

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

March 25, 2003

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

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

PRESENT: Mayor Thalhofer, Councilor Gorsek, Councilor Thomas, Councilor Kight, Councilor Kyle, and Councilor Ripma (7:12).

ABSENT: Councilor Daoust (excused).

STAFF: Jim Galloway, Public Works Director; Rich Faith, Community Development Director; David Nelson, Chief of Police; Debbie Stickney, City Recorder and Marnie Allen, City Attorney (7:18).

GUESTS: See Attached List.

Mayor Thalhofer asked are there any agenda updates?

Galloway replied we are recommending that Agenda Item #7 be deferred to a future agenda.

2. CONSENT AGENDA:

2.1 Accept Minutes: February 25, 2003 Regular meeting, February 25, 2003 Work Session and March 4, 2003 Work Session.

2.2 Motion: A Motion to adopt the City of Troutdale 2003 Council Goals.

MOTION: Councilor Thomas moved to adopt the consent agenda. Seconded by Councilor Kight. Motion passed unanimously.

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

None.

4. REPORT: Results of the Citizen Survey.

Chief David Nelson reviewed the staff report contained in the packet.

Councilor Thomas asked how do you maintain contact with the people?

Chief Nelson replied we have a number of ways. Attending public meetings, community meetings and we are still answering all of our calls for service in person unless they request to have the information taken over the phone. We have public relation programs primarily through DARE and the School Resource Officer. We try to make appearances at our community events like SummerFest.

Mayor Thalhoffer asked is there anyone else that can do the criminal investigations?

Chief Nelson replied no.

Mayor Thalhoffer stated we hoped at one time that Multnomah County could do the more intensive criminal investigations but they are so short of officers that it is probably all they can do to put people in the correction system.

Chief Nelson stated the only investigations that the Sheriff's Office conducts for our department are child abuse investigations. We do very minor child abuse investigations here. The other area where we do participate is the major crimes team with the Sheriffs Office, Gresham Police Department, Fairview Police Department, Oregon State Police and District Attorneys Office. That works well on the major crimes. It is the crimes that occur below that level where we are falling short and the Sheriffs Office is not in the position to help us out. We had to pull out of the Special Investigations Unit and I understand that unit is going away at the county level due to budget cuts. Because of the county's financial position they have to charge us for services such as hazmat cleanup and narcotics investigations.

Councilor Kight asked is there still an ongoing study being done to merge with other police departments?

Chief Nelson replied there has been some discussions through the City of Gresham for a policing district to look at ways to reduce costs. It is my understanding that most of the cities in east county want to maintain their identity and they want to keep their own police departments.

Councilor Kight stated in Table 17.1 of the survey it indicates that the people would like to see more visible police presence. What measures do you feel you can put in place that will make this happen?

Chief Nelson replied by having to pull our patrol officers off the street to conduct investigations it reduces the visibility of our officers to our citizens. To alleviate this we either have to pay overtime for someone to conduct the investigation or we pull someone from the patrol shift and reassign them to go out and do a follow-up investigation.

Councilor Kight asked have we increased the traffic patrols with the motorcycle unit?

Chief Nelson replied no. Right now our traffic officer is in a different capacity, he is actually on the graveyard shift because we are short staffed.

Councilor Kight asked there is a considerable jump under other crimes from 7% to 18%, but there is no definition of what other crimes means.

Chief Nelson stated my guess would be that it is related to identity theft, which is on a rise and they are very time consuming.

Councilor Kight asked is there a way to outsource any of the investigation work to an off-duty police officer or another agency so we could save some money? Would that be cost effective?

Chief Nelson replied I have not heard of that being done. I am not sure if an officer could be sworn into two different agencies at the same time, but I can look into it.

Councilor Kyle asked in Table 14 of the survey it shows gang activity as going down slightly and the concern has gone down. Are we having any gang related incidents in the city?

Chief Nelson replied yes, primarily at the high school.

Councilor Gorsek stated I think the one thing that is really positive when I looked through the survey is that people feel safe here. One of the important things for a police agency to do is not just respond to calls but also to create an atmosphere that makes people feel good. I think that the police department is obviously doing something very well, because these are pretty good numbers. Nationally, while crime was going down, fear was going up, so it is nice to see these kinds of numbers in our community. I think it is interesting that the county is charging us for services such as the hazmat and narcotics investigations. Don't we all pay county taxes for these services? So we are receiving less service and paying more?

Chief Nelson replied yes.

Councilor Ripma asked how long has the county been charging us for investigations?

Chief Nelson replied I believe since the summer of 2001.

