

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

April 9, 2002

Mayor Thalhofer called the meeting to order at 7:02pm.

1. PLEDGE OF ALLEGIANCE, ROLL CALL, AGENDA UPDATE

Mayor Thalhofer lead the Pledge of Allegiance.

PRESENT: Smith, Ripma, Thalhofer, Kight, Rabe and Daoust.

ABSENT: Thompson

STAFF: Galloway, Hultin, Faith, Kvarsten, Allen and Stickney.

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 **Resolution: A Resolution exempting sanitary sewer lift station pump assemblies from the requirements of the TMC 2.24.050(A) and specifying the use of “Flygt” brand pump assemblies in future sanitary sewer lift stations.**
- 2.2 **Resolution: A Resolution requesting the transfer from Multnomah County to the City of Troutdale of tax foreclosed property for public non-housing purposes.**

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

3. PROCLAMATION: Multnomah County Library’s 100th Anniversary of Public Service.

Ginnie Cooper, Director of Multnomah County Libraries, stated I am here because we are celebrating 100 years since libraries in Multnomah County opened their doors without having

to pay a membership. I wanted to also share with you the history of library service here in Troutdale. I am joined by Diane McKeel, known to you in another capacity, but she is also on the Multnomah County Board. The small library that was here as a subscription library, which means you paid to belong to it, became a part of the Library Association of Portland and opened as a free and public institution in 1908. In 1910 the Troutdale reading room had grown to house nearly 1,000 books and magazines and more than 6,000 items were checked out that year. In 1912 the Library Association of Portland improved service to all the reading rooms and the Sub Branch, as it was called, in Troutdale moved into well-lit and more comfortable quarters. The Gresham reading room opened in 1913. In 1923 the Library Association of Portland signed a lease with the Town of Troutdale to open a small library in the Troutdale City Hall. That opened March 15, 1923 with a celebratory tea. In the 1950's and 1960's the population continued to grow and the Gresham Library grew as well. In the summer of 1960 the library in Troutdale closed and the library was replaced by Book Mobile service. The new Gresham Library opened in 1990, it is already about one-quarter the size it ought to be to serve the population. In October of 2000 we began construction on the Fairview Library and that opened in November of last year. We are continuing to look at options for serving Troutdale.

Diane McKeel stated I am one of the newer members of the Library Board and I thought I knew about all of the programs that the Multnomah County Library offers but I am learning about some of the new programs. This morning we had a presentation on early childhood programs. It is incredible the things that they do in that area. From a visitors center point of view, we are thrilled to have the new branch in Fairview because many visitors ask us where the closest library is.

Mayor Thalhofer read the proclamation.

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

Mayor Thalhofer asked is there anyone here that would like to speak to us on a non-agenda item?

Debbie Martin, Manager of Troutdale Motel 6, stated the property next to Motel 6 was building another hotel, which burnt down before it was completed. Since that incident nobody has taken care of or any pride in that property. It has become a very large eyesore. People have made it a dumping ground. Frontage Road has become very deteriorated because of the large trucks coming in and using the water meter there. We have people coming in and scavenging parts and stuff from the property. There is also an in-ground pool that is collecting water and trash and is very dangerous. My bosses from the corporate office in Dallas Texas came in last week, they were displeased and have instructed me to make sure that something is done about this. I informed them that I have tried. I have talked to people in the city and I have also asked for help but I have gotten no response. I am asking you to look into this.

Mayor Thalhofer asked Mr. Kvarsten can we address that issue?

Erik Kvarsten replied yes. We will report back to the Council. After the fire there have been some questions about the ownership and some other issues. It has been difficult to find the responsible party.

5. UPDATE: Mt. Hood Cable Regulatory Commission Update.

Norm Thomas, Troutdale's Representative on the Mt. Hood Cable Regulatory Commission, stated there are a few issues coming up that I wanted to make you aware of. One of those is the AT&T/Comcast merger. As you know we have 120 days from the time they file the forms to process it, which has already started. We have to finish our process and get it through all of the cities and counties by the end of June. We will be having a public hearing on the 29th of this month. Recently the FCC has handed down the ruling exempting cable modems from franchise fees. Currently, for Troutdale, that is not a big deal, we are only talking about a few hundred cable modem subscribers since it has only been available for about six months. The FCC has declared cable modems as a data service and not a telecommunication service. That has been tossed back into the courts. We currently have a franchise agreement with Western Integrated Network (WIN). At this point their parent company has filed for bankruptcy. We will be bringing something back before you to dissolve that franchise. The final issue I want to inform you of is that my term is up for renewal at the end of May. I would like to continue serving as Troutdale's representative.

6. RESOLUTION: A Resolution granting specific exceptions to the City of Troutdale Construction Standards for Public Works Facilities, for SE 5th Street east of SE Kibling Avenue and for SE Harlow Avenue between SE 3rd Street and SE 4th Street.

Mayor Thalhofer read the resolution title.

Travis Hultin, Chief Engineer, stated for some time now the public works department has been working on an ongoing effort to make improvements to a number of the streets in the downtown grid. Last winter we began designing improvements for SE 5th Street east of SE Kibling Avenue. As we began this process we started looking at the topography and we realized that it wasn't feasible to make that a through street, from Kibling to Sandy Avenue. We were also looking at what disposition we wanted to take with SE Harlow Avenue between SE 3rd and 4th Streets. It currently has no improvements other than gravel. A questionnaire was circulated to the residents asking them what their preference was with regards to improvements. The consensus was do to a partial improvement to the street of about sixty percent of its length. This is something that is doable. We brought the results of the questionnaire to the Council and the Council agreed with the consensus of the residents and directed staff to proceed with the design of those improvements, which we did. As we proceeded we ran into a few obstacles as we did on SE 5th Street and that is the subject of this resolution that is before you. Basically we are asking for several specific exceptions to the Troutdale Construction Standards. The standards outline very specific requirements for how a street is to be laid out geometrically and what elements the street should have. For both of these streets a through street is not a feasible option. It was determined that a cul-de-sac would be the appropriate treatment at the end of the street. However, building streets

