasance, other than airing a second opinion of what was going on.

Sharon Ezzell, Troutdale resident, states I was hoping that with the New Year and new members on the board that the division was mentioned so many times in the paper would stop. The more that we deliberately mention names the division continues. John, I called you out on that a couple times when you were a member. I don't like division. You all have been elected to do a job and you need to come at it with all personal feelings aside. You are not here for your personal gain or profit. You're here to represent Troutdale citizens. In regards to the specific agenda item tonight, if you don't pass this I can see it becoming a major problem for future elections. Let's protect what we have and let's pass it.

Rob Canfield, Troutdale resident, states I am requesting that the Troutdale City Council and the City of Troutdale deny any legal coverage to City Councilor Rich Allen in defense of the civil suit filed against Mr. Allen. As the city staff pointed out, the general defense policy proposing states, "The general defense policy does not provide automatic coverage or blanket protection for any actions by an elected official, as defense may not be provided for claims outside the scope and course of their duties or for an act of omission complained of which amounts to malfeasance in office or willful or wanton neglect of duty." Lying is not within the course and scope of Mr. Allen's duties as a City Councilor. Councilor Allen lied in the NW Connection article when he claimed that the City's Urban Renewal property is appraised at \$6 million and he knew that was not true and printed that anyway. Second, he said that the negotiations for the sale were unethical. He did not provide any proof. What is malfeasance? It refers to intentionally doing something wrong either legally or morally. Malfeasance is a dishonest act and it is an action undertaken for improper purposes. Malfeasance in office includes illegal or dishonest activity especially by a public official. Lying intentionally is doing something wrong both legally and morally. What about wanton neglect of duty? Neglect of duty is the omission

to perform a duty. It has a reference to the neglect or failure on the part of a public officer to do and perform some duty or duties laid on him by the virtue of his office. It is not material whether it's willful, or ignorance or oversight, it is neglect of duty. Mr. Allen took an oath of office like all of you city councilors did like every elected official in Oregon did where he says he will perform the duties of this office to the best of his ability, he'll support the Constitution and the laws of the United States of America, laws of the State of Oregon and the Charter and ordinances of the City of Troutdale to the best of his ability. Like you, Mr. Allen is bound by this oath in all matters until he leaves office. That oath binds him to tell the truth in anything he says because telling the truth is pursuant to any matters and all matters before the City Council. And a public statement, if it's a lie, in court is called perjury. If he's lying he's violating his oath of office. Based on just this mere violation of his oath of office, Mr. Allen should be asked by the City Council to resign. What is particularly troubling, instead of putting this interest of the City of Troutdale and its residents first he is putting his own self-interest first. I am requesting that the Troutdale City Council and the City of Troutdale deny any legal coverage to Mr. Allen in defense of the civil suit. He has no right to expect a blank check to defend his egregious behavior. It's insulting to the citizens. The conduct he did is not furtherance of any city policy. Payment of Mr. Allen's legal fees would only serve Mr. Allen's private interest and not in the interest of the citizens or the City itself. I am requesting again that the Troutdale City Council and the City of Troutdale deny any legal coverage. I am asking Mr. Allen right now, you should resign your office. Do the right thing and retract your statement and apologize. Save the City the trouble and save our citizens the trouble from going through all of this. We can get back to getting along.

Paul Wilcox, Troutdale resident, states I'm going to start by referring to a couple statements in the staff report. At the bottom of page 2 is a good summary of the direction that the City seems to intend to go. "The policy further considers the duties of elected officials in Troutdale in representing the voters, to include communicating with the public, in person, electronically or through conventional news media methods, on matters of public policy being considered by the City Council." I believe the intent here is to cover all manners of means of communication, which is fine. However, the phrase "on matters of public policy being considered by the City Council" implies information is being provided to the public, and perhaps public input solicited, "prior to" decision making, not after the fact on action taken by the Council. Under "Specific Case Application", on pages 3 and 4, there are phrases which reflect a clear bias toward an expected outcome. "Application of the general defense policy would likely find" and "If the staff investigation concludes, which is likely" seem to indicate that there is little question as to what the results of the investigation will be. Within the Resolution itself, the summary description of ORS 30.287(1) under point number 2 is incomplete in that the statute also addresses when defense will not be provided. As to the denial of coverage by City County Insurance Services, one has to question how an article published 6 months after the Council's approval of the Letter of Intent can be related to Councilor Allen's keeping the citizens informed on a matter of City policy. There was ample opportunity in an Executive Session and at the Special Meeting to argue against that approval. Councilor Allen had already expressed his opposition in the strongest possible way available to him by voting no. On the matter of the lawsuit itself, I've read both the article and the complaint several times, side by side, and the term

which comes to mind is “frivolous”. Both parties would be wise to heed the advice offered in The Outlook’s January 19<sup>th</sup> editorial.

