



CITY OF
PORTLAND, OREGON

**OFFICIAL
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 4TH DAY OF APRIL, 1990 AT 9:30 A.M.

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

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

Mayor Clark proclaimed the Week of the Young Child.

Commissioner Blumenauer introduced a presentation on the Neighborhood Outreach Recycling program. He said it focuses on a person-to-person grass roots approach and began with four neighborhoods but is now being expanded to twenty-three more.

Commissioner Lindberg congratulated Susan Emmons and the Northwest Pilot Project for winning the prestigious Presidential Volunteer Action Award for its program called Access to the Arts.

Agenda No 532 was pulled from Consent. On a Y-4 roll call, the balance of the Consent Agenda was adopted as follows:

CONSENT AGENDA - NO DISCUSSION

- 522 Accept bid of Copenhagen Utilities & Construction, Inc. for NE Martin Luther King Jr. Blvd. Overlay Project for \$608,497.15 (Previous Agenda 474)

Disposition: Adopted; prepare contract.

- 523 Accept bid of Riedel International, Inc. for repair of boat ramp at Cathedral Park for \$34,000 (Purchasing Report - Bid 80)

Disposition: Adopted; prepare contract.

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- 524 Accept bid of Larson Inc. for construction of SW 1st and Taylor Street Combination Sewer Replacement Project for \$181,304 (Purchasing Report - Bid 84)

Disposition: Adopted; prepare contract.

- 525 Vacate a portion of NE 10th Avenue lying between the west extension of the south boundary line of Block 125, Holladay's Addition to East Portland, and the southeasterly right-of-way line of Columbia River Highway (I-84), under certain conditions (Ordinance by Order of Council; C-9726)

Disposition: Passed to second reading.

Mayor J. E. Bud Clark

- 526 Adopt the 1990/91 Overall Economic Development Strategy (Second Reading Agenda 501)

Disposition: Ordinance No. 162876. (Y-4)

Commissioner Earl Blumenauer

- 527 Accept petitions for construction of the NE Knott Street and NE 105th Avenue Sanitary Sewer System and recommend that the following Resolution be adopted (Report)

Disposition: Adopted.

- 528 Direct the City Engineer to prepare plans, specifications and estimates for the construction of the NE Knott Street and NE 105th Avenue Sanitary Sewer System (LID) (Resolution)

Disposition: Resolution No. 34704. (Y-4)

- * 529 Approve a contract in the amount of \$45,000 with BRW, Inc. to study the engineering feasibility of Light Rail on two additional alignments for the North Corridor LRT line (Ordinance)

Disposition: Ordinance No. 162877. (Y-4)

- * 530 Call for bids for labor and materials to install two school crossing traffic signals and modify existing traffic signal installations at five intersections (Ordinance)

Disposition: Ordinance No. 162878. (Y-4)

- * 531 Call for bids for labor for the Arterial and Residential Street Light Conversion and Modification Project No. 8407, Phase VII (Ordinance)

Disposition: Ordinance No. 162879. (Y-4)

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- * 533 Accept a Street Deed for the future widening of N Tomahawk Island Drive, granted by Hayden Corporation (Ordinance)

Disposition: Ordinance No. 162880. (Y-4)
- * 534 Call for bids for the SE Harrison Street and SE 155th Place Sanitary Sewer Project, authorize a contract, and provide for payment (Ordinance)

Disposition: Ordinance No. 162881. (Y-4)
- * 535 Accept a Sewer Easement granted by Mobil Oil Corporation, and release another sewer easement, in connection with the Glen Harbor Outfall Sewer Relocation Project (Ordinance)

Disposition: Ordinance No. 162882. (Y-4)
- * 536 Accept a Sewer Easement for a sewer located near NE 122nd Avenue south of NE Airport Way, granted by Airport Way Associates Joint Venture, at no cost to the City (Ordinance)

Disposition: Ordinance No. 162883. (Y-4)