Councilor Ripma asked do any other counties in the state charge cities for their investigations?

Chief Nelson replied I am not aware of any.

Councilor Ripma stated I think from the results of the survey and from what I know, you are doing a very good job with the resources that you have. Our police department is one of the best things about Troutdale.

5. PUBLIC HEARING / ORDINANCE (Introduced 3/11/03): An Ordinance regarding responsibility and liability for sidewalks, curbs, driveway approaches and planting/landscaping strips and amending Section 12.05.080 of the Troutdale Municipal Code.

Mayor Thalhoffer read the ordinance title and opened the public hearing at 7:48pm.

Jim Galloway, Public Works Director reviewed the staff report contained in the packet.

Galloway stated at the last council meeting there were a couple of questions that were asked and I would like to respond to those. One question was, are weeds within the right-of-way handled elsewhere in the municipal code. The answer to that is yes, the weeds are listed as a nuisance in Chapter 8.28. Another question asked was if the trimming of tree limbs was covered somewhere else in the code. The answer to that is yes, it is covered in Chapter 13.10, which deals with trees.

Councilor Thomas asked how do you determine if there is a problem that needs to be repaired? I don't see anything in here that defines that.

Galloway replied we have a document that was borrowed from the City of Portland's Maintenance Bureau that I believe uses the figure of a ½ inch or greater variation in the elevation of the sidewalk would warrant corrective action.

Councilor Thomas asked if they were to grind it off at an angle, would that take care of the situation?

Galloway replied I think we would probably want to look into that. There have been a few instances in the city where someone has tried the grinding process and we really found that it creates an extremely slick portion of concrete that becomes a slipping hazard.

Councilor Thomas asked if we have to take someone to court, do we have any means to recover our court costs other than the fine?

Galloway replied I don't believe so.

Councilor Thomas asked when we are dealing with the public right-of-way we have a lot of areas that have trails along the street where there are no sidewalks. Does the same liability apply if there is a tree root that could cause someone to trip?

Galloway replied as far as what we are trying to address here, no, this only applies to a paved sidewalk. I don't know if there is any liability on either the city or adjacent property owner if someone tripped and fell in that scenario. That is not what we are aiming at here.

Mayor Thalhoffer asked if a person makes a complaint regarding a sidewalk the city could initiate a proceeding in municipal court to compel the property owner to repair the sidewalk.

In addition to that the person could be fined between \$200 and \$1,000 and/or require reimbursement if the city performs the work. That \$1,000 fine is pretty high.

Galloway replied I don't want to speak for Judge Young but I assume that probably in many cases when someone appears before him and it is a first offense he may work on the lower end of the scale. If someone has to appear before the Judge multiple times he may work near the higher end of the scale. I would be very surprised if he were to impose that \$1,000 penalty on someone for a first offense. For clarification, the first step in the process would not be citing someone into court. That is really one of the last steps in the process after other things have failed. The procedure would be if someone observed what they felt was a defective sidewalk and reported it to us, we would go out and take a look. If we concurred that it was a problem and it needs to be repaired we would send a letter to the property owner. Assuming that we heard back from the property owner there would typically be a dialog about getting the repair done and the time period. We have been very liberal about granting extensions of time if the weather is not cooperating or they can't find a contractor that is willing to do a small job. Citing someone into court is really the last step we take if someone totally ignores us or they just keep putting off the repairs until we conclude that they really don't have any intention of complying.

Councilor Kight asked in case we are the prevailing party in a case where we have brought a property owner into court, is there any way to recover our court costs and attorney fees?

Marnie Allen, City Attorney replied I wish there was a definitive answer. I think that is a complicated question and I would prefer to look into it more. We have talked about this before because there are other situations when the city cites people into municipal court. There is a line over which when the city is citing someone into court and making that person come to court and then charging them for all of those costs, you run into some due process and constitutional limitations. I have not really given that a lot of thought in this case. Typically what most jurisdictions do is recover those cost via the penalty that is imposed as a result of citing them into court.

Councilor Kight asked what kind of cost does the city incur if we do cite someone into court?

Galloway replied I don't have a firm number. There is staff time in preparing the complaint, the citation is served by one of our officers and there is the actual appearance in court by a staff member. You have the Judge and Court Clerk that would be involved in hearing the matter. I would estimate that there is usually two to three hours of staff time involved.

Councilor Kight asked what kind of standards do you have for sidewalk construction?

Galloway replied we have a published construction standards document. That document covers the requirements for the sidewalk construction. We have two inspections that occur, one is after the sidewalk is formed but prior to the concrete being poured and the second inspection is after the concrete is poured.