Bruce Wasson, Troutdale resident, states I have seen the inner workings of this government from being on the Budget Committee and coming to City Council meetings. Quite frankly, I’m bothered by several things. First is that 2 of the people who testified here were basically trying to try Mr. Allen here and not in a court of law. This is not the place to do that. Second, they said his figure of 6 million dollars was a lie. The first figure I heard, long before his article came out was an independent appraisal of 6 million dollars. The 1.5 million dollars figure I was told came from the appraisal from Eastwinds’ own man which seems strangely self-serving. They have not supplied one iota of evidence to prove or disprove anything that has been said here. They want to accuse him of lying and they better be able to prove it. I find this appalling. I think they should pass this resolution and let the chips fall where they may. The vitriol I’ve heard from these 2 people is appalling to me. This should pass for the City of Troutdale. And for Mr. Allen to resign under these circumstances would be the worst thing to do.

Sam Barnett, Troutdale resident, states I’m here tonight to voice my opinion on the resolution for legal defense of Councilors. I believe if this resolution does not pass it will create somewhat of a gag order on our Councilors and even the Mayor. What Councilor Allen stated in his belief on the purchase in question was in his mind the truth. I read that figure as well. In fact there are many in this room that believe that this sale was a bad idea and share the same sentiment as Councilor Allen. I’m curious as to why Rob Canfield has won the right to voice his opinion on the subject on the front page of the Outlook while there was no supporting opinion. I’m a member of the CAC and I take great offense to what Mr. Wilson stated earlier. I thought it was a slap in the face to us who volunteer to be on this committee.

Timothy Longstreth, Troutdale resident, states litigation is pending on whatever happened. I’m kind of looking at this and trying to formulate something. I spent about 3 years of my life in the security industry and always counted on my employer and my team to support me right or wrong. There’s comfort in knowing there’s something in place to protect us. I would ask that the Council and Mayor to stand behind him in this.

**Mayor Ryan closes public comment at 8:09pm.**

Councilor Morgan states from my standpoint I’m not sure why there is the mention of Councilor Allen in this. I think from the political nature as well as the unity of the Council I was hoping for a more modern approach to government. I intend to support this resolution. I think we should let lawyers and the justice system do their job.

Ray Young states I do want to appreciate the years of service and volunteer work that Mr. Wilson, Mr. Canfield and Mr. Wilcox have served. With all due respect to Councilor Allen, at the end of this whole thing maybe they’re right. Maybe he did something wrong but that’s not in front of the Council tonight. The statutory structure that’s set up you need to understand there’s 2 ways to handle when a public official gets sued. One way to handle is when they’re sued the governmental agency defends them and if that person

ends up losing the lawsuit because they did something wrong then the government agency is out the money spent to defend him. The other way to handle these situations is to say you're on your own, defend yourself and if you're exonerated at the end then we'll reimburse you. The policy under the statute is to create a situation where we presume the best about City Officials and we want to defend them upfront because we know you're not getting paid a lot of money for this and they want to protect free speech rights. The two approaches the statute could've taken it showed this way which is that we'll presume upfront they did nothing wrong and we'll defend them and we're only out the cost of defense and we still project the elected official so they don't have to pay it out of pocket and get reimbursed if they win. This is the best public policy to do it this way.

Ed Trompke states the staff report speaks about specifics that was really intended to put it in the current context. It was not intended to politicize the discussion but sometimes bringing things up does raise political discussion. It was intended to put it into context and so that no one could say that staff was trying to hide something.

Councilor Ripma states I think the public was owed an explanation of why this is coming up and the likely result of this resolution. I didn't read it politically and if it was it shouldn't have been. It's giving the public the facts about what it means to adopt this resolution which I think is sound public policy. We all don't care to face ruination financially from expressing our opinion on things before the City. I'm certainly in favor of the resolution.

Councilor White states it is part of the job and I personally am proud of Rich for his bravery to inform the public. He's a good man and I feel sorry for what he is having to go through right now. It's a big burden on his family and I'm definitely going to support this resolution.

Councilor Hudson states another reason I firmly support this resolution because it's going to apply to all of us serving now and everyone who is going to be serving into the future. As protection for us and as protection for any elected official who will sit up here in the future I think we should adopt this.

Councilor Lauer states this sets a precedence for current council and mayor and future council that we're here and elected to represent the public. We can't do that if we're handcuffed in what we say or what we can and can't say. I support the resolution. I agree with Councilor Morgan that it modernizes the Council also. This keeps our First Amendment privileges just that, our privilege.

