

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

**April 22, 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 Ripma, Councilor Kight, Councilor Kyle, and Councilor Daoust.

**ABSENT:** Councilor Thomas (excused).

**STAFF:** Erik Kvarsten, City Administrator; Jim Galloway, Public Works Director; Rich Faith, Community Development Director; Marnie Allen, City Attorney; Debbie Stickney, City Recorder.

**GUESTS:** See Attached List.

Mayor Thalhofer asked are there any agenda updates?

Kvarsten replied we have no changes this evening.

**2. CONSENT AGENDA:**

**2.1 Accept Minutes:** March 25, 2003 Work Session and April 8, 2003 Regular meeting.

**2.2 Motion:** A Motion approving an Intergovernmental Agreement with the City of Gresham for Economic Development Services.

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

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

None.

**4. PROCLAMATION: Proclaiming April 26, 2003 as Arbor Day in the City of Troutdale.**

Mayor Thalhoffer read the proclamation.

Mayor Thalhoffer stated activities planned in Troutdale include the planting of 1100 seedling trees in various locations within the city's greenways. The largest planting will be at the north end of Beaver Creek Canyon. This will be done as a collective effort of City staff, Boy Scouts of America and coordinated by ReTree International, Multnomah Youth Cooperative from Reynolds High School and the Friends of Beaver Creek.

**5. UPDATE:** Update on Port of Portland Citizen Noise Advisory Committee.

David Davis, Troutdale, Fairview and Wood Village's representative on the Port of Portland Citizen Noise Advisory Committee (CNAC), provided the Council with a noise complaint summary report and flight pattern information. (copy of the report is included in the packet)

**6. PUBLIC HEARING / ORDINANCE (Introduced 4/8/03):** An Ordinance amending Chapter 8.28 of the Troutdale Municipal Code pertaining to nuisances.

Mayor Thalhoffer read the Ordinance title and opened the public hearing at 7:24pm.

Rich Faith, Community Development Director, stated the proposed amendments deal with the nuisance code and are intended to clarify and correct some provisions in the code, which we felt were in need of change. At the first public hearing there was a lot of discussion regarding vehicle storage and repair. This proposed language underwent a lot of debate by the members of the Citizens Advisory Committee (CAC). The language that is being presented to you is not exactly what we started out with; it was modified by the CAC. Many of the questions that the Council had two weeks ago are the same kind of questions that the CAC struggled with, which was defining minor and major repairs; should the repairs be restricted to an enclosed building or allowed outside and the type of tools that could be used that are not offensive to neighbors. The current language regarding storage or parking of vehicles is prohibited on unpaved surface. We are making some allowances for other types of parking that will be consistent with the development code, which allows for a new type of surfacing which is porous for driveways. There will still be a restriction for parking or storage of vehicles on bare soil or grass areas with the exception of parking on parcels that are 1-acre in size or larger in which the vehicle is parked more than 100' from the public street or property line of a residential property. This language was added by the CAC after several discussions. With respect to vehicle repair, the main change is the provision dealing with repair specific to residential neighborhoods. Previously minor repair was allowed to occur within residential neighborhoods within an enclosed building. This proposed change would now distinguish between minor, major and recreational repair. Minor repair would now be allowed outside but recreational repair would need to be within an enclosed building. One other issue that was raised at the last meeting was regarding Section 8.28.075D, which is a provision that prohibits vehicles being parked in residential areas if they exceed a certain height, weight or length. The Council asked Jack Hanna to look into that and see how our current language compares to ODOT's standards. Jack has provided you with a memorandum (copy in the packet) with his findings that 8,000 pounds seems to be a

standard that is used in the Oregon Revised Statutes. Jack has also provided you with various photos (copies in the packet) of different commercial vehicles that he has taken over time; these are in response to complaints he has received from neighbors about these vehicles being parked in a neighborhood.

Councilor Kight voiced concerns regarding parking on grass or porous surfaces and the affect on the water supplies, Bull Run and Troutdale's wells.

