

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

Tuesday, March 10, 2009

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

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

PRESENT: Mayor Kight, Councilor Hartmann, Councilor Wand, Councilor Thomas, Councilor White, Councilor Kyle, and Councilor Daoust.

ABSENT: None.

STAFF: Dave Nelson, City Administrator; David Ross, City Attorney; Rich Faith, Community Development Director; Scott Anderson, Chief of Police; and Sarah Skroch, Deputy City Recorder.

GUESTS: See Attached List.

Mayor Kight asked is there an agenda update?

Dave Nelson, City Administrator, replied there is no agenda update.

2. CONSENT AGENDA:

2.1 ACCEPT MINUTES: February 24, 2009 Regular Meeting.

MOTION: Councilor Daoust moved to adopt the consent agenda. Seconded by Councilor Wand. Motion passed unanimously.

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

Amanda Fritz, City of Portland Commissioner, stated I am the Commissioner in charge of both the Office of Cable Communications and Franchise Management and the Bureau of Emergency Communications Center which is 911. Both of those bureaus are County wide rather than just the City of Portland. I wanted to say that I'm very grateful for your partnership in those bureaus. We greatly appreciate being able to work together. I wanted to introduce myself so that if you have any issues, concerns, or comments then you will know the person at the City of Portland to call to get those concerns answered.

Mayor Kight stated during these times it's critical for all levels of government to work in a collaborative effort. I appreciate you coming out here.

Travis Churney and Travis Johnston, both Troutdale Residents, came before the Council to raise concerns regarding the abandoned vehicle code and the possible abuse of it by Jack Hanna the Code Enforcement Officer.

Travis Churney stated I have received a \$600 fine for having my van in my driveway but it did have expired tags. I bought the vehicle and had it for about 3 weeks. My wife was driving it and it over heated and blew the head gasket. I was out of town for a few days so I instructed her to park it in the driveway until I got home. When I got home on Friday I had it towed to a repair shop to get fixed and on that Saturday I received a fine in the mail. I have gotten notices from Jack for a few other vehicles that I had with expired tags and I complied with him and did what he wanted me to do. My main concern is if he's following the law, it's almost like he's dictating his own rules because I have a list of several vehicles in our neighborhood that don't meet the code. There is a boat sitting on someone's lawn that has an expired registration from 2003. I've made several calls to the Police Sergeant and made a call to your office but didn't receive a call back. I'm trying to figure out what the law is for storage of an abandoned vehicle when it's not an abandoned vehicle.

Mayor Kight asked are you saying that the Code Enforcement Officer is making selective enforcement and he's singling you out?

Travis Churney replied exactly.

Mayor Kight asked have you been adjudicated and assessed a fine?

Travis Churney replied yes. Jack said if I didn't plead guilty then the case would go to trial and he had enough documentation to impose a \$1,000 fine for each of my 4 violations. It felt like he was trying to make me plead guilty. I can't pay a \$4,000 fine so I plead guilty and the judge lowered my fine from \$600 to \$250. I don't think it's fair because I did what he wanted me to do.

Mayor Kight asked Dave, can you look into this and get back to us?

Dave Nelson replied I can do that.

Travis Johnston stated I was completely compliant with my reading and interpretation of the code which led me to register my project vehicle as an all terrain vehicle which is legal and does provide valid registration which I paid for and received through the DMV. I was told it was non-compliant and my argument was not persuasive enough. Whether I was persuasive enough or not, I was within the bounds of the code. At this point I've not only suffered a monetary loss but the vehicle is gone. I was told that there was a warrant issued for my vehicle that would include the contents of my home. At that point I had to stand up and say that is ridiculous. Anytime someone can come into my house and remove by force a piece of my property is going above and beyond. I believe Mr. Hanna has abused his authority. I have a copy of legislation that's been presented at

the State level and has passed by multiple states that better defines an inoperable vehicle whether it be for project or for parts and where it should be kept.

A copy of the State language that Travis Johnston discussed can be found in the meeting packet.

Councilor Wand asked does our Code Compliance or Municipal Court have equitable powers?

David Ross replied there is an inspection warrant provision in the nuisance code in Chapter 8.28. We can't go inside a dwelling and start taking property out but an officer can get a warrant to go on the property to inspect and take photographs of the subject of the alleged nuisance. They can also go on the property to tow a vehicle after proper notice has been given. I don't believe we go into closed driveways to tow vehicles.

Travis Johnston stated I'm not asking for reimbursement of my monetary loss but I'm asking for change. I don't believe I was treated fairly.