Commissioner Dick Bogle

- * 537 Accept a grant of \$45,500 from the Federal Emergency Management Agency for Federal fiscal year 1990 for the Bureau of Fire, Rescue and Emergency Services (Ordinance)

Disposition: Ordinance No. 162884. (Y-4)

Commissioner Bob Koch

- 538 Report of the Commissioner of Public Utilities on the Eastmoreland Clubhouse Project recommending Change Orders No. 33,34,35,36 and 37 be approved (Report)

Disposition: Adopted.
- * 539 Authorize Purchasing Agent to call for bids to furnish video equipment for the Portland Fire Bureau (Ordinance)

Disposition: Ordinance No. 162885. (Y-4)

Commissioner Mike Lindberg

- * 540 Agreement with GTE Metal Erectors, Inc. for structural steel repairs at \$35,243, and provide for payment (Ordinance)

Disposition: Ordinance No. 162886. (Y-4)

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- * 532 Authorize the execution of a Letter of Understanding for purchase of property for future park development from the Union Pacific Railroad Company in an amount not to exceed \$32,000, in connection with the development of the Oregon Convention Center area (Ordinance)

Discussion: The City Attorney's office requested a continuation to the afternoon session.

Disposition: Continued to 2:00 pm., April 5, 1990.

- 521 **TIME CERTAIN: 9:30 AM** - Accept the recommendations of the City of Portland's Film and Video Task Force (Report introduced by Commissioner Lindberg)

Commissioner Lindberg moved to approve the substitute and accept the Task Force's final report. On a second by Mayor Clark, the motion carried. (Y-4)

Commissioner Lindberg said he has come to realize the tremendous potential of film making to Portland's economy and also the incredible amount of work involved in assisting film companies who come here. He said after the testimony there are a series of issues he would like to get feedback from Council about.

Keeton Lowery of Commissioner Lindberg's office said the Task Force had been charged with three tasks: 1) coordinate development of consistent policies and procedures; 2) develop recommendations for staffing and, 3) work with other governmental agencies to develop regional policies. He said they also tried to place the information in an economic context.

He reviewed some of the report's recommendations including development of a cohesive set of policies, creation of a film office and establishment of a one-stop permit center. He said they hoped to develop funding sources from the state and other local governments as well as from private organizations.

Marjie Lundell, Manager, State Film Video Office, strongly supported establishment of a film office and said since 1987 requests to the state for assistance with film projects have doubled and the amount of money brought into the state has tripled. She said establishing a good permit process is important because it is something the state cannot do. Film companies also want a single person liaison.

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John Dorst, Multnomah County Film Coordinator, said implementation of the Task Force recommendations will provide for long term continuity and protect the community by having one person who knows what is going on. The county also supports the idea of regionalization.

Other individuals speaking in support of the Task Force recommendations included:

Melissa Mitchell, Will Vinton Studios
Michael Carter, founder of Spectrum Sound Studios
Mike McCleod, President, Tyee Productions and of the
Oregon Media Production Association
Arnold Biskar, CPA, McDonald, Jacobs and Biskar
Dick Rosetti, RPR Productions
Gus Van Sant, director of Drugstore Cowboy
John Mull, John Mull Productions
Carl Wikman, Film Editor
Vicki Greenlick, Signature Productions
Matt Simek, Independent Producer
Kathleen Lopez, 9703 SE 48th, film coordinator
Dennis Weary, film maker
Mary Somerset, scriptwriter
Scott Robbe, film maker
John Ripper, Tyee Productions

Supporters spoke of the need for the City to nurture and support the indigenous film industry as well as out-of-state film companies, and urged creation of a centralized and streamlined permitting process.

Commissioner Lindberg said he wanted feedback from Council about establishing the film office and funding possibilities. He said the report could be accepted today and then he can come back later and ask Council to adopt specific items in the proposal.

