

OFFICIAL MINUTES

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 19TH DAY OF FEBRUARY, 1992 AT 9:30 A.M.

THOSE PRESENT WERE: Mayor Clark, Presiding; Commissioners Blumenauer, Bogle, Kafoury and Lindberg, 5.

OFFICERS IN ATTENDANCE: Cay Kershner, Clerk of the Council; Harry Auerbach, Deputy City Attorney; and Officer Sheridan Grippen, Sergeant at Arms.

Mayor Clark introduced two students who participated in the Sapporo student and women exchange.

Agenda No. 323 was pulled from Consent. On a Y-5 roll call, the balance of the Consent Agenda was adopted as follows:

CONSENT AGENDA - NO DISCUSSION

Mayor J. E. Bud Clark

293 Return Council Agenda No. 152, a request for hearing on parking operator bid practices by Paul McCoy, Rose City Parking, and recommend it be filed for no further consideration (Report)

Disposition: Placed on File for no further consideration.

294 Confirm appointment of George (Bing) Sheldon to the Portland Historical Landmarks Commission (Report)

Disposition: Confirmed.

*295 Call for bids for providing for repair and service of Cushman Scooters for the Bureau of General Services, authorize a contract and provide for payment (Ordinance)

Disposition: Ordinance No. 165073. (Y-5)

296 Amend Portland City Code, Chapter 3.10 relating to the duties and responsibilities of the Office of the City Attorney (Ordinance)

Disposition: Passed to Second Reading February 26, 1992 at 9:30 a.m.

*297 Authorize an agreement between the City of Portland and Northwest Regional Educational Laboratory to provide professional consulting services pursuant to a federal Community Partnership Program grant (Ordinance)

Disposition: Ordinance No. 165075. (Y-5)

Commissioner Earl Blumenauer

298 Accept completion of NW Cumberland Road sewer reconstruction project and make final payment to S-2 Contractors, Inc., (Report; Contract No. 27566)

Disposition: Accepted.

299 Accept final delivery of all equipment for the Gravity Belt Thickener at Tryon Creek Wastewater Treatment Plant and make final payment to Ashbrook-Simon-Hartley (Report; Ordinance No. 162210, PO 86864)

Disposition: Accepted.

300 Accept petition and letter and adopt Resolution for the improvement as a District of SW Pasadena Street and SW 41st Avenue and the construction of a storm sewer (Report; C-9799)

Disposition: Accepted.

301 Direct the City Engineer to prepare plans, specifications and cost estimates for the improvement as a District, of SW Pasadena Street and SW 41st Avenue and the construction of a storm sewer (Resolution; C-9799)

Disposition: Resolution No. 34959. (Y-5)

*302 Revocable permit to March of Dimes to maintain banners on street light poles from March 24 to April 25, 1992 (Ordinance)

Disposition: Ordinance No. 165076. (Y-5)

*303 Revocable permit to Oregon Ballet Theatre to maintain banners on street light poles from February 24 to March 22, 1992 (Ordinance)

Disposition: Ordinance No. 165077. (Y-5)

*304 Revocable permit to Kell's Irish Restaurant and Pub, on behalf of the Make a Wish Foundation, to maintain banners on street light poles from March 6 to March 15, 1992 (Ordinance)

Disposition: Ordinance No. 165078. (Y-5)

*305 Revocable permit to Chef's Night Out to maintain banners on street light poles from March 15 to March 30, 1992 (Ordinance)

Disposition: Ordinance No. 165079. (Y-5)

*306 Revocable permit to Northwest Natural Gas Co. to maintain banners on street light poles from April 1 to April 30, 1992 (Ordinance)

Disposition: Ordinance No. 165080. (Y-5)

*307 Authorize an agreement with the Oregon Department of Transportation for the improvement of a Traffic Safety Improvement Project at the intersection of SW Capitol Highway and SW Pomona Street (Ordinance)

Disposition: Ordinance No. 165081. (Y-5)

*308 Authorize the City Engineer to grant a revocable permit to Alan C. Peters and Nick Bunick for parking striping and signs at NE 3rd Avenue between NE Hassalo Street and NE Holladay Street (Ordinance)

Disposition: Ordinance No. 165082. (Y-5)

