

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

Tuesday, October 26, 2004

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

Mayor Thalhofer called the meeting to order at 10:10pm.

PRESENT: Mayor Thalhofer, Councilor Gorsek, Councilor Thomas, Councilor Kight, Councilor Kyle, and Councilor Ripma.

ABSENT: Councilor Daoust (excused).

STAFF: John Anderson, City Administrator; Jim Galloway, Public Works Director; Rich Faith, Community Development Director; and Sarah Greif, Office Support Specialist.

GUESTS: See Attached List.

2. DISCUSSION: A discussion concerning snow and ice control on sidewalks.

Jim Galloway, Public Works Director, stated I wanted to come before you prior to entering the winter season and get some guidance regarding the matter of ice and snow control. We did get a few complaints during last January's ice and snow storm about neighbors not cleaning off their sidewalks. At that time our code did not address this particular issue. One could argue that it does refer to maintenance and maybe that should apply to ice and snow however further down that paragraph it talks about the action that we take, sending people a letter giving them 30 days to correct the problem. That's probably not a good measure for addressing the ice and snow issue. I outlined several options that each have pros and cons. The recommended option is Option D. That would attempt to at least alleviate, to some extent, the liability to the City should someone fall and injure themselves on a sidewalk in which ice and snow control hasn't been applied. If someone falls and hurts themselves and decides to sue, one of the folks that they're going to name is the City. Our recommendation would be that we amend the code and come back to you with an Ordinance at the next meeting that would clearly stipulate that it's our policy that responsibility for removing ice and snow from the sidewalks lies with the adjacent property owners and they're liable if somebody gets hurt because they failed to keep the sidewalk clear. We would not have an enforcement policy or devote staff resources to it. We wouldn't have a time period, penalties, and so on. The thought there is that when we do have the rare ice or snow storm, we're probably going to have our hands full with other higher priority matters and

probably wouldn't be able to devote time to track down and follow up on sidewalk complaints. This is more of a defensive mechanism than anything to try to posture us in the best situation should a claim or a lawsuit come up.

The Council concurred with staff's recommendation to implement Option D, amend the Troutdale Municipal Code to specifically address snow and ice control, placing the responsibility and liability on the adjacent property owner but without any City enforcement action.

3. DISCUSSION: A discussion on whether to repeal or retain TMC Chapter 5.12 relating to auto wrecking businesses.

Rich Faith, Community Development Director, stated I want to bring this to you for direction on how to deal with Chapter 5 of the Troutdale Municipal Code (TMC). As you know the City's Management Team has been going through the TMC and bringing forward various changes to clean it up. We found that Chapter 5.12, which pertains to approval of a wrecking yard, was a good candidate for some change and perhaps for complete repeal. This Chapter overlaps with provisions in our Troutdale Development Code (TDC) for how we process applications for wrecking yards. We refer to wrecking yards in the TDC as junk yards, but we list them as a conditional use in the general industrial district. They are heard by the Planning Commission (PC) and the decision rests with the PC whether to approve or deny a wrecking yard, unless of course it's appealed to the City Council. State law requires that wrecking yards need to be approved by the governing body, the City. State law also authorizes the City Council or governing body to establish zones in which wrecking yards can be permitted or prohibited. It's our position that with the establishment of the wrecking yards in the general industrial zone, the City Council has delegated that authority to the PC. Provisions in the State law go back to 1961 and through our TDC; provisions have handled this particular type of use. We do have conflicts in regulations with the TDC and what is spelled out here in Chapter 5.12 and because of that we feel it's a policy issue for Council to decide how to deal with this conflict or duplication. I've laid out three options. Option 1 would be to repeal Chapter 5.12 of the TMC and let the TDC govern approval of this particular type of use and thereby avoiding this duplication of process. Option 2 is to retain Chapter 5.12 as it is and amend the TDC to remove junk yards as a conditional use and instead will refer to the process currently in the TMC. Option 3 is to amend both the TMC and the TDC to somehow bring together a streamlined process that would entail both the PC and the City Council. Option 4 would be to do nothing and simply run duplicate processes. It is our recommendation that we go with Option 1 to repeal Chapter 5.12 and let the TDC govern them and simply treat it as a land use decision that will be heard by the PC.

Mayor Thalhoffer asked what's streamlined about Option 3?

Faith replied we wouldn't have two separate distinct processes laid out. Somehow they'd meld together so that if the Council still feels that they should be involved in that decision, we could include you. But it would still go through the PC.

Mayor Thalsofer stated the subject matter is very significant. I don't want to minimize the impact of wrecking yards but I guess we can assume that the PC will make the correct decision. They can appeal the PC decision to the City Council.

Councilor Kight asked the option that would protect the City the most would be where it would come before the PC and the City Council?

Faith replied there would be a higher level of review. I'm assuming if we structured it that way the PC would hold a public hearing with a recommendation to the City Council and then you would have the final say in the matter.

Councilor Kight asked would that be a required recommendation?

Faith replied they would review it and then forward you a recommendation on whether to approve it or not.

Councilor Kight asked what's stimulating this? Has someone approached the City about wrecking yards?

Faith replied no, it was to clean up the TMC. We're trying to avoid duplication and this is a Chapter that really was unnecessary.

Councilor Kight stated wrecking yards have a major impact on the community.

Faith replied we have already, since I've been working for the City, put wrecking yards into a conditional use category. When I first came here it was permitted outright in the general industrial zone. Now it's moved to a conditional use so that it has to go to the PC.

Councilor Kight asked so they could build another one on Marine Drive?

Faith replied they could apply for it and then there could be conditions on it to mitigate any adverse impacts that there might be or to make it more compatible with it's surroundings. You could deny it outright if you find it can't be mitigated.

Councilor Ripma stated the PC is just as likely as we are to be stringent and maybe even more likely. They can put conditions on it and someone could appeal it to us if necessary.

The Council concurred with staff's recommendation to implement Option 1, repeal TMC Chapter 5.12 and let the Development Code govern approval of this use. This avoids duplication in the approval process that now exists.

4. STAFF COMMUNICATIONS:

None.

5. ADJOURNMENT:

MOTION: Councilor Thomas moved to adjourn the meeting. Seconded by Councilor Kight. The motion passed unanimously.

Meeting adjourned at 10:25pm.

Paul Thalhofer, Mayor

Approved February 8, 2005

ATTEST:

Sarah Greif, Office Support Specialist