Mayor Kight asked is it true that a person can have a car or vehicle, work on it inside a garage, and it's not an issue?

David Ross replied my recollection of the code is that you can work on it inside a closed garage if you're doing minor repairs. The code defines what is and isn't allowed but I don't have it committed to memory.

Councilor Wand asked what kind of a record do we keep for municipal hearings?

David Ross replied the Troutdale Municipal Court is not a court of record.

Councilor Hartmann asked what authority does Mr. Hanna have to be reciting the code and interpreting the law?

David Ross replied he's the Code Enforcement Officer so he has the authority to issue citations for code violations.

Mayor Kight stated we'll look into this issue.

David Kolberg, Troutdale Resident, stated I'm Travis Churney's landlord. He came to pay rent and said he got a ticket for parking his vehicle the wrong way. I went out my door and there were two cars facing the wrong way on my street. I said that was unfair because those cars are that way all the time.

Mayor Kight stated I'm getting the message of potential selective enforcement.

Councilor White stated I noticed in the Champion that Jack Hanna will be conducting a meeting on Code Enforcement. I think it's good to know that Code Enforcement is

primarily complaint driven. If it feels that you are being singled out it could be because someone is complaining about it.

Dale Bailey, Troutdale Resident, stated I'm unemployed and my tags are going to be expired pretty soon. What am I going to do with my vehicle?

Mayor Kight asked can you put it in your garage?

Dale Bailey replied I don't have room in my garage.

Mayor Kight asked is there any way to get a temporary tag?

Dale Bailey replied I'm unemployed and I don't have any money.

Mayor Kight asked is there a way to store it at a friend's house?

Dale Bailey replied I might be able to do that.

4. PUBLIC HEARING / ORDINANCE (Introduction): An ordinance to amend Troutdale Municipal Code Section 2.20.120C Public Safety Advisory Committee membership to add one position at large for a total of nine members.

Mayor Kight opened the public hearing at 7:29pm.

Scott Anderson, Chief of Police, stated the request to amend this ordinance came about at the last Public Safety Advisory Committee meeting. The current make up of the Committee is 8 members. We've just announced our new goals for 2009 and sent them to you. As we convened to delegate these goals it was apparent that we were going to need another member on the Committee to make the best use of our time. As a result of that we are recommending that we increase the membership from 8 to 9 by adding an at large position. In doing so we feel that there's going to be minimal fiscal impact, if any at all. We know we'd be able to complete the work that is before us in a more efficient manner.

Councilor Thomas stated when we were going through the last committee recruitment process, one of the recommendations was to possibly give up the Reynolds School District Employee position and making it an at large position. Why did you opt to keep that position since we've never been able to get anyone to fill it?

Scott Anderson replied I was hired on December 15th and in January I met with the new Reynolds School District Superintendent, Dr. Fisher. I indicated to him that in the past we were unable to fill that position and we felt that it was very important to have Reynolds School District represented. He indicated to me that he'd try to see if there was a level of interest to come forward and serve on such a committee. He responded that there are 4 members that are interested and would apply if we announced the opening for that position. I reported back to the committee that it looked like there may

be some interest and asked if they recommend that we pursue this avenue rather than making it an at large position.

Councilor Thomas stated I'm concerned about making the committee larger because larger committees are more challenging to work with. Do you see that as an issue?

Scott Anderson replied I really don't. I see it as complimentary to the aggressive goals that we've set for ourselves. Also, in the case of a tie vote it would be broken with an odd number on the Committee. I don't see it as a hindrance at all.

Mayor Kight stated I want to compliment the Committee on establishing goals. They identified them, wrote them out, and sent them to the City Council.

Councilor White asked is the selection process similar to the process for the other City Committees?

Mayor Kight replied it's identical.

Councilor White asked are you planning on adding this person during the next recruitment?

Scott Anderson replied we're hoping that you'll adopt this so we can get the message out, recruit, and have the interview process as soon as possible.

Dave Nelson stated one of the Council members would have to ask us to open up a recruitment for that position if you adopt this ordinance at the next reading. It's not done automatically, one of you would have to ask for it to be done.

Councilor White asked would we have to advertise it in the Champion and go through the same process?

Dave Nelson replied yes.

Councilor White stated my concern is doing this mid stream because it'll mean an extra meeting and another notice. I think it's a good idea to have 9 people but would it dramatically affect you if you had to wait?

Scott Anderson replied that would be a problem for us because we wouldn't be able to move as efficiently as we could with 9 members.