*309 Authorize an agreement with the Port of Portland to define maintenance responsibilities for Port-owned traffic signals at NE Airport Way and Lombard Street (Ordinance)

Disposition: Ordinance No. 165083. (Y-5)

*310 Contract with Murray, Smith & Associates, Inc., for professional engineering services and provide for payment (Ordinance)

Disposition: Ordinance No. 165084. (Y-5)

*311 Call for bids for the Lents Basin Sump Project, Phase 1, authorize a contract and provide for payment (Ordinance)

Disposition: Ordinance No. 165085. (Y-5)

*312 Call for bids for the Lents Basin Sump Project, Phase 2, authorize a contract and provide for payment (Ordinance)

Disposition: Ordinance No. 165086. (Y-5)

*313 Call for bids for the Lents Basin Sump Project, Phase 3, authorize a contract and provide for payment (Ordinance)

Disposition: Ordinance No. 165087. (Y-5)

***314** Call for bids for the Lents Basin Sump Project, Phase 4, authorize a contract and provide for payment (Ordinance)

Disposition: Ordinance No. 165088. (Y-5)

***315** Call for bids to furnish electrical control packages for the California, Sunderland, Harney and Yeon Pump Stations, authorize a contract and provide for payment (Ordinance)

Disposition: Ordinance No. 165089. (Y-5)

*316 Call for bids to furnish pumps and motors for the Swan Island, Yeon, California and Sunderland Pump Stations, authorize a contract and provide for payment (Ordinance)

Disposition: Ordinance No. 165090. (Y-5)

*317 Call for bids for stormwater facilities in the Mill Park, Woodland, Irvington Sanitary Project areas, authorize a contract and provide for payment (Ordinance; C-9775, C-9776, C-9777)

Disposition: Ordinance No. 165091. (Y-5)

*318 Call for bids for the NE 13th Avenue Basin CSO Sump Project Unit #1, authorize a contract and provide for payment (Ordinance)

Disposition: Ordinance No. 165092. (Y-5)

*319 Call for bids for the NE 13th Avenue Basin CSO Sump Project Unit #2, authorize a contract and provide for payment (Ordinance)

Disposition: Ordinance No. 165093. (Y-5)

*320 Call for bids for the N Vancouver CSO Sump Project Unit #1, authorize a contract and provide for payment (Ordinance)

Disposition: Ordinance No. 165094. (Y-5)

February 19, 1992

***321** Call for bids for the N Vancouver CSO Sump Project Unit #2, authorize a contract and provide for payment (Ordinance)

Disposition: Ordinance No. 165095. (Y-5)

*322 Call for bids for the Columbia Boulevard Wastewater Treatment Plant handrail and railing materials, authorize a contract and payment (Ordinance)

Disposition: Ordinance No. 165096. (Y-5)

*324 Call for bids for the Columbia Boulevard Wastewater Treatment Plant fabricated slide gates, weir gates and weir plates, authorize a contract and payment (Ordinance)

Disposition: Ordinance No. 165097. (Y-5)

***325** Consent to transfer of Mantia Sanitary Service franchise to Baldwin Sanitary Service (Ordinance)

Disposition: Ordinance No. 165098. (Y-5)

Commissioner Dick Bogle

*326 Amend agreement for expert cable television financial analysis services and provide for payment (Ordinance; waive City Code Chapter 5.68)

Disposition: Ordinance No. 165099. (Y-5)

Commissioner Mike Lindberg

327 Designa^@e the Springwater Corridor as the City's immediate first priority for transportation enhancement funds from the federal Intermodal Surface Transportation Efficiency Act of 1991 (Resolution)

Disposition: Resolution No. 34960. (Y-5)

*328 Call for bids for the construction of 6-inch and 8-inch water mains in NE Ainsworth Street, NE Middlefield Road and NE Southshore Drive, authorize a contract and provide for payment (Ordinance)

Disposition: Ordinance No. 165100. (Y-5)

*329 Call for bids for the construction of 6-inch and 8-inch water mains in NE Alberta Street, NE 75th Avenue and SE Malden Drive, authorize a contract and provide for payment (Ordinance)

Disposition: Ordinance No. 165101. (Y-5)

***330** Contract with Intergraph Corporation for CAD equipment for the Bureau of Water Works without advertising for bids, and provide for payment (Ordinance)

Disposition: Ordinance No. 165102. (Y-5)

*331 Grant temporary permit to Belmont Enterprises, Inc., to provide concession services at Portland International Raceway (Ordinance)

Disposition: Ordinance No. 165103. (Y-5)

City Auditor Barbara Clark

332 Appoint Todd Olson to the Police Investigations Auditing Committee (Report)

Disposition: Confirmed.