Faith stated that is a legitimate concern. The amendments to the development code that we will be bringing forward does not allow the porous material in all instances, it will be as authorized by the director. We would evaluate a request to use that material by looking at the location and we may even require a study to be done before it is approved. We will be very sensitive to potential ground water pollution. However, just as there is concern about ground water pollution, there are also folks that are concerned about the amount of runoff that is being directed to our surface waters, like our rivers and streams, so there is attempt to balance that by minimizing the amount of runoff by allowing permeable materials to be used.

Councilor Kight asked could you explain how this 1-acre exclusion came about?

Faith replied it came about at the CAC based upon the situation of one of the members that lives on a piece of property that is removed from other residential neighborhoods and because of the size of their property they did not feel that they would create any hardship for anyone if they parked a vehicle on the back of the property.

Councilor Kyle stated I am also concerned about this exception. What is to say that a smaller piece of property in the city with a grass surface would affect Beaver Creek? I don't understand why a larger lot would be an exception and a smaller lot would not if one has no greater of an impact than the other?

Faith replied the purpose behind this exception was really not intended to address the issue of potential ground water contamination. The primary area of concern with this was simply visually or aesthetically and how that affects the people around you in terms of storing vehicles on the grass with the grass growing up around it. People do not want to see that in a highly developed residential area but in these outline areas of the city where we have larger parcels they can locate these vehicles in a manner that it is not an eyesore to the neighbors and that it should be okay.

Councilor Daoust stated the current language we have is more prohibitive than what the CAC is recommending. Previously we have prohibited the use of air-driven power tools, the proposed language would allow that. Have there been complaints about air-driven power tools?

Faith replied I can't answer the question whether there have been complaints or not. The CAC made no changes to that language. When they started discussing repairs other than minor repairs there seemed to be a legitimate purpose for people that are making recreational repairs to their vehicles and to do that properly it takes certain types of tools.

The CAC discussed the types of tools needed and concluded that welders and torches, because they involve propane tanks or explosive tanks that there are more inherent dangers and perhaps those are inappropriate and shouldn't be allowed even within an enclosed building in a residential area. An air-driven power tool can make a lot of noise but isn't necessarily a danger to the neighbors. So they determined that air-driver power tools in conjunction with recreational repairs was okay, but not allow welders or torches. That change took place simply because of the change they were considering regarding minor and recreational repair, not as something that staff brought forward as a problem.

Councilor Daoust asked so we shouldn't be concerned with where air-driven power tools are used, inside or outside?

Faith stated we know that air-driven power tools generate noise. I think the argument that was made is that it could be addressed under the noise ordinance.

Councilor Gorsek stated the exception of parking in the grass on 1-acre parcels, is it possible to require a collection system to be placed under the vehicles?

Faith replied you could but if the vehicle is required to be placed at least 100 feet from the public street it would be difficult for the code compliance officer to see if the vehicle is in compliance or not, especially if the grass is grown up around the vehicle.

Councilor Gorsek asked is there anyway to require some additional insulation be installed to keep the noise from power tools to an acceptable level?

Faith replied it may be a remedy but it isn't anything we are intending to build into the code.

Mayor Thalhoffer asked if we eliminated the recreational repair and listed what minor and major repairs are allowing minor repairs anywhere and requiring major repairs to be done in an enclosed area, wouldn't that be clearer?

Faith replied I think so.

Mayor Thalhoffer asked hypothetically speaking, a resident of Troutdale, who is a mechanic and has tools at his home, can not work on vehicles owned by his children who no longer live in his house?

Faith replied correct. He can only work on vehicles that are registered to him.

Mayor Thalhoffer asked keeping with this hypothetical situation, lets say this resident has a friend who needs some work done on his vehicle; he wouldn't be able to work on his friend's vehicle?

Faith replied no.

Mayor Thalhoffer asked if the Council agreed we could make that possible as long as he didn't charge for that service, correct?

Faith replied yes.

Mayor Thalhoffer asked could the Council also provide that storage of vehicles would be prohibited except vehicles belonging to the resident of the property?

