

MINUTES

Eugene City Council
Council Chamber—Eugene City Hall
777 Pearl Street—Eugene, Oregon

November 22, 2010
7:30 p.m.

COUNCILORS PRESENT: Alan Zelenka, Mike Clark, Betty Taylor, Jennifer Solomon, Andrea Ortiz, George Poling, Chris Pryor, George Brown, members.

Her Honor Mayor Kitty Piercy called the November 22, 2010, regular meeting of the Eugene City Council to order.

1. ACTION:

Adoption of an Ordinance Concerning Authority of Traffic Control Officers to Direct Traffic and Amending Sections 2.660, 5.010, 5.060, 5.065, 5.275, and 5.276 of the Eugene Code, 1971

City Manager Ruiz introduced the item, stating the proposed amendments were necessary to provide authority to Eugene Police Department's Community Service Officers so they could direct traffic in situations concurrent with the authority provided by State statute.

Councilor Clark, seconded by Councilor Taylor, moved to adopt Council Bill 5039, amending sections 2.660, 5.010, 5.060, 5.065, 5.275, and 5.276 of the Eugene Code, providing authority to community service officers to direct traffic on the streets and public thoroughfares of the city. Roll call vote: The motion passed unanimously, 8:0.

3. PUBLIC HEARING:

An Ordinance Concerning Downtown Public Safety Zone; Amending Section 4.874 of the Eugene Code, 1971; and Providing a Sunset Date

City Manager Ruiz introduced the topic, stating that the public hearing concerned the extension of the sunset date for the Downtown Public Safety Zone (DPSZ) and amendments to the DPSZ ordinance that would add other crimes for which one could be excluded from the zone.

Mayor Piercy opened the public hearing.

Kimberly Gladen, 361 West Broadway, #4, asked the council to extend the DPSZ. She considered it a safety valve for residents living downtown. She believed the DPSZ was the only way to get some of the people who created problems in the downtown off the streets. She did not think the Lane County Jail kept offenders long enough to provide relief to affected residents. Ms. Gladen did not think the DPSZ hurt anyone as needed services were available outside the zone, and excluded individuals could get exceptions if they needed a particular service inside the zone. She suggested the council "keep the tool in the tool box a while longer."

Mark Johnson, 1320 Inglewood Street, identified himself as an employee of Lane Transit District and spoke of the effect of the DPSZ on LTD's Eugene Station operations. He supported the extension of the DPSZ until the officers in training now were on the street. He thought the DPSZ was a great safety valve that the police had used well.

Thomas Kamis, 94 West Broadway, a downtown business owner, recommended the extension of the DPSZ as another tool for the police. He questioned where those who opposed the zone had been when the City established a prostitution-free zone. He believed the DPSZ was effective in helping to eliminate repeat offenders from downtown. Mr. Kamis shared a quote from a nationally broadcast cartoon that implied Eugene contained a large hobo jungle.

Eugene Drix, 307-1/2 14th Avenue, supported trying out the DPSZ given the development occurring downtown, which would bring more people to downtown.

David Hauser, 2168 Elkhorn Drive, representing Downtown Eugene, Inc, thanked the council, Police Commission, and City staff for their thoughtful evaluation of the DPSZ. He thought it important not to overstate the importance of the zone, which was one of many needed tools to create a downtown where all were welcome. It replaced an incarceration option that was not available now, and could displace chronic violators from downtown. The DPSZ had been implemented responsibly and no complaints had been made to the Police Auditor. Mr. Hauser thought the sunset clause made sense as it built a bridge to increased police capacity to downtown. He acknowledged the DPSZ was not the perfect solution, but that solution did not yet exist.

Laura Potter, 1401 Willamette Street, representing the Eugene Area Chamber of Commerce, said the DPSZ was an important element in public safety downtown. The zone was designed to provide an alternative to incarceration by displacing chronic violators from downtown. She agreed with Mr. Hauser that the Eugene Police Department had used the tool responsibly. She asked that the ordinance be extended until more officers were available to work downtown.

Jim Welsh, 2139 Centennial Plaza, representing the Eugene Association of Realtors, supported the extension of the ordinance as proposed and the addition of sexual offenses to the list of offenses for which one could be excluded. He said the exclusion zone had improved public safety downtown. He expressed appreciation to the council and Eugene Police Chief Pete Kerns for listening to all residents' concerns. He said his association believed the ordinance was important to the community and downtown.

Mayor Piercy closed the public hearing and solicited council questions and comments.

Councilor Zelenka thanked those who offered testimony. He said the exclusion zone had been used 93 times in the last two years and only two actual crimes were involved. The majority of exclusions were for alcohol violations and trespass. While criminal activity downtown had decreased, criminal activity in nearby neighborhoods had increased, so the City had not stopped the behavior involved, it had merely moved it. Councilor Zelenka was struck by the fact that 65 percent of those excluded were low-income homeless people. He noted that the pre-hearing exclusions occurred before a person went to a judge, and requested that staff prepare two amendments to the ordinance, the first to eliminate the pre-hearing exclusion, and the second to provide advocacy for those coming before a judge for the 90-day exclusion.