*333 Reduce sidewalk assessment (Ordinance; amend 164664) (Account 65995)

Disposition: Ordinance No. 165104. (Y-5)

***334** Reduce sidewalk assessment (Ordinance; amend 164664) (Account 66065)

Disposition: Ordinance No. 165105. (Y-5)

REGULAR AGENDA

***323** Call for bids for the Columbia Boulevard Wastewater Treatment Plant intermediate blower Phase II equipment purchase, authorize a contract and payment (Ordinance)

Discussion: Cay Kershner, Clerk of the Council, said the Bureau of Environmental Services has requested that this be returned for additional work.

Disposition: Referred to Commissioner of Public Works

Mayor J. E. Bud Clark

***335** Transfer appropriations within certain bureau budgets and between funds; adjust resources and requirements in various funds (Ordinance)

Disposition: Ordinance No. 165106. (Y-5)

Commissioner Earl Blumenauer

336 Accept final certificate of Completion for the NE 105th Avenue and NE Knott Street sanitary sewer system and provide for final payment (Report; C-9733)

Disposition: Accepted.

337 Consider vacating a certain portion of an alley south of N Lombard Street at the request of Efem Company (Fred Meyer Riverside Center) (Hearing; C-9774)

Disposition: Approved. City Engineer Prepare Ordinance.

338 Consider vacating a certain portion of SW Hall Street between SW 16th Avenue and SW Upper Hall Street at the request of David A. Fowler (Hearing; C-9763)

Discussion: Kathryn Hall, Office of the City Engineer, said they received a petition from David Fowler to vacate an unimproved right-of-way in SW Hall Street. She said there were no objections from City bureaus, utility companies or neighborhood associations to this vacation although the Planning Commission recommended a height limitation on any future development in the area to preserve the view on SW Upper Hall. She said they had some misgivings about placing such a limitation through the street vacation process and the City Attorney agreed that height restrictions are best addressed through zoning regulations.

Since the vacation has been posted, Ms. Hall said issues have been raised as to whether the process was correctly done and whether the area lies within the Scenic Resources Plan. The Auditor's office has reviewed the petition and determined that it is valid and Planning Bureau staff state that this is not within the area regulated by Scenic Resources Plan. She said a petition was filed last week by a number of nearby property owners asking Council to defer action until they can review Mr. Fowler's building plans. Staff recommends, however, that the vacation be approved. Lynda Gardner, attorney for David and Elaine Durst Fowler, noted that when the Fowlers purchased the property five years ago they did not realize that more of the existing house was on the right-of-way than was on the land he had purchased. She described Mr. Fowler's implementation of the street vacation process and said he went out of his way to try to meet the concerns of Russell and Mary Lamb and other property owners in the affected area.

She said the house is designed to be low to the ground and will actually provide better views for the public, as the footprint of the proposed construction moves the house up the hill and opens up the view.

Jeff Kleinman, attorney representing Russell and Mary Lamb, 1509 SW Upper Hall Street, contended that the recision of signatures of at least 75 per cent of the original signers should effectively void the original petition. He also maintained that the petition was not done in a timely manner and is therefore invalid. He said the applicant misled neighbors by stating that he merely planned to remodel an existing house when his plans actually call for a new house. Mr. Kleinman said this vacation is not in the public interest and insisted that the property is part of the Scenic Resources Plan.

Commissioner Kafoury asked how much of the view would be taken away.

Mr. Kleinman said it will be wiped out and that half the vacated property is within the view corridor. He said the house height will increase from 12 to 16 feet, adding that when the Planning Commission tried to impose a 13 feet limitation they were told by the City Attorney they could not do so.