in the downtown area is difficult. It is basically a retrofit situation. It is not like building a brand new subdivision where you have all the room in the world to work with. You have a constrained right-of-way, you have developed properties, you have existing trees and other elements that you are trying to work around. In designing the cul-de-sac we would only have 60 feet of right-of-way in both cases, our standards require an 80-foot diameter for a cul-de-sac. Because of the existing improvements on the surrounding properties, obtaining additional right-of-way really isn't an option. So the first exception that we are asking for is the reduction of the minimum cul-de-sac diameter from 80 feet to 52 feet in both cases. The second consideration was the sidewalks. Both streets will have sidewalks on the straight portions of the street. However, because of the constrained right-of-way we don't have a lot of room to work with and we determined that it would be best to put a sidewalk around one side of the cul-de-sac on Harlow Avenue and carry that on through to 4th Street, as previously requested by the Council. Also there is the consideration of landscaping strips. The Construction Standards require landscaping strips on all streets. Once again, the right-of-way constraints are a problem around the cul-de-sac bulb. To put in landscaping strips in some areas on both streets would require the removal of existing large trees. It didn't seem to make a lot of sense to put in a landscaping strip that was going to require you to remove a large well-established tree. So we are asking for that exception as well. With respect to the widths of the straight portion of the streets, the current standard for street width is 32 feet. On SE 5th Street the existing alignment of the adjacent streets are 24 feet wide. Considering the amount of traffic that is going to be on the street it seem prudent to carry forward and match the existing improvements on the intersecting streets. Similarly on SE Harlow Avenue the existing streets are 28 feet wide. Finally, we are asking for an exception to the maximum street grade allowed. The maximum street grade allowed by the Public Works Construction Standards is 12%. SE Harlow Avenue is considerably more than that, it is at 23%. In fact, to try to reduce that grade in any way really wouldn't be feasible. SE 3rd Street and SE 4th Street are where they are going to be and if you draw a straight line between them you get about 23%. There is also existing properties that are already set to match the existing grade, so we felt it was prudent to maintain the existing topography. To summarize, there are six exceptions that we are requesting: an exception on SE 5th Street for street width from the standard of 32' down to 24'; an exception for SE Harlow Avenue street width from 32' down to 28'; an exception on both streets for the pavement diameter for the cul-de-sac bulb from 80' to 52'; an exception on both streets for sidewalks so they are not required around the entire perimeter of the cul-de-sac; an exception for landscaping strips so that they are not required on either street; and an exception to the maximum street grade on SE Harlow Avenue to increase it from 12% to 23%.

Mayor Thalhoffer asked didn't we ask for a sidewalk on Harlow on one side of the street, is that still going to be there?

Hultin replied yes. There will be a sidewalk on both sides of the street on the straight portion. When you get to the cul-de-sac bulb the sidewalk will terminate on the east side but it will continue partially around the perimeter of the bulb on the west side and then continue on south to 4th Street and they will at that point convert from a sidewalk to a combination of stairways and landings.

Councilor Kight asked have you talked with the fire department and do you have their okay?

Hultin replied the fire departments requirement is that if the street is longer than 150' then you would need a full cul-de-sac for the trucks to turn around. We have limited the length of the street to 150' so we do not exceed that requirement.

Councilor Kight asked have you talked with the neighbors at all and have they seen the final plan?

Hultin replied we conducted our normal public involvement process that we do with all of the public works improvement projects. That includes sending out letters letting them know when the project is getting underway and what our general intentions are. As the design develops we send out updates, there have probably been two or three sent out and the last one did include the design drawings.

Councilor Kight asked for those that have a driveway adjacent to the improvements, how deep do you go into the property as far as paving?

Hultin replied typically we will only go as far as the right-of-way line. We will only replace what is existing as far as what is necessary to connect to the driveway approach. If someone already has an asphalt driveway going into their property, we will pave it with asphalt from the driveway approach to the right-of-way line. In some cases we may go a little further if it is necessary to fix the grade difference.

Councilor Kight asked have you looked into undergrounding the utilities while you are doing this project?

Hultin replied certainly storm water is something we consider anytime we are building a street, it is part of the street design. On Harlow Avenue there really isn't much of a concern, the steep grade will shed any water that falls onto that street into the existing catch basins on SE 3rd Street. On SE 5th Street we will be installing a storm water collection system. As far as overhead utility undergrounding, these segments are so small that PGE typically does not like to do this small of a segment. We have found that it is better to do large sections. For example, we would look at undergrounding as a separate project or if we are doing a long enough street you can combined it with the street improvements.

Councilor Kight stated often times we are criticized for making major street improvement and then we come in with a utility that tears up the brand new asphalt. If there is proper planning we can coordinate the street improvements and the utilities. I think we are the only city that has an undergrounding ordinance. Our goal, as the City Council, has been to underground as many utilities as possible, specifically the electrical utilities.

Hultin replied there are a couple of issues there. To bring undergrounding to this project would delay this project at least one year. I am definitely aware of the Council's policy for undergrounding utilities and we like to underground where we can. We have found that we get more cooperation from PGE, and it is probably a better expenditure of the City's money to

look at the bigger projects. For instance, right now we are looking at a project on SW 257th Avenue.

Councilor Kight asked what is the estimated date for completion of this project?

Hultin replied it will be constructed before the end of this fiscal year.

Councilor Rabe asked with the storm water, will there be an existing man hole cover or will it be a curbside grid? I am curious as to what is already existing at the bottom of the hill.

Hultin replied there are existing catch basins on SE 3rd Street along the curb.

