

MEMORANDUM

TO: Public Safety Committee

FROM: Mary Costigan
Associate Corporation Counsel

DATE: February 8, 2008

RE: **Minutes of the Public Safety Committee Meeting held on
January 8, 2008**

Councilor Marshall, Chair of the Public Safety Committee, convened the meeting at 5:30 p.m. with Councilors Duson and Donoghue present.

The Committee voted unanimously to approve the minutes of the November 13th meeting.

The Committee then took action on the following items:

Sidewalk Snow Removal

Councilor Duson introduced the issue stating that she was looking for a way to codify the priority enforcement zone that the City already has in place, so property owners know where the ordinance will be enforced and where it will not. Associate Corp. Counsel Mary Costigan explained that, to be clear to property owners, the ordinance should reflect who it applies to rather than who it will be enforced against, which has the same result. She explained that codifying the status quo would not help in clarifying who is responsible and who is not.

Several members of the public provided comments. Steven Scharf stated that the ordinance should be kept as is and enforced city-wide. Janet Daigle, who lives on outer Congress St., said the city should be responsible for clearing the sidewalks. She said it is impossible for her to clear the snow from the sidewalk in front of her property, where the plowed snow from a 4-lane highway is placed. Carol Heilsburg stated that residents are not complying with the ordinance and are failing to remove snow or cover ice. Rose and James Lanon, who live on outer Congress St., also discussed the difficult location they are in and how they cannot remove the snow that is plowed from Congress St. on to their sidewalk. Mrs. Lanon explained that she walks to work and it is difficult in the winter. Frank Turek stated that he runs a website called portlandsidewalks.com and has reported 100 violations. He said that the biggest problem is the snow that is plowed from the street on to the sidewalks. Robert Haines stated that it is an impossible situation and the problem is overnight parking. Steve Hirshorn said the city should keep enforcing the ordinance. Collette Bouchard stated that the city should clear sidewalks.

Councilor Duson made a motion to recommend the amendments as written, which would limit the application of the ordinance to all commercial property owners and to residential property owners on the peninsula in the Oakdale neighborhood near USM.

Inspections Division Director, Jeanie Bourke, answered questions of the Councilors regarding enforcement of the ordinance. She stated that to date there were 365 complaints, 349

inspections, 91 re-inspections and 31 removals. She stated that she has 4 staff members working full time on sidewalk snow removal. She stated that the reason why complaints are fielded by Parks and Rec. is because the inspections phone lines are already very busy and couldn't handle the extra load.

Director of Public Works, Mike Bobinsky, explained the removal process that the City has in place. He stated that inspections will refer over to Public Works the non-compliant properties that need to be cleared. Public Works has contracted with several private contractors and they will call in one or more of the contractors to clear. The property owners are then sent a bill for the clearing costs plus 10%.

Councilor Marshall asked if Public Works is following up on the work of the contractors. Mike B. said he will look into it.

Mike B. also explained why the city only plows the sidewalk on one side of outer Congress St. He stated that the inbound side does not have a continuous sidewalk, therefore making it difficult to plow and also creating a safety hazard in that people would be forced to cross the street or walk in the street where the sidewalk ends.

In response to Councilor Duson's concern that the ordinance be easy for residents to understand in terms of who it applies to, Councilor Donoghue suggested that the amendments to the ordinance be changed so that the ordinance would apply to residential property owners in mainland District 1 and District 2 only. That change to the amendments was approved 3-0.

The Committee voted 3-0 to recommend the ordinance changes as amended.

Outdoor Dining

Mary Costigan recapped the issue, which had been before the Committee previously. She explained that the proposed amendments to Chapter 25 create a new outdoor dining permit and set a new fee structure. The fees proposed were eighty dollars plus two dollars per square foot of dining area per fiscal year or any portion thereof for outdoor dining on streets, sidewalks or other public ways; and six dollars per square foot of dining area per fiscal year or any portion thereof for outdoor dining in parks. In no instance shall the total square footage of dining area equal more than 10% of park space, unless the applicant receives a waiver from the Department of Parks and Recreation.

Councilor Marshall stated that he met with the property owners in Monument Square and his concern is that they would have to pay the park rate because Monument Square is considered a park. He stated that he wanted to see one single fee structure.

Jan Beitzer, Director of Portland Downtown District, stated that she was involved in the process for developing the new fee structure and she feels it is fair and based on reasonable logic. She recommended that the Council approve the recommendations. She said that there is a big difference between taking up sidewalk space as opposed to taking up park space, that is limited in the downtown and very valuable. She suggested that the area in front of the restaurants along Monument Square be defined as a sidewalk in order to alleviate Councilor Marshall's concerns.

Steven Scharf stated that the fee structure is not logical and should be just based on square footage.

Councilor Duson agreed with Jan B. about defining the area in front of the restaurants on Monument Square as a sidewalk and not a park. She recommended a change to the amendments in paragraph 25-27(B)(2) that would have the waiver granted by the Director of the Dep't of Parks and Rec. That change passed 3-0.

Councilor Donoghue inquired about the revenue from the leases with Natasha's and O'Natural's. He said he would like to see the revenues dedicated to physical improvements to the parks of origin.

Councilor Marshall stated that he would like to see the fee structure set up so that there is an \$80 set up fee for the first year, plus \$2 per square foot, and \$2 per square foot per year thereafter.

Councilor Donoghue stated that he likes the 2-tiered structure because the \$80 serves as a fee and the square footage fee serves as rent.

Councilor Marshall's proposal to remove the \$80 fee failed 1-2.

Councilor Duson stated that she also likes the 2 tiers and would like to see a second tier added to parks. Her proposal to add an \$80 fee to the park dining permit passed 2-1.

The committee voted 3-0 to define the area in front of the restaurants on Monument Square as a sidewalk. They requested that Parks and Rec. measure the area and come up with a clear definition.

Councilor Donoghue recommended that permittees be required to have ashtrays if they allow smoking in the outdoor area. If not, there should be a no smoking sign. This proposal passed 3-0 and will be placed in the regulations.

The Committee voted 3-0 to approve the changes to the ordinance as amended.

The meeting was adjourned at 7:00 p.m.