Commissioner Koch said we need the office and a one-step permitting center and wanted to know more about how no-fee permits would work. He said funding is a critical issue and encouraged Commissioner Lindberg to seek funding partnerships.

Commissioner Blumenauer said the film and video business should be part of the City's economic strategy as we target the kinds of industries that we want to encourage. He questioned how much activity should be tailored to one industry's individual needs and said he thought the position of development liaison which Council approved two-and-a-half years ago could be useful here. Commissioner Blumenauer said he is very supportive of going to the state for funding but said the City must be careful to give the same service to everyone and not foster the idea that high-rollers who are well-connected will get special attention.

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Mayor Clark said he was particularly supportive of building the indigenous industry but is not sure how it would fit in the City structure. He believes we need an ombudsman and likes the idea of funding the film office in cooperation with film businesses.

Commissioner Lindberg said we need a single contact person full-time and that he needs to know if there is support among Council for this concept.

Commissioner Blumenauer said he is already on record as stating that any extra money in this year's budget go to community policing. He said he is less than enthusiastic about adding additional bureaucracy at this point and that it was premature to establish a new office right now when the priorities have not been worked through.

Mayor Clark said he wants this position but is not sure where this new function should go in the metropolitan area governmental structure or what our role is. He said it will take a lot of discussion to determine which options and direction to take to make sure it's done right for the long term.

Commissioner Blumenauer said his office will cooperate with Keeston Lowery over the next several months to make sure that when film people deal with his bureaus nothing falls through the cracks. He suggested producing a brochure similar to the one for developers to show how film and video people can access the system.

Keeston Lowery said he thought the services of the development liaison were already being utilized fully. He said he hoped the Council would recognize the need for a single point of contact and one-stop permit process. He said we have reached a point where we need to establish a new position and hoped to get Council approval for this ombudsman concept so they could look at funding it for FY 1991-92 and seek private dollars and other funding opportunities.

Commissioner Lindberg said he was willing to try to come up with a creative funding package and bring it back to Council if Council is willing to agree to the concept.

Disposition: Adopted. (Y-4)

Mayor J. E. Bud Clark

541 Recognize the week of April 7-14, 1990 as Community Development Block Grant Week and call upon the citizens of Portland to display their support for the Community Development Block Grant Program (Resolution)

Disposition: Resolution No. 34705. (Y-4)

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- * 542 Contract with the Black United Fund of Oregon, Inc. to provide support for the coordination of the North/Northeast Economic Development Task Force and provide for payment (Ordinance)

Disposition: Ordinance No. 162887. (Y-4)

Commissioner Earl Blumenauer

- 543 Call for bids to construct NE Fremont Street Bikeway from NE 102nd Avenue to NE 122nd Avenue; authorize a contract, and provide for payment (Previous Agenda 368)

Disposition: Ordinance No. 162888. (Y-4)

- 544 Authorize additional payments to CH2M Hill Northwest Inc., for Series 1990 Sewer System Revenue Bond Feasibility Report in the amount of \$6,432.01 (Ordinance)

Disposition: Passed to second reading.

Commissioner Bob Koch

- * 545 Pay partial payment of claim totalling \$4,755.54 to Doug Buchanan (Previous Agenda 491)

Discussion: Council wanted to continue this item to a time when Commissioner Bogle would be present.

Disposition: Continued to April 11, 1990.

Commissioner Mike Lindberg

- * 546 Transfer \$800 within the budget of the Office of Cable Communications and Franchise Management from Materials and Services to Capital Outlay to purchase new recorder for meetings of Cable Regulatory Commission (Ordinance)

Disposition: Ordinance No. 162889. (Y-4)

City Auditor Barbara Clark

- 547 Report on the costs of 1989 Special Elections (Report)

Disposition: Placed on file.

- 548 Establishes policy for the payment of special election costs (Resolution)

Disposition: Resolution No. 34706. (Y-4)

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 4TH DAY OF APRIL, 1990 AT 2:00 P.M.