Mayor Ryan states I plan on supporting it too.

**MOTION: Councilor Ripma moved to adopt the resolution adopting a legal defense policy for tort actions against public bodies pursuant to the obligations of the Oregon Revised Statutes 30.260 through 30.300. Seconded by Councilor White.**

**VOTE: Councilor Lauer – Yes; Councilor Morgan – No; Mayor Ryan – Yes; Councilor White – Yes; Councilor Hudson – Yes; Mayor Ryan – Yes and Councilor Ripma – Yes.**

Motion passes 6-0.

## 6. STAFF COMMUNICATIONS

Ray Young, Interim City Manager, states you will be, hopefully by Thursday, getting a large packet of information for your meeting next Tuesday evening. I would strongly suggest you read through it carefully. All of you who told me that you wanted to be at the City of the Capitol Day I have registered you all up for that and we'll talk later about travel arrangements. You need to understand that our City Recorder, Sarah, has been displaced. There was flooding in her office after the ice and snow and she is now over at the administrative offices. Be aware that we put down hundreds of yards of sand on the roads in the City. You do realize it goes down a lot faster than it comes up. They are working a lot to get those swept up in that sweeper and getting it off the roads. We're doing everything we can to get that off the roads. Tri-Met has had 2 buses that go down to Glenn Otto. Tri-Met will be shifting bus #81 in the fall to go over to the TRIP area. There's no bus service over there where Fed-Ex is and all the other new businesses coming into. The #80 bus will continue to go to Glenn Otto. On the Troutdale to Gresham trail that has been in the news a lot lately, Metro has a tentative date for the end of February to take public comment from the citizens of Troutdale. As soon as that is finalized both the City and Metro will be making sure that information is presented out to all the citizens and to you so that everyone and anyone that wants to comment within the City of Troutdale have that opportunity toward the end of February.

## 7. COUNCIL COMMUNICATIONS

Councilor Lauer states I want to talk to Paul Wilcox real quick and say thank you for bringing up the topic of the potential relaxed dress code of the Council. Thanks Paul.

Councilor Morgan states the election is over and I'm excited for the priorities to move forward.

Mayor Ryan states I like the way we have started, I like the way the base of the meetings are going, I like the energy we've had and I hope to keep things positive. I also would like to say, Mr. Wilcox, I also would like to not do the dress code myself. I was also very impressed with the Robotics Team and how well they spoke in front of all of us. That was fantastic.

Councilor White states I don't have anything tonight.

Councilor Allen states I would like to echo what Councilor Morgan had said that it's a new year and it's a new Council and I look forward to what we can do.

Councilor Hudson states nothing for this evening.

Councilor Ripma states I wanted to comment to Paul Wilcox that I got a robotic call Wednesday morning from Waste Management telling me that it would be a week for pickup. This Sunday the 29<sup>th</sup> the Troutdale Historical Society is holding a City Landmarks

Session on 3 historic properties. It's going to be held at the Cedar School which is just south of the city limits on Troutdale Road about a mile south of my house. It's an old school house and that will be one of the locations and history given. The other 2 are my house, the old Sweetbriar Farm, which was the home of a former City Councilor and then the Old Church on 4<sup>th</sup> which is the third property that we're going to have a little history on. It's at 2:00pm on the 29<sup>th</sup> at Cedar School.

## 8. ADJOURNMENT

**MOTION:** Councilor Ripma moved to adjourn. Seconded by Councilor White. Motion passed unanimously.

Meeting adjourned at 8:27pm.

  
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Casey Ryan, Mayor  
Dated: 4/24/2017

**ATTEST:**

  
\_\_\_\_\_  
Kenda Schlaht, Deputy City Recorder



**CITY OF TROUTDALE**  
 City Council – Regular Meeting  
 7:00PM

**Tuesday, January 24, 2017**  
**PLEASE SIGN IN**

Name – Please Print	Address	Phone #
Keith Bruce	3917 SE Douglas Ct	—
Michael Alaimo	701 SW 25th Ave #42	—
Wendy + Mark Stevens	1624 SW FOX AVE	—
Sara Berghold	648 SE Harlow Ave	—
J Wilson	1306 SW 24th St.	
Sam B...	2609 SE Stark	
Robert Canfield	Troutdale	
PAUL WILCOX	TROUTDALE	
Paula Goldie	"	
Diane Castle	Troutdale	503-888-1425
Carol Ellen	Troutdale	503-701-8979
Melissa + Tim Longstreth	Troutdale	(503) 521-9104
R.V. Goldie	TROUTDALE	503-661-0126
GEORGE ZUPKO	SAN FRANCISCO	415 595 0576