Individuals testifying against granting the vacation included:

Russell Lamb, 1597 SW Upper Hall Dr. Jack Sheehan, 1525 SW College Alex Hall, 4140 SW Hall Mary Margaret Lamb, 1597 SW Upper Hall Susan Minor, 1610 SW College Roger Yost, 1598 SW Upper Hall Richard Manary, 1553 SW Upper Hall

Opponents said the Fowler house will destroy the view. They also said Mr. Fowler misrepresented his intention when he collected signatures on his petition to vacate.

February 19, 1992

Individuals testifying in favor of the vacation included: Ernest Kissling, 525 SW 5th Steve Poland, 7177 SW 5th, architect for the Fowler home Scott McEwan, representing tenants at 1500 SW Harrison and other nearby residents Elaine Durst Fowler, 1580 SW Hall

Proponents noted that without the vacation Mr. Fowler could still build on his own property and, with less property available, would need to build a four-level house, thus eliminating more of the view than the proposed house in the vacated area does.

David Fowler, 1580 SW Upper Hall, said the petitions collected against him contain only five signatures from those authorized to sign. He denied that he had stalled on this and said the Auditor's Office had confirmed the validity of the process.

Commissioner Blumenauer suggested holding the decision over two weeks to address the technical and legal issues raised, including whether the property is in the scenic right-of-way and whether the petition process was valid. He also suggested talking to the Planning Bureau to see if a height restriction for the house could be agreed upon. He said one concern was that, if the vacation was not granted, the owner could build, by right, a home that would be even more objectionable to neighbors.

Harry Auerbach, Deputy City Attorney, said Council has three questions to answer regarding street vacations: 1) were the requisite consents obtained from abutting and adjoining property owners; 2) was proper notice given and 3) is the public interest prejudiced by granting the vacation.

Disposition: Continued to March 4, 1992 at 9:30 a.m.

339 Amend Title 17, Chapter 17.36 of the City Code to allow for mitigation discounts to storm water charges (rates) in accordance with the biennial sewer user charge rate study (Ordinance)

Discussion: Commissioner Blumenauer said this is part of Bureau of Environmental Services efforts to provide equity in sewer charges.

Individuals speaking in support of the new rates included: Tim Ramis, Attorney at 1727 NW Hoyt, representing Harsh Investment Thomas Berkland, Kingdom Hall of Jehovah's Witnesses, 9705 N. Taft Street

Kevin Fletcher, preventative maintenance supervisor for Portland area Churches of Latter Day Saints Supporters said this Code change provides a fairer way of setting rates for users of the public drainage system by reducing charges for developers who have provided for on-site drainage detention systems and thus have less impact on the public system.

Disposition: Passed to Second Reading February 26, 1992 at 9:30 a.m.

Commissioner Mike Lindberg

***340** Authorize the transfer of funds and establish a cash transfer from the Golf Operating Fund to the Fleet Services operating fund (Ordinance)

Disposition: Ordinance No. 165107. (Y-5)

City Auditor Barbara Clark

341 Report on results of verification of signatures on petition to amend City Charter to restrict sexual orientation provisions and governmental protection (Report)

Discussion: Barbara Clark, City Auditor, said because of the sensitivity of this issue, she personally observed the verification process. She emphasized that the results are not a matter of opinion but reflect the fact that about 1,500 signatures were not registered City of Portland voters. She said two statistical samples were done.

Commissioner Blumenauer said the size of the second sampling make it clear that the results are correct.

Disposition: Accepted.

342 Assess improvement of N Depauw Street Local Improvement District (Second Reading Agenda 285)

Disposition: Ordinance No. 165108. (Y-5)

343 Amend Title 34, Subdivision and Partitioning Regulations (Second Reading Agenda 290)

Disposition: Ordinance No. 165109. (Y-5)

344 Assess improvement of SW Coronado Street Local Improvement District (Hearing; Ordinance; C-9723)

Disposition: Passed to Second Reading February 26, 1992 at 9:30 a.m.

At 10:40 a.m., Council recessed.

February 19, 1992

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 19TH DAY OF FEBRUARY, 1992 AT 2:00 P.M.

THOSE PRESENT WERE: Mayor Clark, Presiding; Commissioners Blumenauer, Bogle, Kafoury and Lindberg, 5.