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

OFFICERS IN ATTENDANCE: Cay Kershner, Clerk of the Council; Kathryn Imperati, Senior Deputy City Attorney; and Officer Mike McDonald, Sergeant at Arms.

- 549 **TIME CERTAIN:** 2:00 PM - Appeal of Standard Appliance, Inc., applicant, against decision of the Variance Committee to deny application for a variance to reduce off-street parking from 22 spaces to 12 spaces in order to expand retail space at 4804 SE Woodstock (Hearing; VZ 186-89)

Discussion: Cathey Briggs, Planning Bureau, said the applicant wanted to increase retail space by 1,150 square feet and reduce off-street parking to 12 existing spaces. The Variance Committee denied the request because they believe it did not meet the hardship criteria.

Bill Gander, President, Standard Appliance, read a letter of support from the Woodstock Business Association and said he was only asking to remodel existing space and had not eliminated any additional parking.

Terry Griffith, Woodstock Neighborhood Association, said the Association was not taking an official position because the zoning code rewrite now underway proposes to rezone this property to Storefront Commercial in which case there would be no offstreet parking requirement at all.

Commissioner Blumenauer confirmed that the Code rewrite draft designates this property as Storefront Commercial with no parking requirement.

Ms. Briggs said the Variance Committee had no power to make decisions based on future changes.

Commissioner Koch said the applicant could wait until October when the code rewrite is complete and then he would not need this approval.

Commissioner Blumenauer proposed that applicant and Planning Bureau work with the City Attorney to see if they can find a solution and grant the variance if applicant leases parking until the new zoning code goes into effect.

Disposition: Continued to April 11, 1990, 2:00 pm.

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REGULAR AGENDA

- 550 Appeal of Charles Schietinger against Hearings Officer's decision to approve application of Walter Remmers for a zone change and variance, with conditions, at 708 and 821 SW Maplecrest Court (Previous Agenda 427)

Steve Gerber, Planning Bureau, said the Hearings Officer had approved two requested zone changes and a requested lot variance from 10,000 to 8,800 square feet and that not allowing this variance defeats the purpose of the Comprehensive Plan.

Paul Norr, Attorney for Mr. Schietinger, said the Hearings Officer is overzealous in striving for housing opportunities and that the hardship standard has not been met for granting the variance, which calls for a finding of extraordinary circumstances that do not apply generally to other properties in the same vicinity. He said there are twenty similarly situated lots in the area and that these two lots are no different from the other eighteen. He said this will create a precedent for the entire street and that if you want to grant this it should be done through a zone change from R10 to R7, not through the backdoor by variances. He said variances can not substitute for a zone change.

Mr. Norr said the Code states that flag lot areas must be more than twice the size required and not just twice the size of the lot to allow for the pole area.

Leon Sims, MBA Homes, spoke in behalf of West Hill Homes. He said two variances have already been granted in the area in order to divide unusually plated lots and that this is the proper thing to do with these gigantic lots. Allowing this division will not devalue the neighborhood or have a negative impact.

Charles Shietinger, appellant, 721 SW Maplecrest Drive, said ninety percent of the neighborhood association opposed granting the variance and zone change. He said there was zero proof this was in the public interest or enhanced property values and that there were also surface water run-off and traffic problems.

Diane Palmer, 645 SW Maplecrest Dr., asked what good land use rules are if they are not followed and said the burden of proof should be on the developer.

Connie Holtz, 731 SW Maplecrest Dr., asked Council to keep to the ruling as it applies to R10 zoning and not reduce the lot size.

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Paul Norr said the applicant was relying on a prior variance that had been granted illegally and was not appealed. He said this should not set a precedent in this case.

Kathryn Imperati, City Attorney, said flag lot requirements do require more than twice the lot area and said Council needs to find that the variance criteria regarding extraordinary circumstances is met.