Faith replied yes.

Mayor Thalhoffer stated I have a concern for the vehicles that people drive for their occupation not being allowed to park in their own driveway. Is there a real big problem with these commercial vehicles being parked in residential neighborhoods?

Faith replied there have been numerous complaints from neighbors regarding this.

Councilor Kight stated on page 3, Subsection C, could that be changed to read, no motor vehicle shall be parked upon any grass or exposed soil surface, except for special events and the city could issue a permit for special events not to exceed three days. This would allow vehicles to park on a grassy area for special events, which would be monitored by having a permit.

Faith stated we are already working on that very type of language in the development code amendments. There is some overlap between the parking provisions in the nuisance code and those in the development code. I think that this proposed language is clearly intended to deal with long-term permanent storage of vehicles as opposed to temporary parking.

Councilor Kyle asked the complaints regarding commercial vehicles parked in the residential neighborhoods, are they for vehicles parked in the streets or driveways?

Faith replied I believe it is both. Many of the complaints are for vehicles that are parked in the driveway but because of their size they intrude into the sidewalk. In other instances the vehicle is parked in the street and it may interfere with a neighbor trying to back out of their driveway.

Councilor Kyle asked on the photos that Jack provided to us, where did he get the weight information?

Faith replied from DMV registrations.

Councilor Kyle asked one of the photos looks just like my husbands pickup truck so he took his truck through one of ODOT's scales and his truck weighs 9,000 pounds.

Faith replied if it is not a commercial vehicle the weight does not have to be registered.

Councilor Kyle asked if the same truck was parked in a driveway and it was encroaching onto the sidewalk but it was not a commercial vehicle, would it be in violation?

Faith replied any vehicle obstructing the public sidewalk could be in violation.

Councilor Daoust asked rather than qualifying who can have their car worked on in your driveway, whether it is your sister who just needs her fan belt changed or a friend, couldn't we just limit the amount of time that a car could be worked on outside? I understand we are trying to prevent small automobile repair businesses from cropping up in residential neighborhoods.

Faith replied whether a vehicle is registered to the resident of the property, can be factually determined. A time duration is a bit more problematic to enforce. How would you verify how long the vehicle was there? The intent of the requirement of the vehicle having to be registered to the residence is to try and prevent someone from using his or her private residence for a commercial venture. If someone is doing a minor repair for a relative or neighbor and they are not abusing this, it is highly unlikely that anyone is going to complain.

Councilor Daoust stated I guess we do have to remind ourselves that this is complaint driven. The question that needs to be asked is, what is going to bother me the most? I am going to complain about a car that has been sitting there for three or four days while it is being worked on who the vehicle belongs to.

Faith stated that is another approach to take. I think there are some problems with that but it is a potential approach to take.

Councilor Kyle asked could we define a minor repair as anything that could be completed in one day.

Faith replied someone could say that the work I am doing on the vehicle has taken me three days but it could have been done in one day if I would have had a full day to devote to it, so it is still a minor repair.

Mayor Thalhoffer called for a 10-minute break at 8:17pm.

Mayor Thalhoffer reconvened the meeting at 8:31pm.

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

Brian Roberts provided the Council with a letter and photos (copy included in the packet).

Mayor Thalhoffer asked Brian to read his letter into the record.

Brian Roberts read, I am a self-employed small business owner licensed in the City of Troutdale. Mr. Hanna has notified me that parking the vehicle used in my business at my residence is in violation of city ordinance and I have been ordered to park my vehicle at