Councilor Rabe asked since there is an abundance of trees in that area, I am just wondering whether or not there is any other kind of modifications that can be made that would help the catch basins from getting plugged on a regular basis?

Hultin replied we don't feel there is going to be any concerns regarding capacity with the catch basins on SE 3rd Street. Obviously if the catch basin gets plugged with leaves it can be a problem. That is already a concern that we have. In this particular design it is not going to alleviate or exacerbate that situation.

Councilor Rabe asked due to the steepness of that hill, occasionally they put some surface modifications into the street to enhance traction.

Hultin replied that is not something that we are considering for this street at this time.

Councilor Rabe asked will there be handrails on this other section?

Hultin replied there will be handrails where you see the stairs and the landings.

Councilor Rabe asked does this have to meet ADA requirements?

Hultin replied no. ADA has an exception for where construction of the facilities is not feasible. I am certain many of our down town streets would fall under that.

Councilor Rabe asked with the addition of the stairs is there going to be additional lighting?

Hultin replied lighting will be a separate effort following the construction of these improvements. The lighting design was going to delay the project to such that we would not be able to complete it in the timeframe that we need to complete it for funding reasons. We made the decision to do the lighting as a separate project. Let me clarify that, by lighting we are talking about the stairways. There is already some street lighting and there is additional lighting provided for in the design.

Councilor Rabe asked and the residents are aware that there will be additional street lighting?

Hultin replied yes.

Councilor Ripma stated I want to congratulate you and the entire public works department on this resolution of exceptions. To me this is what is best about Troutdale. We are doing a lot of prudent desirable exceptions to our rules because of exceptional circumstances. We are preserving what is good, the trees. I think it makes for a better city and it is what Troutdale is all about.

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

No public comment received.

MOTION: Councilor Ripma moved to adopt the resolution. Seconded by Councilor Daoust.

Councilor Daoust stated I love this kind of adaptation.

Mayor Thalhofer stated I think they did an excellent job on this.

Councilor Kight stated this puts livability back into that particular section of the town. You have done a very comprehensive job.

Councilor Smith stated this is something that should have been done a long time ago.

VOTE: Mayor Thalhofer – Yes; Councilor Kight – Yes; Councilor Rabe – Yes; Councilor Daoust – Yes; Councilor Smith – Yes; Councilor Ripma – Yes.

Motion was Approved 6-0.

7. REPORT: A Report on lighting standards for past commercial developments.

Mayor Thalhofer called this item.

Rich Faith stated at the March 12th Council meeting Robert Houghtaling raised some questions concerning the lighting standard that was thought to be applicable at the time three commercial projects were evaluated and approved in the city. Those three commercial projects were Saturn East Auto Dealership, Home Depot and Albertsons. The question that Mr. Houghtaling was asking was whether or not particular language that is currently in our code, and is the subject of some amendments that we will be addressing on the next agenda item, was in our code at the time these projects were processed and if in fact this language was there whether or not those projects met the standards contained in that language. The particular language in question is found in section 8.050(C)(3)(m) of the Development Code which reads, "Outdoor Lighting; The fixtures shall be constructed or fully shielded in such a manner that all light emitted by the luminaire, either directly from the lamp or indirectly from

the luminaire, is projected below the horizontal plane through the luminaire's lowest light emitting part." I was asked to research the question that he raised and come back to you with a report. I have done so and what I have found out is that this particular language in the code was not adopted and made a part of the Development Code until October 2000. This particular language was specifically in the code as part of the rather extensive package of amendments that the Council considered as part of our Title 3 amendments to bring our Development Code into compliance with Title 3 of the Metro Functional Plan, which dealt primarily with water quality and flood management. The planning staff had included this language in the package of amendments as a quick fix to concerns and complaints that we had been receiving about excessive outdoor lighting from the Edgefield Children's Campus. Prior to this amendment being added to our Development Code, there was no standard applicable to yard lights in commercial developments or other developments. We did have, in our site and design review chapter, which lays out the requirements for materials that need to be submitted for evaluation, that the applicant shall specify the type of lighting to be used. In our parking chapter, we did have some language that spoke to outdoor lighting and that language said, "9.090 – Lighting shall be deflected so as not to shine directly into adjoining dwellings or other types of living units and so as not to create a hazard to the public use of a street." I have attached to my report a chronology of events for the three commercial projects to let you see what the regulations were at the time and the steps that we went through in evaluating these particular projects. In conclusion, on the basis of my research of this question, what I have discovered is that the planning staff was well aware of issues surrounding outdoor lighting as we evaluated these three particular commercial projects because of their proximity to adjacent residential areas. In the absence of any clear and objective standard in the development code, as it relates to outdoor lighting, the best that we could do was use the language that we had under the parking chapter as a guide to crafting conditions to apply to outdoor lighting in these projects. I believe that we did the very best that we could to impose a condition that would address lighting problems. We did the very best to see that those conditions were complied with prior to granting approval and occupancy for those projects. That is the conclusion that I have drawn.

Mayor Thalhoffer since we do have new lighting regulations now, is there any chance of going back and asking them to conform to the new lighting standards? I guess they could say no and there isn't much we could do about it.

Faith stated we could make the effort to ask them to do so. I am sure it would be a rather costly venture to comply. In the new outdoor lighting ordinance, it does require that any time an existing light fixture is changed out that at that time they must comply with our current standard.

Councilor Kight asked if we were to apply the new standards that we have today to these three properties, what would we see different if we were to drive by or if we were in an adjoining neighborhood?

Faith replied I can't say for sure about Saturn or Albertsons but at Home Depot the outdoor parking lot lights would not be as high. We have a maximum 25' height and I believe they are at 30 to 35 feet high. The other thing is any light fixture within 50' of an adjoining property

that is zoned residential cannot exceed 15 feet in height. The other thing that would be different is that they would require more shielding. Finally, the maximum lighting intensity standard, which is .5 footcandles when measured adjacent to any residentially zoned property.