Councilor Kyle asked what do we do to enforce weed or tree trimming? Is there a fine imposed?

Galloway replied I don't have the answers to those questions, that is handled by another department.

Councilor Gorsek asked Rich Faith can you answer Councilor Kyle's question?

Rich Faith, Community Development Director stated the issue of trimming trees, bushes and weed control is all contained within the nuisance code. There is a code compliance officer within the community development department whose primary task is the enforcement of the nuisance code.

Councilor Kyle asked are those also complaint driven like the sidewalks?

Faith replied I will not say that they are complaint driven one hundred percent, but in most instances they are complaint driven.

Councilor Gorsek asked do you know what the fines are?

Faith replied in the nuisance code we also have a fine of up to \$1,000. In addition to the fine that the municipal court judge can impose, we also have a penalty provision that automatically kicks in if someone fails to comply after the notices and they are eventually cited into court.

Councilor Thomas asked when the letter is sent to the property owners informing them that they need to repair the sidewalk, do we provide the construction standards or information on where they can get those standards in the letter?

Galloway replied I know they are provided but I am not sure if they get that information in the initial letter or if they get that when they contact us and say they are ready to make arrangements for the repair. We do provide it at some point in the process.

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

No testimony received.

Mayor Thalhofer closed the public hearing at 7:59pm.

MOTION: Councilor Ripma moved to adopt the ordinance. Seconded by Councilor Kight.

Councilor Ripma stated I think this is a very sensible change.

Councilor Kight stated this clearly outlines the responsibility to the adjacent property owner that they are to take care and maintain the sidewalk and curb.

VOTE: Councilor Thomas – Yes; Mayor Thalsofer – Yes; Councilor Kight – Yes; Councilor Kyle – No; Councilor Gorsek – Yes; Councilor Ripma – Yes.

Motion passed 5-1

6. PUBLIC HEARING / ORDINANCE (Introduction): An Ordinance naming a stubbed street in Fleur-De-Lis Subdivision as SW Laura Avenue.

Mayor Thalsofer read the ordinance title and opened the public hearing at 8:05pm.

Rich Faith, Community Development Director reviewed the staff report contained in the packet.

Faith stated you have been provided a copy of a letter from the one property that is affected by this address change, which states that they do approve of the change.

Council had no questions.

Mayor Thalsofer asked is there anyone here that would like to speak to us on this issue?

No testimony received.

Mayor Thalsofer closed the public hearing at 8:11pm and stated there will be a second public hearing on April 8th.

7. PUBLIC HEARING / ORDINANCE (Introduction): An Ordinance amending Chapter 2.08 of the Troutdale Municipal Code, Rules of the City Council.

Mayor Thalsofer stated this item has been postponed. We will take this issue up at the next available work session.

8. COUNCIL CONCERNS AND INITIATIVES:

Councilor Thomas stated last week I attended a seminar for economic growth. I would hope that the city council would try to endorse that and see what we can do to improve businesses especially out here in East County.

Mayor Thalsofer asked what would we be endorsing?

Councilor Thomas replied it is not endorsing a particular group as much as it is working with the other cities to try and see what we can do to enhance businesses and promote the east side by having the city council become more aware and by trying to attend these types of meetings.

Mayor Thalsofer stated we do work with the City of Gresham's Economic Development Department and I attend the East Metro Economic Alliance (EMEA) meetings on a regular

basis. This organization is just getting started and we have mostly government types attending and we need more businesses attending these meetings. EMEA should be about private sector business with the government helping.

Mayor Thalsofer stated we need to keep the coalition armed forces in our thoughts and prayers as they go forward and hope and pray that they come home safely.

Councilor Kight stated to bring the new councilors up to speed we have involved Gresham's economic development group in our Oregon Science and Technology Park. We held the kick-off at Caswell Gallery, which included both the Troutdale and Gresham Chambers as well as many other civic leaders.

Councilor Gorsek stated I continue to worry about the state of our school in Oregon. My child had one week off before spring break and then another week off for spring break and it is all based upon the fine people in the Legislature that still haven't funded schools to an adequate level. I would hope that our local representatives would lead the fight in getting better financing. I think it is important to explore all avenues of economic development.

Councilor Ripma stated I share the Mayor's feelings and the war is constantly on my mind as I am sure it is all of ours. I wish our troops the best and hope that they do come home soon and that we honor the fallen.

9. ADJOURNMENT:

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

Meeting adjourned at 8:19pm.

Paul Thalsofer, Mayor

Approved April 8, 2003

ATTEST:

Debbie Stickney, City Recorder