another location. I have gone to great expense to add an off-street parking space at my residence. We live on a cul-de-sac and do not have a lot of "on-street" parking. My truck is a 2000, it is clean and well maintained. I park in my driveway and it does not block the sidewalk or create a visibility hazard. My wife has a vehicle, which she drives to work. My truck is my personal transportation vehicle as well as my work vehicle. If I have to park my vehicle at another location out of the neighborhood, I would need to purchase another vehicle just to travel between my truck and my residence. The purchase of another vehicle would be a financial burden on my family. With this letter, I have provided photos of my vehicle. I have also provided pictures of other commercial vehicles parked in and around Troutdale that are company owned, not homeowner owned, and those vehicles are parked on the street. Currently Troutdale allows a motor home to be parked in a driveway. That motor home may be twice the size and weight of my truck and that a motor home may not even move for a month. I have also supplied a picture of a motor home, which to me should be considered a neighborhood eyesore. As you are considering this ordinance revision, I would recommend that you would make an exception to vehicles that can be parked off the street. I would also recommend that a size revision be considered, since I know of many trucks that are larger than my work/personal truck. To discriminate against my truck because I use it for work makes no sense to me and only creates a personal financial burden on me and my family if my truck has to be parked at another location and I must purchase a third vehicle, maintain it and keep it insured. There are many small business owners in Troutdale that this current ordinance impacts negatively.

Jim Hamman stated I own a carpet cleaning business in Troutdale. I would like to ask the council to make an amendment to the current rules to allow small business owners that are based in Troutdale to park their commercial vehicles in their driveways or on their personal property off of the street and out of the right-of-way. I have been cited by Jack Hanna for parking my commercial vehicle in my driveway and have been warned against parking it in the street. I park in my driveway every night because there is no other place to park my vehicle other than purchasing a building or renting a space somewhere. It would cost \$300 to \$500 a month to rent a parking space. That would be a burden on my family and my small business.

Roman York stated the United States Constitution is based on property rights. This is stepping on the very basic rights of the people. Our Constitution is also based on common law and the basic premise of that law is to do no harm. There is harm being done to the small businesses. Small businesses are the core for our economy. The city needs to bend over backwards and apply common sense and the premise of, do no harm. I think if there is no complaint from the neighbors, lets not harass these people. We were in a similar situation with our boat, which we resolved. When we were involved with the referendum I have never heard so many complaints against any employee of the city as I did against Mr. Hanna. I realize his job is tough but it is the way he arbitrarily dispenses his application of the ordinances. I think there is some need for ordinances like this because of the old saying that one bad apple can spoil the barrel and one bad neighbor can spoil the neighborhood. I have a couple of comments on the text of the ordinance. Section 8.28.070, line 38, animal carcasses not buried or destroyed within twenty-four hours. I hope that we are not allowing people to bury animals within the city limits because of the water wells. On line 69, 70 and

71, storage of any explosive or radioactive substance. We are living in difficult times and one thing that could be added would be any bacterial or viral agent, just in case we encounter some sick person that wants to experiment with a lab. Section 8.28.070(8), which address accumulation of debris on the property. I think it would be good to add discouraging cotton wood trees because they grow very large and they can pose a hazard because they are known to just split and fall down. I would encourage our city to add more evergreen trees. The leafy trees clog our sewers where cedars and evergreens provide beautiful greenery and oxygen throughout the year. An important part that is missing in the ordinance is storage of old tires on property. On page 2 line 71, 72 and 73, even though I do not personally own a motor home, many of my friends do. Many people have relatives that live out of town and in the summertime they visit. There is a fourteen-day limit in a six-month period. While I understand the limitation on this because we don't want a motor home to turn into a rental unit. I would propose some flexibility with this. Maybe two periods of 30-days maximum per year. Section 8.28.075 line 29. I am a certified contractor in four states and any construction manual recommends minus ¾ inch gravel for driveways. I would propose a change to this section. Regarding the commercial vehicles, I would urge the council to table this for a while and hear from the community, especially small businesses. I think the criteria that should be used is, does it offend anyone. My last issue is with the height of trees. I have a view property and I believe that our views are treasured in our city and we need to protect those views. What I would like to see is that if people plant trees on their property they should take care of those trees. I think pruning those trees to the height of the roof would be reasonable. In a different situation, I am looking down but I know in the Mayor's situation where he has trees that grew and blocked his view. So in an instance like this I believe that the height of the tree should be maintained to the bottom of his window. Again I would suggest evergreen trees because they do not block the view as much as leafy trees and you can also cut out windows by removing a branch here and there.