Councilor Kight stated I am wondering if we couldn't take a pragmatic approach to this instead of asking them to just comply on a sweeping basis that we might do a good, better, best. The best would bring them into full compliance but absent that maybe there could be a compromise that could be made and we could settle for the good. Maybe some of the modifications could be done at a small cost.

Faith replied I think it is worth mentioning that I am not here to defend these commercial developments. There has been an effort made for them to improve the situation and to satisfy concerns of the neighbors. In the instance of the Albertsons project, additional shields were placed on the outdoor fixtures that abut the residential properties to the north, both on the parking lot lighting and on the wall-mounted lights on the building. To my knowledge the neighbors adjacent to that development have expressed satisfaction with the results when the additional shields were installed. Home Depot placed additional shields on their wall-mounted lights and also on five of the parking lot lights to reduce the amount of glare cast onto the adjacent residents. Not to say that they have done everything that can be done or that there isn't more to be done, I am merely trying to say that I think that they have attempted to address concerns. I think one of the larger questions is how extensive is the problem and how many people are unhappy with the current lighting situation? I do not know how many people are unhappy with the current situation.

Councilor Kight asked the other issue has to do with the new standards that we currently have. Is there a particular lamp head or light product, specific models of lights, that meet the standards that we have in the new language?

Faith replied I am sure that there are. We have not conducted any research or an inventory of the different light fixtures that are manufactured to determine which ones would meet our standards. In many instances, it is not really an issue of the light fixture itself, but it is how it is retrofitted with shielding.

Councilor Kight asked are our standards higher in commercial development for shielding of lights then you would normally have with a street light?

Faith replied yes.

Councilor Rabe asked when someone wants to put a halogen lamp of equal luminaire on their house, are they also restricted?

Faith replied yes.

Councilor Rabe asked can you tell us what those restrictions are?

Faith replied if you have an outdoor light that exceeds certain wattage, there is a table in the ordinance that establishes the point at which you must shield that light so that if I am standing just beyond the property line, I can not see the light emitting source.

Councilor Rabe asked does a person need to get a permit to install such a light, or can they just wire it up and install it themselves?

Faith replied that technically requires an electrical permit. At that point we would evaluate whether or not a shield is required.

Councilor Rabe asked about how many of those applications do you see?

Faith replied not many.

Councilor Rabe stated most people just install them unless there is a complaint filed. I guess what I am getting at is there is a lot of residential light pollution in addition to the commercial stuff that goes on.

Councilor Daoust stated I am real familiar with this since I can look at all three buildings from my back yard. At first with Albertsons and Home Depot they had these spotlights that were shining right into the neighborhoods and they didn't have any shields on them, so it was a problem. Robert Haughtaling was the spokesperson for the neighborhood and he had a lot of good ideas on the types of lights that should be used. I will echo what you said, at least about Home Depot, they put mesh screening around the garden center, which cut down the lighting that was within the garden center. They turn the lights off on Sunday evening when they close so at least one night a week it is dark. They have shielded most of the lights on the building walls and this was all done voluntarily based on us working with them. They turned down the spotlights that were in the garden center. There was a lot of discomfort at first. Currently I haven't had anybody approach me or talk to me about still being dissatisfied. I guess at this point all we can do is negotiate with the manager. He seems to be very willing to work with us. Maybe one of the priorities would be to turn the lights off when the store closes at night. That would be a high priority for me. Personally, I haven't heard anything from the neighbors that surround Albertsons. I think Albertsons, from my perspective and from what I have heard from the neighbors, is okay. It is just the Home Depot parking lot lights, they are too tall so naturally you see them. I have not heard much discussion about the Saturn Dealership. If we negotiate with Home Depot we can't ask them to cut down or reduce the height of their parking lot lights, that would be pushing it. I think turning them off at a decent hour would be something we could negotiate with them. We do have to remember that the street lights that are on the streets surrounding Home Depot are in front of the parking lot lights so it doesn't completely solve the problem if all of the parking lot lights are turned off if we have street lights that are still on, and they are even taller.

Councilor Smith asked how tall are the retaining walls between the businesses and the residential neighborhoods?

Faith replied the wall around Home Depot is 4' high on a 2' high berm for a total of 6' high. The wall at Albertsons is 8' high. These are not retaining walls they were required to be installed as sound buffers.

Councilor Smith stated I was thinking that if they were taller the lights could be put in the top of the retaining wall and they could face towards the businesses, which would keep it away from the residents.

Councilor Ripma stated as I understand from your report, this is very much like any number of regulations that cities can impose, but we can't impose them retroactively. We are forbidden by state law, isn't that correct?

Faith replied yes.

Councilor Ripma stated I agree that the staff did the best that they could with what was on the books in imposing reasonable conditions. Unfortunately our powerlessness to order businesses to do something at this point is exposed. However, I agree with Councilor Daoust that I think these businesses have demonstrated a willingness to work with the neighbors and to be good neighbors. I am sure they are going to continue to want to do that and we need to encourage a meeting of the minds. There was a round of negotiations with the neighbors through the city and there was some mitigation that was done voluntarily. At this point I guess we need to do that again.

Mayor Thalhoffer called for a break at 8:40pm.

Mayor Thalhoffer reconvened the meeting at 8:52pm.