Steve Gerber said the Hearings Office found that the lot size was extraordinary and variances on two similar lots had already been approved.

Kathryn Imperati said there has to be some hardship, something unique that prevents you from developing the lots in compliance with the zoning regulations.

Commissioner Blumenauer said the density issue had been settled by Council ten years ago regarding R10 zoning and that the intent was to permit one lot to every 10,000 square feet. He said there was nothing here to indicate an adverse impact on property values and that granting this will provide what had been intended in the Comprehensive Plan.

Commissioner Koch said the variance process was never intended to overcome the Code which was what the appellants were relying on and which the Hearings Officer's decision changed. He supports the appellant.

Disposition: Appeal denied tentatively; prepare findings for April 18, 1990, 2:00 pm. (Y-1 (Koch); N-3)

At 3:40 pm, Council recessed.

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 5TH DAY OF APRIL, 1990 AT 2:00 P.M.

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

OFFICERS IN ATTENDANCE: Cay Kershner, Clerk of the Council; Ruth Spetter, Senior Deputy City Attorney; and Officer John Wrigley, Sergeant at Arms.

REGULAR AGENDA

Commissioner Mike Lindberg

- * 554 Repeal Exposition-Recreation Commission Resolution No. 644 and direct the dismissal of Condemnation action against First Congregational Church, subject to receipt of acceptable release of all claims. (Ordinance)

Discussion: Cay Kershner, Council Clerk, said a substitute had been filed and the emergency clause had been removed as it was not technically an emergency clause to begin with.

Commissioner Lindberg explained one possibility was to have the City overturn the E-R Commission action but leave all negotiations up to the E-R Commission and the First Congregational Church. The City Attorney's office had suggested putting in a provision that the church drop all claims but the church did agree to that. There is a state law that says if condemnation is initiated and then dropped the government body would pay legal fees and reasonable expenses.

Kathleen Kuhn-Johnson said they were trying to find something that both parties will agree to and this appeared to be what will work for everyone. The church was concerned with releasing and waiving their right to all claims and felt if they gave up opportunities to get attorney fees then the ERC might resubmit condemnation later and not give the church the opportunity to resubmit counter claims or claim attorney fees. The new language allows for negotiations but does not force the church to give up their right to counterclaim if the ERC comes back and submits condemnation procedure again within a year or two. The church representatives feel strongly that they should not have to waive the right to claim court fees when they did not take the initial action.

Mayor Clark said his problem is that negotiations are still going on and those fees ought to be part of that process.

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Ms. Kuhn-Johnson said this does not say we will pay their fees; it simply does not force church to give up their opportunity to have their fees paid.

Mayor Clark said he thought we were consenting to pay their fees right now.

Ruth Spetter, City Attorney, said Pete Kasting prepared a memo which quotes statute indicating that if an action is abandoned by the condemnor the court shall enter judgment in favor of the defendant for court costs and attorney fees.

Commissioner Lindberg said if this is the intent of state law, what reason do we have to say the state law is not relevant in this case. He said he has discussed the issue of legal fees with Ted Runstein but is not sure the E-R Commission is going to sign off on everything we do here.

Commissioner Koch asked what authority Council has to cause the ERC to settle legal claims at all.

Commissioner Blumenauer said they initiated this as the E-R Commission before they went to Metro so this language keeps the options open.

Commissioner Koch said the principle of making people whole again applies here and there is no reason why they should suffer any loss.

Mayor Clark said he believes we're still in negotiations and he is not willing to give everything away.

In response to a question from the Mayor, Ruth Spetter said the attorney fees would still be part of the negotiations.

Commissioner Lindberg moved to accept the substitute ordinance. On second by Commissioner Blumenauer, the motion carried (Y-5).

Joe Willis, attorney for church, asked if the substitute gave the church a 60-day negotiation period.

Commissioner Lindberg said it did.