Richard Allen stated I have heard many good questions this evening. When I talk to people in the city the one thing that I hear is that people don't like when there are a lot of inoperable vehicles sitting on a property. I also hear the same people mention that they like to work in their garage. We don't want to criminalize the activity that is done by the average citizens. I have a house that sits on a ridge and when I look out my window in the morning I see the valley, which is a beautiful view to see. Although as much as I enjoy that view I would have a tough time telling someone who is working and earning a living that they can't park their work vehicle near their home. I might have different feelings if it were parked in front of my house, but if it is on or adjacent to their property it is fine with me. I do use welders, both gas and electric and I am safe with them. I would hope that you would consider the use of welders in a garage or building.

Terry Gilmore stated I am a long-time resident of Troutdale. In all the time that I have lived here I have noticed that it is a very diverse population. I think part of the reason for that is the ability for people to live next to each other and try to get along. Section 8.28.075 storage and repairs, I don't think there should be any exceptions for parking vehicles on grass. I don't want to take any chances with our wells. Regarding the commercial vehicles, I do sympathize with them. I am not a business owner but if you drive around the city you will see recreation vehicles parked just about anywhere they want to. There may be an ordinance for

that also, but you do see them parked everywhere. If we are complaining about people who use their vehicles for their livelihood, which are driven every day I think we are discriminating against them.

Dave Munson stated I would like to thank Jack Hanna. He has a tough job. I think we have a wonderful program trying to make the city more livable. I understand the need for home occupation business and the need to park the commercial vehicle at home. We need to work this out.

Brian Roberts stated regarding parking vehicles on larger lots 100' away from the street or abutting property lines; if some one needs to park their vehicle out in a lot like that and just leaves it sitting there they probably don't need that vehicle. What I have noticed is that a lot of people accumulate a lot of junk and before you know it you will have a wrecking yard sitting out there.

Mayor Thalhoffer closed the public hearing at 9:13pm.

**MOTION:** Councilor Ripma moved to adopt the Ordinance as amended except for the following changes; on page 3 of Exhibit 1, Section 8.28.075 delete the new language on lines 37 through 46 referring to the 100 foot exception for parking on grass; Section 8.28.075(E)(1) change the first sentence to read, "The service and repair if not in a completely enclosed building must be minor in nature." The rest of that language in E (1) would remain the way it use to read removing all of the new language added; Section 8.28.075(E)(2) would remain as proposed, leaving the new language. Seconded by Councilor Kight.

Councilor Ripma stated I am trying to reach a compromise. I think our enforcement policy in the city is complaint driven. I think the changes that went through the Citizens Advisory Committee many of them were reasonable and a compromise. I don't favor the 100' exception for cars parked on grass for all of the reasons that we have heard. Regarding the commercial vehicles, I am proposing that we leave it the way it is for now and if we want to change that we can but that was not the focus of these amendments. If we change this section to allow for commercial vehicles and remove the 8,000 lbs weight we are going to have semis parking in the neighborhoods. Repairing vehicles, I think we can reasonably allow repairs on your own vehicles outside if they are minor and if they are inside lets try allowing the major repairs.

Mayor Thalhoffer asked, Marnie, in your memorandum didn't you state that we needed to identify the types of repair?

Marnie Allen stated I did suggest that you clarify the difference between recreational and major repair because both of those terms were used in this section. What I understand Councilor Ripma's motion to be is to take out recreational all together. So if the repair is minor, which is clear in paragraph E (1) that can take place anywhere

and if it is not that kind of repair under subsection 2 it would be allowed in an enclosed building.

Councilor Kight stated regarding no motor vehicle should be parked on any grass or exposed soil surfaces, we need to protect our well water. Regarding repairing vehicles, I don't think this particular legislation is restrictive. We don't want to have someone setting up a home business of car repair. There are many reasons for this, one being the disposal of the fluids from the vehicles. A lot of times, due to the expense involved, these are not disposed of properly. I think it is important that people who own a home be able to do minor repairs on their vehicles.