Robert Houghtaling stated I want to make reference to the lighting study. I would like to address Saturn first. If you look at the last two photos in the lighting study, as you compare what those photos show with Troutdale Development Code Chapter 9, Off Street Parking where it says lighting shall be deflected so as not to shine directly into adjoining developments or other types of living units. If you read in Mr. Faith's report, in the left hand column under Saturn, starting with the conditional use staff report where it reads "the potential for light pollution from the lighting proposed in the inventory lot may be mitigated through the use of hooded lights that will deflect the light downwards into the lot and away from the abutting residential property to the west and future developments to the north and east of the site." If you continue down and look at these other conditions I am not seeing a single one that was really met based on what is presented in this photo in the lighting study. So you have a conditional use process where you have these great expectations presented to the residents but it doesn't show up in the final development. Conditional use #4 reads, "During site and design review process, submit detailed specifications about the exterior lighting to be installed in the car inventory lot. In particular insuring that light pollution will not affect the adjoining residential zone." I have looked through the Saturn files at City Hall and I did find some drawing specifications but I didn't find anything that would insure that light pollution would not affect the adjoining residential zone and I don't see anything in reality that suggests that anyone made any effort to make this happen. Condition #7 reads, "All

proposed lighting shall be designed so that the reflector can be field rotated in order that the lighting does not glare into the adjacent residential development.” I am not a lighting expert so I can’t speak to the design of the lighting but this report that the city paid for clearly indicates that lighting does glare into the adjacent residential development. A decision was made and the development was determined to have satisfied the condition pertaining to outdoor lighting and they were given a certificate of occupancy on December 17, 1997. Why? Was it because nobody complained? I was amazed when I started looking into the Home Depot development and in my third communication with them I found out that they were not going to do anything because it is complaint driven. They are not going to do anything unless people complain. You have this huge multi-million dollar commercial development coming into an area that was a wonderful asset to the community just the way it was, it was unbelievable to me. I started getting involved and in my initial letter thirteen to fifteen people agreed and were in support of the issues I raised in my letter. At this point I am pretty much here on my own. I tried meeting with people several times and things just drag on for so long that I decided that the way I am going to approach this now is basically to look at the rules and see if I can get the rules enforced. At the last Council meeting I thought Mr. Sercombe indicated that the conditions of approval or applicable development codes were enforceable in an ongoing manner, he was going to research what conditions or codes were enforceable. Rich was going to come up with the information to support whether the conditions were met or not. What I am seeing here is a list of conditions and a statement that it was determined that the developments had satisfied the conditions. I am not seeing the backup to any of those statements. I appreciate the effort that has gone into improving some of the lighting problems at Home Depot. On page 4 of the Lighting Study there is some data in Table 2.3, existing conditions on the Home Depot property. This data represents levels of luminaries and the readings that were taken at certain points along the north property line. If you look at appendix B there is a map that shows where these points are. The first 15 points are the ones I am interested in. These are readings that were taken by directing a light meter toward the parking lot lights. If you look at the readings, they should not exceed 8.0 Lux based on the determination of the study. In the Home Depot Site and Design Review staff report, page 16 reads, “Exterior Lighting, the development is in close proximity to residential districts. Exterior lighting could have an impact unless the design of the lights chosen are able to be controlled and restricted to the area intended to be illuminated. This can be done through the use of lenses or shields.” Final Order, Finding #12 reads, “Exterior lighting on the building and in the parking lot is proposed.” Condition Number 5 reads, “Exterior light fixtures shall be of such a design that through the use of lenses or shields that the light illuminates only the desired areas on site.” Here we have a lighting study that provides proof that all the parking lot lights that were measured, and they probably only measured three, don’t meet the condition of approval. The condition of approval was that there was to be no light illuminating off site. The study kind of changes the rules, which I think is strange but the data suggests that the site can’t meet either set of rules. I would like to note that before the study was done they had already installed these partial shields in the parking lot lights, so even with the shields they are not meeting the condition of approval. In the study I was surprised that more readings around the development were not done. The condition of approval speaks to all of the lights. I picked up a Site and Design Review packet before Home Depot was built and what I saw in the conditions of approval is what created my expectations for what to expect and I thought it was under control. Back in November of 1999, in what I thought was the heat

of the discussion about lighting at Home Depot, I was surprised to find that the Community Development Department had signed off on the conditions of approval for Home Depot. It was only because I had started communicating with Mr. Kvarsten that he decided to address the issue in two ways. One was a lighting study and the other was the lighting ordinance. It was because of my interest that the final occupancy permit was held up. When the study was completed it was turned over to the city attorney to determine what to do with it. I was told I would receive notification as to what conclusions the city attorney came to in dealing with Home Depot and I didn't receive that. I followed up with a phone call and I was informed that everything was done and the certificate of occupancy was issued. I was then interested in what the logic was behind that so I called Mr. Kvarsten. A few days later I received a letter composed by Mr. Sercombe and I didn't agree with his logic in his letter. With regards to Albertsons, I agree that they have done a lot to improve the situation. I am not coming here with any complaints from the neighbors of Albertsons. It looks like 1/3 of their parking lots lights are not even being used. They are using a fixture that sends the light upwards. I don't know why they would choose that kind of fixture. My priority is Home Depot because that is what is shining in my direction but I really care about the overall affects of the lighting from all three of these developments on my neighborhood.

Bill Hughes stated I was asked by Robert to look at this issue. I am in lighting design and I am also an obtrusive light facilitator. I had never seen the sight before Friday night. Robert and I met at the Saturn Dealership and spent almost two hours walking around the three developments. He pointed out the issues that concern him. What always amazes me is how over lighted some of these areas are. There is a national standard for light in parking lots; it is a RP19 of the International Illuminating Engineering Society of North America. I think that the biggest issue you have here is the fixture that was installed was the wrong fixture. It could have been done much better and cheaper. All of the light that you see from the distance is all light that is up-light usually used in lighting the bottom of airplanes. The interesting thing about that is that about 20% of the light is in the air and 20% of the energy is basically lost. These lights that are lighting upward should either be shielded or should be change to something that doesn't allow that. There is a lot of lighting being done today using what is called a cutoff fixture and you could specify that fixture in a document for the city and you will get a good lighting design. There is a web site that can help and that is: www.darkskydark.net. That web site is helping cities all over the country to solve this kind of problem and helps them to write ordinances and standards.