Commissioner Blumenauer moved to add the emergency clause. On second by Commissioner Koch, the motion carried (Y-4)

Disposition: Substitute Ordinance No. 162890 as amended. (Y-4)

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CONSENT AGENDA

Mayor J.E. Bud Clark

- 553 Change fee schedule and add insurance requirements to conditions for issuance of special events permits (Second reading agenda 519)

Disposition: Ordinance No. 162891. (Y-4)

Commissioner Earl Blumenauer

- * 553 Grant a revocable permit to David Redmond for a retaining wall and stairs at 2808 SE 92nd Avenue (Ordinance)

Disposition: Ordinance No. 162892. (Y-4)

- * 532 Authorize the execution of a Letter of Understanding for purchase of property for future park development from the Union Pacific Railroad Company in an amount not to exceed \$32,000, in connection with the development of the Oregon Convention Center area (Ordinance)

Discussion: Cay Kershner said the City Attorney's office said its concern with this item had now been satisfied.

Disposition: Ordinance No. 162893. (Y-4)

- 551 **TIME CERTAIN:** 2:00 PM - Support reauthorization of the National Foundation on the Arts and Humanities Act of 1965 and continued funding for the National Endowment for the Arts, National Endowment for the Humanities, and the Institute of Museum Services for FY-1991 without any restrictive language (Resolution introduced by Commissioner Lindberg)

Commissioner Lindberg said NEA censorship is the first resort of moral and intellectual cowardice and that this country is strong enough not to fear the creativity of any artist. Less than one one/hundredth of one percent of the images created by NEA grant artists result in controversial exhibits. He asked Commissioners to support the resolution as a statement of this community's commitment to freedom of expression.

Dan Monroe, President, Oregon Art Institute, said the NEA has done an extraordinary job carrying out its mission to stimulate artistic creativity and assure broad-based access to the arts but is in serious trouble today in Congress. He read a letter from John Frohnmayer, NEA Director, emphasizing how critical the issue is and asked for reauthorization of the NEA so that certain elements of Congress do not determine the artistic content of this country.

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Other individuals speaking in support of the resolution included:

Marian Kolisch, 11343 SW Breyman
Michael Powell, Chairman, Metro Arts Association
Mike Grice, Oregon Arts Commission
Bill Bullich, Metropolitan Arts Commission Executive
Director
Laura Ross-Paul, artist/painter
Larry Rosencrantz, Oregon Business Community for the Arts
Claire Kelly, PSU Art Instructor,
John Osburn, former chairman, Metropolitan Arts Commission
Richard M. Rollins, Blue Sky Gallery
Nanette Taylor, 1210 SE 37th

Supporters spoke of the necessity for artists to be able to express themselves without censorship and said the restrictions on the NEA are not warranted.

Commissioner Koch asked Michael Powell what the difference between private and public support of arts and if tax patronage of the arts was essential.

Mr. Powell said once you make the choice to support the arts you are funding people with conflicts of ideas, some of which will offend some people. Government does have the responsibility to review how it funds the arts and the very fact that there are so few instances of objectionable art suggest that process has been very good. He said the arts provide our vision of the future.

A motion was made to approve the substitute. On second by Commissioner Blumenauer, the motion carried (Y-4)

Commissioner Blumenauer said he hopes we can feel comfortable with controversy in the arts and not be too timid.

Commissioner Koch said the issue involves a fine line between the separation of government and art similar to the separation of church and state. Based on his belief in freedom of speech he will vote in favor of the reauthorization.

Commissioner Lindberg said we do not really know the implication of censorship on artistic expression and thanked the people to come and speak out.

Mayor Clark said support to the arts is an extremely small part of the federal government's budget but goes to the broadest spectrum of citizens.

Disposition: Resolution No. 34707. (Y-4)

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At 3:10 pm, Council adjourned.

BARBARA CLARK
Auditor of the City of Portland

Cay Kershner

By Cay Kershner
Clerk of the Council