OFFICERS IN ATTENDANCE: Cay Kershner, Clerk of the Council; Pete Kasting, Chief Deputy City Attorney; and Officer Sheridan Grippen, Sergeant at Arms.

345 Tentatively deny appeal of Corbett/Terwilliger/Lair Hill Neighborhood Association and uphold, with additional conditions, Hearings Officer's approval of the application of Portland School District No. 1 for a conditional use with an adjustment to house the "Counteract Program" at the Terwilliger School site, in an R5 zone at 6318 SW Corbett Avenue (Findings; Previous Agenda 288)

Disposition: Commissioner Kafoury said it is up to Council to decide if it wishes to allow responses to the findings.

Pete Kasting, Chief Deputy City Attorney, said under the old Code, parties had a right to comment on the findings before final Council adoption. Under the new Code, that right is descretionary and it is up to Council to decide.

Laurie Wall, Planning Bureau, said there are two essentially clerical corrections that need to be made to the findings. The first calls for removal of the phrase "provides supervision at the bus stops used by participants" on Page 9, 4th paragraph, and the second changes the words "Hearings Officer" to "City Council" on Page 12, first line.

Ms. Wall said the School District has requested that the findings be reconsidered and has filed written objections. She said she believes the findings do reflect the Council's decision on the original case and that the conditions of the approval are not out of the ordinary, as the District alleges.

Commissioner Kafoury moved adoption of the amendments. Commissioner Bogle seconded and the motion carried. (Y-5).

Mayor Clark asked if anyone wished to move to allow comments on the findings. No one responded.

Disposition: Findings Adopted as amended. (Y-5)

At 3:10 p.m., Council recessed.

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 20TH DAY OF FEBRUARY, 1992 AT 2:00 P.M.

THOSE PRESENT WERE: Mayor Clark, Presiding; Commissioners Blumenauer, Bogle and Lindberg, 4.

OFFICERS IN ATTENDANCE: Cay Kershner, Clerk of the Council; Linda Meng, Deputy City Attorney; and Officer Sheridan Grippen, Sergeant at Arms.

Cay Kershner, Clerk of the Council, said three items had been filed under the Four Fifths Agenda.

Commissioner Bogle moved consideration of three items on the Four Fifths Agenda. Commissioner Lindberg seconded and the motion carried. (Y-4)

FOUR FIFTHS AGENDA

347 Accept bid of Slayden Construction Inc., for Holladay Street Improvements - Phase III for \$5,972,340 (Amended Purchasing Report introduced by Purchasing Agent)

Discussion: Commissioner Bogle asked Carleton Chayer, the Purchasing Agent, to address the changes made in this contract.

Mr. Chayer said the report filed last week was referred back because the MBE participation was only 2.6 per cent of the total. He said he then contacted Slayden Construction to ask that they review their subcontractors to see if MBE and FBE participation could be increased. Slayden has now raised the MBE participation to 10.6 per cent, taking a large portion of that out of its own work force and finding a minority subcontractor for an additional \$350,800 MBE participation. On that basis, award of the contract to Slayden Construction is recommended.

Darnell Holefield, Holefield Construction, 4837 NE Martin Luther King Boulevard, opposed the award of this contract. He said they object to Slayden's use of a subcontractor from outside the City who did not participate fully in the bidding process.

Other individuals speaking in opposition to awarding this bid to Slayden Construction included:

Daryl Richter, local carpenter and member of Local 247 Ben Thomas, construction worker Randall Solomon, Local 296 member Opponents said African-Americans are being shut out of the work force and denied access to construction jobs.

O.B. Hill, Chairman of the National Association of Minority Contractors in Portland, said black people are paying taxes but are not being given equal opportunity to access tax dollars. He said an African-American company, Holefield Construction, abided by the bidding process but was told by Slayden that the work would be done by its own work force. The process is being circumvented by allowing Slayden to bring in a minority contractor who did not originally bid on the job and by not giving Holefield a similar opportunity.

Commissioner Bogle said the Council wanted more minority participation and it got more minority participation. He said the City does not have the legal authority to enforce minority participation but has been able to make an eight per cent difference. He said the frustrations raised today cannot be taken care of with a single contract or even by the committee he has formed to study MBE and FBE issues. He said the City is going to have to adopt a policy that will add teeth to the awarding of City contracts in a more equitable fashion.