Mayor Thalhoffer stated well we find ourselves where we are. These three businesses are operating and the conditions of approval were signed off on. The Community Development Department, I am sure, did to the best job they could on this but it apparently it is not satisfactory to everyone. We can go back and ask these businesses to voluntarily comply to our new regulations and maybe you could help with that. We need to realize that these businesses have cooperated to a large extent. I would suggest that we go back to them and ask for some voluntary compliance. I am sorry that we are having this continuing problem. None of us like to see that happen. It is a significant change in your environment when you have three major stores very close to a residential neighborhood. We need to do everything that we can to make it as good as we can for the surrounding neighborhoods. Do you have any problem with us trying to get some voluntary compliance? Where we are now is we have

already given them their certificate of occupancy. Are you representing other people in your neighborhood?

Houghtaling replied only one other house. That brings me back to the March 12th meeting where Mr. Sercombe was going to determine what codes were enforceable and the way he spoke it sounded like whatever the code was and whatever conditions of approval were applicable are enforceable in an ongoing manner.

Mayor Thalhoffer asked Ms. Allen could you see to it that Mr. Sercombe responds to this?

Marnie Allen, City Attorney, replied I did speak with Mr. Sercombe regarding this issue and I also spoke with Mr. Faith. It is my understanding that Mr. Sercombe and Mr. Faith left the meeting believing that the objective was to evaluate which standards applied to the existing three developments. In looking at the standards that were in place Mr. Faith has addressed that in his staff report. The existing standards that were talked about and that are currently in the code were not in place when those projects were approved, therefore the conditions of approval that were imposed under the standards at the time govern the light associated with those land uses. As you pointed out Mayor, the city has determined in issuing the certificate of occupancy that those conditions of approval have been met. If there are follow-up questions that you would like us to explore we would be happy to do that, but we believe those issues were addressed by Mr. Faith in his report.

Mayor Thalhoffer stated I think where we are is that we just need to seek voluntary compliance.

8. PUBLIC HEARING/ORDINANCE (Introduced 2/26/02 and 3/12/02): An Ordinance adopting text amendment #31 to the Troutdale Development Code relating to multiple-family residential design standards.

Mayor Thalhoffer opened the Public Hearing and read the ordinance title.

Rich Faith, Community Development Director, stated this ordinance was introduced at the February 26th Council meeting and then continued to March 12th. At the March 12th meeting I introduced some revisions from what was originally introduced to you on February 26th. In the course of the hearing on March 12th the Council requested further information on some of the issues that were brought up at that meeting. I would like to recap those issues. The first had to do with manufactured home planned developments. The Council asked the City Attorney to determine whether it is necessary for the planned development chapter to specifically mention that planned development was available for manufactured homes. The particular language is in section 4.512(B). The City Attorney has responded to that question in a separate memorandum to you. The second issue was the A-2 density within planned developments. At the last meeting West Hills Development presented testimony in support of changes to our A-2 District density standards under the planned development chapter as well as some other text changes that would allow residential density for multiple zoning properties to be distributed throughout the entire site of a planned development without limitation by the underlined zoning of the property. The particular language in question is in section

4.514(C)(1). The Council asked West Hills Development how these particular changes would affect their plans to develop the Finnigan property. In response to that question Mike Robinson of West Hills has submitted a letter and some drawings that are attached to my staff report as Exhibit "D". The third issue that came up at the last meeting dealt with the definition for "net acre". Karen Burger-Kimber spoke to that issue and raised questions about what the definition of "net acre" is when determining maximum and minimum densities for residential developments. Her particular concern was her property, which is zoned A-2, which has some significant features such as her existing house, other structures and some stands of trees that she would like to retain at the time her property is redeveloped. The concern is that if those are included in the calculation of the net area then it results in more area in determining what the maximum density is and than that in turn results in a higher number of units when you apply the minimum 80% density and the end result being that these significant features of her property would have to be removed in order to meet the minimum density standard. In evaluating that request, staff does concur with the reasoning that she brought forward and therefore we have added a definition for "net acre" that would be included in these amendments. In addition to the definition there is also a revision to section 4.514(C)(1) which is in the planned development chapter to be consistent with determining the calculation for net residential density. Both of these changes have been incorporated into Exhibit "C" which are the revisions to the original proposal. The forth issue raised at the last meeting dealt with reduced lot size and lot width standards for rowhouses. The Council had some concerns about these proposed revisions to the original amendments to reduce minimum lot size and lot width for interior lots of rowhouse developments within both the R-4 and A-2 districts. Our rationale for doing this was to clear up some discrepancies that exist between lot sizes and lot widths in these zoning districts. The fact that we have set a minimum lot size of 3,500 square feet for attached duplex and triplex dwellings and establish a minimum lot width of 20 feet would mean you would have to have a 175-foot deep parcel to meet that standard. Further more, I mentioned at the last meeting that based on current trends in the industry in the design and construction of rowhouses that a minimum 30-foot width requirement is unreasonable and rarely, if ever, could be met and therefore it would force a development to go to apartments or attached units all on one lot as opposed to creating separate lots that could be sold individually. I would like to illustrate the points that I was trying to make at the last meeting by showing you a powerpoint presentation that shows you some rowhouse developments that we currently have within the city. (Faith showed a powerpoint presentation). The purpose of this presentation was to give you a view of all our townhouse/rowhouse developments in the city to demonstrate how there is a difference between interior lots and exterior lots to account for setbacks and also to the fact that 16-foot and 24-foot and less are a norm, in fact we have none that are wider than 26 feet. Another issue raised at the last meeting had to do with outdoor lighting standards. As you recall Mr. Houghtaling was concerned with deleting the current language that we have in the code that was added in October of 2000. His concern was that the language seemed to be very clear and objective and there was no need to delete that even though we were going to be referencing the new outdoor lighting ordinance. I conceded at the time that I saw no problem with leaving that language in there as long as we do have language that references the standards in the outdoor lighting ordinance. I have reflected that in Exhibit "C" of my staff report and it leaves that particular standard in the development code. Finally, with respect to cell tower regulations, Councilor Kight asked to see some examples of cell phone tower