Councilor Kyle stated I am concerned about the small business owners in Troutdale being penalized. I think they should be able to park their vehicle on their property, off of the street and not blocking the sidewalk. Can we take a look at this at a later date if we are not going to address that in this ordinance?

Mayor Thalhoffer stated we can make that change tonight if we want to.

Councilor Kyle stated I would like to leave Subsection D the same but add an exception to grant a permit to a commercial vehicle so it can be parked off of the street and not blocking the sidewalk on a city approved surface.

Councilor Kight asked Marnie, would these changes be considered a major change and require an additional hearing?

Marnie Allen stated the council is allowed to make amendments to the text of the ordinance at the meeting that it is being adopted. You cannot substantially revise the ordinance. I don't believe that the proposed changes classify as a substantial amendment. If there are concerns from the council you could bring this back for an additional hearing in two weeks.

Councilor Ripma stated if you are proposing to remove the commercial vehicle weight restriction a person could back a semi up next to their house, as long as it didn't block the sidewalk and was on an approved surface, is that what you meant?

Councilor Kyle replied I think 8,000 pounds might be a little light. Maybe we should look at the length of the vehicle.

**FRIENDLY AMENDEMENT:** Councilor Daoust made a friendly amendment changing Section 8.28.075(D) to read, "Within residential neighborhoods, no commercial vehicle which exceeds eight thousand pounds gross weight, twenty-one feet in length or eight feet in height shall be parked in the street unless it is a vehicle that is routinely on standby and necessary to use under emergency circumstances.

**Semi-trailers are prohibited.” Seconded by Councilor Gorsek.**

**Councilor Gorsek stated you will find a lot of private business people in our city. If we don't pass this amendment we will be saying that some business is okay, for example businesses with vans that transport people to and from the airport and a Gresham police officer that takes his car home to a house in Troutdale. So we would be saying it is okay for the cops and the airport transport business but if you have a larger vehicle that you use for your livelihood, that is not okay. I think that is unfair. In this climate we need to be vary worried about taking care of those people that still have jobs rather than trying to drive them away from the city. We have heard a lot of testimony and these people have come to the council asking for relief so they can take care of their livelihood.**

**Mayor Thalhoffer stated I generally favor the motion. I definitely agree that we needed to address the commercial vehicles for home occupations this evening. People who live in Troutdale ought to have a little freedom on how they use their own property as long as it does not become burdensome to the neighbors. One of the things that bothers me is that we are saying that the resident of the home can only work on his own vehicle(s). They should be able to also work on relatives or friends vehicles if they desire.**

**VOTE: Councilor Kight – Yes; Councilor Kyle – Yes; Councilor Daoust – Yes; Councilor Gorsek – Yes; Councilor Ripma – Yes; Mayor Thalhoffer – Yes.**

**Motion passed 6-0.**

## **7. COUNCIL CONCERNS AND INITIATIVES:**

Councilor Gorsek reminded the public that on Saturday at 9am at Troutdale Road and Stark Street the Boy Scouts and ReTree International will be planting trees as part of Arbor Day. At Mt. Hood Community College tomorrow from 6:30pm to 8pm we are going to show the film Hanford on the River, which deals with the Hanford Nuclear Power Plant system and its affects on the Columbia River. Thursday from 6:30 to 8pm there will be a discussion on the impact of war on the environment. On Saturday we are holding the Walk for Parks and People, the proceeds will be used to support the lifeguard program at Glenn Otto Park; the walk will start at 11am at Mt. Hood Community College campus.

Councilor Ripma stated on Sunday the Historical Society will meet at 2pm at City Hall. Sharron Nesbit will be interviewing a long-time Troutdale resident, Scott Cunningham.

**8. ADJOURNMENT:**

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

Meeting adjourned at 9:59pm.

**Paul Thalhofer, Mayor**

**Approved May 13, 2003**

**ATTEST:**

**Debbie Stickney, City Recorder**