Councilor Taylor was opposed to the DPSZ but supported Councilor Zelenka's amendments if the zone was to be renewed.

Councilor Taylor spoke to Mr. Kamis' remarks, saying she had personally opposed the City's prostitution exclusion zone. She said downtown was everyone's neighborhood and people had the right to be somewhere and should be able to move about freely. There were already remedies for criminal violations. She suggested it was better to have such people downtown than out in the parks or by the river. She thought all kinds of people should be welcome to gather and interact downtown.

Councilor Clark said when the subject of indigent support was first raised, he had thought it was a reasonable approach but had subsequently discussed the issue with Municipal Court Judge Wayne Allen, who had some concerns about the precedent set by the concept. He recommended that City Manager Ruiz invite input from the judge.

Councilor Clark recalled that he had been willing to add elimination of the pre-hearing exclusions as an amendment and indicated he would offer that as a part of the motion that was eventually placed before the council.

Councilor Zelenka clarified that he was not proposing that the City provide those who received an exclusion order with legal counsel, but rather that they be provided with an advocate. City Manager Ruiz confirmed there was a difference between legal counsel and such advocacy. He said that staff would not be comfortable with the precedent set by the provision of legal counsel but were comfortable with the provision of an advocate. Councilor Zelenka envisioned that advocates would provide those who received exclusions with information about the process and the choices they faced, but would not provide legal advice. He acknowledged Judge Allen's concerns about the potential that a person facing exclusion could receive inaccurate legal advice from an advocate.

Police Chief Kerns concurred with Councilor Zelenka's remarks, adding that an advocate would be primarily concerned with the welfare of the person facing the exclusion hearing.

Councilor Ortiz was prepared to support the DPSZ with the amendments contemplated. She spoke to the advocacy element, recalling that when the prostitution zone had been established, the City's Human Rights Support System advocates had worked with the prostitutes who had been arrested. She suggested that any advocacy program could be extended to assist those who approached the Police Auditor's Office for assistance but found that the office could not advocate for them because she believed that represented a service gap. She believed people were frequently challenged by the complexity of the system and needed assistance to navigate it.

Councilor Solomon said she would expect the council to appropriate an equal amount to fund victims' assistance program if a motion funding advocate services was to pass.

Councilor Clark questioned what the City's liability would be if an advocate were to offer someone facing exclusion with legal advice.

Councilor Poling agreed with Councilor Solomon's remarks about funding for victim's assistance.

Councilor Ortiz supported a volunteer approach to advocacy services but pointed out that frequently such systems lacked consistency. Someone who was paid could be trained more precisely in the duties and skills of an advocate. She wanted to ensure any advocacy training was consistent and that it remained within the parameters of advocacy. She suggested the City partner with a social service agency to provide such services. Councilor Ortiz said the program could be modeled on such programs as the court program

"Paso y Paso."

Speaking to the concern voiced by Councilor Solomon, Councilor Zelenka suggested that it was a separate issue and he preferred to have a separate conversation about how to provide more victims services funding at the state level.

Mayor Piercy thanked those who spoke. She was not fond of exclusion zones but did not think the DPSZ was intended to exclude law-abiding people from downtown, but instead was intended to address the problem of repeat offenders who engaged in illegal behaviors downtown. She supported the amendments proposed by Councilor Zelenka because they added due process protections.

Speaking to the issue of advocacy, Mayor Piercy reminded the council that it was talking about advocacy for someone who had yet to have a hearing. She advised the council to keep the ordinance simple.

Councilor Clark reiterated his support for the ordinance as a means to support those who lived, worked, and visited downtown. He emphasized that the focus of the ordinance was on repeat offenders. He asked Chief Kerns if anyone had been excluded in the last two years who had no previous encounters with the police. Chief Kerns recalled that everyone excluded from downtown except for one individual had been repeat offenders.

Councilor Solomon said the fact someone was homeless or poor did not mean that person was stupid or could not determine right from wrong. She questioned whether the provision of an advocate would help such individuals take more personal responsibility for their lives. She questioned whether repeat offenders familiar with the system actually needed an advocate.

Councilor Zelenka emphasized his concerns about the constitutionality of the ordinance and emphasized that those who were excluded had not been convicted of a crime. These were people police officers recommended being excluded. He pointed out that the crimes involved were considered minor, and included liquor violations and trespass. For those reasons, he believed the council needed to ensure the process was fair and reasonable.

City Manager Ruiz said the item was scheduled for action on December 8, 2010.

Mayor Piercy adjourned the meeting of the Eugene City Council at 8:43 p.m.

Respectfully submitted,

A handwritten signature in cursive script that reads "Beth Forrest". To the right of the signature, the word "Deputy" is written in a smaller, less stylized font.

Beth Forrest
City Recorder

(Recorded by Kimberly Young)