regulations from other communities in order to determine whether we would like to pursue something similar to that for Troutdale. I sent out copies to you last week of cell tower regulations for three different communities, Portland, Eugene and Edmonds, Washington for you to review. I will leave it at that and you can determine whether or not you want to pursue drafting regulations for cell towers. In conclusion, the Planning Commission conducting their hearing on these amendments in January and have forwarded them to you with their recommendation for adoption. Since these were originally presented to you in February other changes have been proposed and those are shown in Exhibit "C" to my staff report. Staff believes that those changes are worthwhile and recommends that the Council adopt the ordinance, which includes Exhibits "B" and "C".

Councilor Ripma asked the City Attorney's memo regarding manufactured home planned developments, I am concluding that we could safely eliminate manufactured homes as an area of application for planned developments?

Faith replied I draw the same conclusion.

Councilor Ripma stated I will propose that we do that.

Mike Robinson stated what we are asking you to do is to amend your planned development ordinance to give us a chance to make an application that we think will be a credit to your community. You will have the ultimate authority under the planned development code to approve or deny it based on the criteria. The changes that we are asking that you make, which staff has recommended that you make, are fairly consistent with what other communities do and we think they will be beneficial to your community.

Phil Morford provided the Council with some drawings (copy contained in the packet) of how the project in Troutdale might look and a project that they are currently building in Washington County.

Mayor Thalhoffer stated this should not be a presentation about your development, that is not what this is about.

Phil Morford replied Councilor Ripma had asked us at the last meeting to provide some information regarding how the development would work. I appreciate that this is not a development application, but this is the type of development that could be pursued if the changes are made to the planned development code.

Ryan O'Brian stated in the particular layout that we would like to present to the city if the change in the ordinance is made would be around 334 single-family detached housing units. We feel pretty comfortable with this density. It fits within the planned development requirements of the city. I have also included a drawing of what you could do if you did a conventional apartment complex along the perimeter of 257th. I think that might have been a good idea at one time by putting all the apartments, the high density right along the main thoroughfare. I think from what Phil has shown you, on the third page of our handout, that is an actual project that we are building along what is planned to be a major arterial street in

Hillsboro. I think it is better to have something like that than to line 257th with apartments. This is only intended to be an illustration.

Karen Burger-Kimber stated I appreciate the consideration that I was given at the last Council meeting regarding the 80% density rule and the issue of being required to maintain that minimum density of 80%. The nature of my property is that it is zoned A-2 and based on existing calculations on my 1.75 acres, to meet the 80% density, I would have to put 39 units on my property. That would require me to remove trees and my existing house to accommodate that. I would be forced to go from a rowhouse development to an apartment complex development. What I asked about at the last meeting was if we could consider calculating a different net density for properties so that the 80% rule could apply to a smaller amount of the percentage of the property. So if you had any significant features, such as natural resources, monuments or houses and you could take those out of the net acre so you would not have as high of density on the property as a whole. I want to thank Rich Faith for really being on top of this and changing the wording that would allow an existing residential use to be retained as part of a planned development. If it were not a planned development, lets say I went to the Planning Commission because my property is less then 4.5 acres and they decided that I did not meet the planned development requirements, my understanding is that I would be able to do a community resource overlay district on my property so that I could identify significant features iso that those could be removed from the net acreage. The reason I am before you tonight is that I wanted to make that a part of this record and so that I make sure that I understand what we are doing and how it will affect my property as well as other property in the city. I hope that I am understanding this correctly, that in a planned development I would be able to remove certain features from the net acre to develop at a lower density than 80% and that if I am not able to be approved for a planned development that I would be able to do a community resource overlay district to identify particular features on my property that could be removed from the net acre.

Mayor Thalhoffer asked Mr. Faith would you respond to that?

Faith replied yes, she is correct.

Councilor Ripma stated in your staff recommendation there is reference to Exhibits "B", "C" and "D", Are the development code changes as set forth in Exhibits "B" and "C" the changes we are considering tonight?

Faith replied correct. Exhibits "B" and "C" constitute the entire package of amendments that we are recommending for approval as part of this ordinance. Those amendments will be bundled as a single attachment to the ordinance.

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

No further testimony received.

Mayor Thalhoffer closed the Public Hearing at 10:15pm.

MOTION: Councilor Ripma moved to adopt the Ordinance adopting changes to the Troutdale Development Code as set forth in Exhibits “B” and “C” except to delete to following: on page 31 of Exhibit “B”, section 4.512(B) regarding Manufactured Homes. Seconded by Councilor Daoust.

Councilor Ripma stated after studying this for a month and looking at our maps, I have come to the conclusion that these are good changes. With reference to section 4.512(B), as long as we don't have to have that provision in, I think that we have done enough for the manufactured housing industry in this town and all that would do is increase the possibility for more. We have to allow them but we don't need to go this far.

Councilor Daoust stated even though I was not at the March 12th meeting I did read through all of the material and it looks like a good package to me and we have taken into account the testimony we have received.

Mayor Thalsofer stated I favor these amendments as well. I am not sure I am in favor of Councilor Ripma's objection to the manufactured home being excluded in the planned development.

Councilor Kight stated I am going to support this motion.

Councilor Rabe stated I also support the motion.

Councilor Smith stated I think that it is great that we can work together and make changes that everybody is happy with.