Dave Nelson stated in the process of doing this we noticed a couple of changes that were not incorporated into the staff report or in the change to the ordinance that we'd like to include in this first reading and then incorporate into the second reading on the 24th. Those changes include Section 2.20.010 #5 Public Safety Advisory Committee, the membership should be changed from 8 residents to 9 and from 3 residents at large to 4. In the same section under the Term it would need to be changed from 3 residents

at large to 4. Finally there was a typographical error found in the same section under Authority that needs to be changed from 2.20.110 to 2.20.120. These changes were not included in this ordinance but we'd like to get that on the record and we'll bring it back in the second reading.

Councilor Daoust asked you said after we approve the ordinance at the next reading that we'd have to request that recruitment?

Dave Nelson replied the way that the Committees and Commissions section of the code is written the Council needs to request staff to open up the recruitment process because it is outside the normal recruitment process.

Councilor Wand asked do we need a motion to amend the proposed ordinance on the first reading in conjunction with what Mr. Nelson told us about the other areas of the code that need to be changed?

David Ross replied I think it's insignificant enough that we can clean it up at the second reading.

Councilor Thomas asked don't we already have some alternates for this Committee?

Scott Anderson replied there is 1 alternate, Tina Tebbens. She could be appointed to the resident at large position.

Councilor Thomas stated I recall something about us asking that the Committee continue to try to find someone to fill that position. I'm not sure that we closed it.

Dave Nelson replied since Chief Anderson began I've spoke with Andrea Watson from the School District and she provided me with a few names of people that live in the City and would be interested in applying. In the past we've had people that fit that criteria but they've chose not to apply. This time we had a longer list of interested people.

Councilor Thomas stated my assertion here is that since we already have an alternate to fill the at large position then we wouldn't need to open the recruitment. I would ask you all to find someone to fill the other positions and then it would be a matter of coming before us with a recommendation.

Dave Nelson stated I'm not sure when you asked us to do that.

Councilor Thomas replied I thought that when we were going through the selection process that we'd asked you to try to find somebody to fill that position.

Dave Nelson stated I wasn't part of the Committee Commission interviews. If you're asking us to, we can open up that position right away and start the recruitment. The reason that I wanted to wait two weeks was in the event that you pass this ordinance and we want to fill the alternate position too. You could direct us to open the

recruitment now for the Reynolds School District position, the Student position, and to fill the alternate but the down side is that you haven't changed the ordinance yet.

MOTION: Councilor Thomas moved to continue to recruit for the Reynolds School District position and the High School/College student position. The motion failed due to the lack of a second.

Mayor Kight asked is there any public comment?

There was none.

Mayor Kight closed the public hearing at 7:52pm.

5. STAFF COMMUNICATIONS

Dave Nelson stated I received a few e-mails and a phone call regarding the Council Goals spreadsheet that I sent to you and that it was difficult to view because of the small print. I modified the spreadsheet so the print is larger and I will hand out hard copies tonight.

6. COUNCIL COMMUNICATIONS

Councilor Wand stated I wanted to announce that the Reynolds High School Mock Trial team went to a competition February 20, 2009 at the Clackamas County Courthouse in Oregon City. The team was coached by Lauren Smith who is an excellent teacher as well as Rick Stern who is a retired teacher and has come out of retirement every year after a 30 year career to coach the Mock Trial team. My law partner Steve Maddoux and I have been working with them over the years. I wanted to read their names into the record: Vladimir Kozyrev, Hillary Cosio, Carla Vazquez, K.J. Jacobsen, Ryan Rhodes, Max Johnson, Daniel Lopez, Megan Underwood, Antonio Ramirez, Keyara Stamps, and Jimmy Smith. These are high school students who get a prepackaged set of materials including affidavits. Some of the students are actors and play witnesses, other students portray attorneys, they learn both sides of the case, give speeches, they cross examine, they take direct examination and they're typically judged by City judges or lawyers in the community.

Mayor Kight stated there is going to be a change to the I-84 Sandy River Bridge. They will be changing the cement façade on the bridge due to problems with seismic activity that would preclude having a heavier bridge. They need a lighter weight material, steel girders, in order to address that problem. There will be an open house at the Sam Cox Building in Glenn Otto Park on March 23rd from 5:00pm to 7:00pm.

7. ADJOURNMENT

MOTION: Councilor Daoust moved to adjourn. Seconded by Councilor Hartmann. Motion passed unanimously.

Meeting adjourned at 7:56pm.

Jim Kight, Mayor
Approved April 14, 2009

ATTEST:

Sarah Skroch, Deputy City Recorder