Bruce Broussard, contractor at 4008 NE Martin Luther King Boulevard, said the City should adopt a better prebid process to facilitate and identify more minority participation.

Commissioner Lindberg asked about the committee working on MBE and FBE.

Commissioner Bogle said many issues are involved, including lack of bonding capacity and insurance. He said the only way to solve the problem is to invest some money in a disparity study to document discrimination and override the Supreme Court decision against quotas. He also acknowledged that trained people are going without work.

Darnell Holefield, Holefield Construction, said this is an African-American issue and asked where, if African-Americans cannot get work in Northeast Portland, can they get it.

Bill Arden, sub-contractor, said Slayden did not fulfill the City ordinance of providing jobs to black Americans and objected to the selection of a subcontractor outside the community.

Commissioner Blumenauer said there is no ordinance that allows the City to compel the hiring of any particular ethnic group. There is also no authority under the Supreme Court. What the Council is interested in is trying to find ways to fill in gaps created by changes in the federal law and in the interpretation of that law. Mr. Chayer said Slayden thought they had done a good job of getting minority and female participation. He said the City has been working informally to encourage 10 per cent minority participation; sometimes it succeeds and sometimes it does not.

Disposition: Accepted. (Y-4) Prepare Contract.

The Clerk announced that the following ordinances were routine grant applications which had been filed too late to be put on the regular calendar.

*348 Application to the Meyer Memorial Trust for a \$121,657 grant to fund "Senior Centers: A Vision" to develop a plan creating a network of strong, vital senior centers designed to provide a comprehensive array of services to older adults in Multnomah County (Ordinance introduced by Commissioner Kafoury)

Disposition: Ordinance No. 165110. (Y-4)

*349 Application to the Collins Foundation for a \$121,657 grant to fund "Senior Centers: A Vision" to develop a plan creating a network of strong, vital senior centers designed to provide a comprehensive array of services to older adults in Multnomah County (Ordinance introduced by Commissioner Kafoury)

Disposition: Ordinance No. 165111. (Y-4)

REGULAR AGENDA

Commissioner Dick Bogle

346 Liquor license renewal application for Nguyen, Nhai Van/Tran, Toan Thi, dba Sao-Mai Restaurant, 7931 NE Glisan, Restaurant license (renewal); unfavorable recommendation (Report)

> **Discussion:** Henry Emrich, License Bureau, said the licensees have not lived up to conditions placed upon them the last time the license came up for renewal. He said there have been renewed reports of gang activity and after a recent confrontation with OLCC investigators, the OLCC suspended the license.

Nai Van Nguyen, with Kha Van Tran translating, said the closure of his restaurant deprives him of his livelihood and hurts his family. He said there is gang activity everywhere and he does not understand why the Police are concentrating so much attention on his restaurant. He said he has always been willing to cooperate with the Police in solving any problems. Than Nguyen, son of Nai Van Nguyen, explained his version of an incident cited in the report concerning a stolen shot gun. He said he volunteered to turn it in and only later found out it was stolen.

Angien Nguyen, daughter of Nai Van Nguyen, described what happened the night of the OLCC confrontation. She said the family worked very hard to discourage gangs.

Other individuals speaking in support of the restaurant owners included:

Keith Lloyd, a neighbor Dr. James Mack, 800 SW 13th Cecelia Lessling, a friend of the family

Supporters said they had not observed the incidents described in the Police reports when they had been in the restaurant and spoke to the family's hard work and good character.

Commissioner Blumenauer said the issue is not the family's character but whether they have the management skills to operate a liquor license outlet without posing problems for the Police and the OLCC.

Commissioner Lindberg asked if the primary reason for the unfavorable recommendation was because of the OLCC incident.

Police Officer Rod Beard said the gang enforcement officers had been working for over a year with the licensee but were still having the same problems with regard to their catering to gang members.

Commissioner Blumenauer said there is a pattern of not following through on commitments.

Commissioner Bogle said it appears the family is unable to control the clientele.

Disposition: Unfavorably recommended. (Y-4)

At 3:10 p.m., Council adjourned.

BARBARA CLARK Auditor of the City of Portland

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By Cay Kershner Clerk of the Council