VOTE: Mayor Thalsofer – Yes; Councilor Kight – Yes; Councilor Rabe – Yes; Councilor Daoust – Yes; Councilor Smith – Yes; Councilor Ripma – Yes.

Motion was approved 6-0.

9. PUBLIC HEARING / ORDINANCE (Introduced 3/26/02): An Ordinance amending the Troutdale Municipal Code to regulate Speed Racing.

Mayor Thalsofer opened the Public Hearing at 10:21pm and read the Ordinance title.

Sergeant Steven Bevins stated I am sitting in for Chief Nelson tonight. I am presenting the second reading of the proposed speed racing ordinance. The subject is the prohibition of speed racing, the citing of spectators and the impounding of vehicles engaged in this activity. We have had recent fatalities and serious crashes in the Metro area. There are several surrounding cities that are adopting a speed racing ordinance. The City of Troutdale has two roads that have been areas of speed racing, NE Graham Road and NE Sundial Road. A lot of the times when I am working I have been involved where the speed racers are coming

from 185th and they have been scared out of there and they take Marine Drive East and it is a very quiet and dark area. The problem is right now what we are looking at is reckless driving or careless driving. With this ordinance it is going to give us a lot more leverage. At the March 26th meeting Councilor Kight asked if there was an alternative for people that wanted to race their personal vehicles. We have attached Exhibit "C" to our staff report, which is a schedule for Portland International Raceway and it is a program called Beat the Heat. People can race their personal cars against police vehicles or other civilians. This program was established by the Gresham Police Department. It is our recommendation that the City Council adopt this ordinance. I will answer any questions you have.

Council had no questions.

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

No public testimony received.

Mayor Thalhofer closed the Public Hearing at 10:26pm.

MOTION: Councilor Kight moved to adopt the ordinance amending the Troutdale Municipal Code to regulate speed racing. Seconded by Councilor Daoust.

Councilor Kight stated I think there is a need for this ordinance.

Councilor Rabe stated I strongly support this.

Councilor Daoust stated I think this is timely given the recent deaths. A lot of people seemed to know that we were dealing with this issue.

Councilor Smith stated I definitely think we need this. You are even in danger walking on 257th the way it is.

Councilor Ripma stated I also favor this.

VOTE: Mayor Thalhofer – Yes; Councilor Kight – Yes; Councilor Rabe – Yes; Councilor Daoust – Yes; Councilor Smith – Yes; Councilor Ripma – Yes.

Motion passed 6-0.

10. PUBLIC HEARING / ORDINANCE (Introduction): An Ordinance pertaining to Urban Renewal repealing Ordinances 708 and 710.

Mayor Thalhofer opened the Public Hearing at 10:30pm and read the ordinance title.

Marnie Allen, City Attorney, stated at the last City Council meeting there was some discussion and we were directed to prepare an ordinance to bring back to you that would repeal the two prior ordinances pertaining to urban renewal. This ordinance repeals those

ordinances and it includes the findings that are required under the Troutdale Charter that will enable you to adopt this ordinance at one meeting. However, in order to adopt an ordinance at one meeting there must be unanimous approval by all of the Councilors.

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

Roman York stated I am here at the direction of our PAC, Americans for Honest Government. I would like to address ethics. The passage of the ordinances 708 and 710 there was lack of ethics by city senior staff and also lack of supervision by the City Council. The latest is the letter that the City Attorney wrote to Multnomah County. On November 13th I was testifying to the registration of ordinance 710 which was done in violation of our referendum. I was at that point accused of making accusations against City Council and staff. In this letter there is a claim that the registration of the ordinance was done prior to our referendum. I have the minutes from the 28th when the Americans for Honest Government PAC was established and we were on our way to collect signatures. That was the first violation. Later on there was another violation. This kind of lack of ethics and for you not holding the staff accountable and when a lie was put in writing to the County, this undermines everyones faith in government. When you were passing the two ordinances you were claiming that you were accountable. The accountability involves supervision and responsibility to the citizens for conduct of the people in City Hall. If a citizen did this kind of thing they would be facing some very serious legal challenges. We don't find this acceptable. I asked Debbie Stickney why she acted as an agency and under who directive. Neither Gail or I have received a reply. That is not the way to run the affairs of the people. There is a lot of money spent on this, actually wasted. The message was very clear that the people did not want the Council to act as an Urban Renewal Agency and also they did not want to subsidize developments that do not pencil out on paper and a lot of other issues. I hope that this was a lesson for everyone. We are going to keep the PAC active at the request of the membership. There are various people that are going to watch very closely what is happening in our city. If necessary, if this comes out, we are ready to run some charter amendments and hold members of the Council accountable. Mr. Mayor, I was asked, because this is under your directive, that if this kind of conduct happens again people will ask you to resign. I would like to hear from the elected representatives that you are going to address the issue of ethics, seriously. Not just stare, and not answer questions, as in past. That is not what the elected officials should do. I look at what you ran on, I look at your brochures. I think you should go back and see what you were promising to people when you ran for council.

Mayor Thalhoffer stated on behalf of the Council, we at all times, and staff, act in an ethical manner. Anyone that thinks that we don't I am sorry that they feel that way. We have differences with different folks on various issues but I think we have one of the most ethical staffs in the State of Oregon. I think that every Councilor acts in an ethical manner.

Mayor Thalhoffer closed the Public Hearing at 10:39pm.

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

VOTE: Mayor Thalhofer – Yes; Councilor Kight – Yes; Councilor Rabe – Yes; Councilor Daoust – Yes; Councilor Smith – Yes; Councilor Ripma – Yes.

Approved 6-0.

11. COUNCIL CONCERNS AND INITIATIVES:

Mayor Thalhofer called this item.

None.

12. ADJOURNMENT:

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

Meeting adjourned at 10:39pm.

Paul Thalhofer, Mayor

Approved May 14, 2002

ATTEST:

Debbie Stickney, City Recorder