



CITY OF
PORTLAND, OREGON

**OFFICIAL
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 2ND DAY OF MAY, 1990 AT 9:30 A.M.

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

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

Mayor Clark proclaimed April 3-May 7 as Community Law Week.

On a Y-5 roll call, the Consent Agenda was adopted as follows:

CONSENT AGENDA - NO DISCUSSION

- 697 Accept bid of Criterion, Inc. for Affirmative Action planning and reporting software for \$57,000 (Purchasing Report - Bid 83)

Disposition: Adopted; prepare contract.

- 698 Accept bid of John Arnold Company for 12 inch, 8 inch and 6 inch water mains at NE Columbia, SW Lesser Rd., SW 4th and SW Collins St., for \$191,063 (Purchasing Report - Bid 86)

Disposition: Adopted; prepare contract.

- 699 Accept bid of Double T Forest Products for furnishing treated timber for Bull Run bridges for \$34,119 (Purchasing Report - Bid 87)

Disposition: Adopted; prepare contract.

- 700 Accept bid of Wentworth Chevrolet Co. for one hydro boom truck for \$53,859 (Purchasing Report - Bid 91)

Disposition: Adopted; prepare contract.

MAY 2, 1990

- 701 Accept bid of Tigard Electric Inc. for twin ornamental conversion at SW 4th Avenue for \$128,950 (Purchasing Report - Bid 94)

Disposition: Adopted; prepare contract.

- 702 Accept bid of K. F. Jacobsen and Company for improvement of streets within the SE Reedway/57th District HCD Improvement Project and construction of sumps for \$425,923 (Purchasing Report - Bid C-9673)

Disposition: Adopted; prepare contract.

Mayor J. E. Bud Clark

- 703 Confirm appointment of David M. Yamashita to the Historic Landmarks Commission Ladd's Addition Conservation District (Report)

Disposition: Confirmed.

- 704 Confirm appointment of Michael Siever to the Urban Forestry Commission (Report)

Disposition: Confirmed.

- * 705 Apply for a five-year substance abuse prevention planning grant for approximately \$500,000 per year from the Office for Substance Abuse Prevention on behalf of the Regional Drug Initiative (Ordinance)

Disposition: Ordinance No. 162978. (Y-5)

- * 706 Contract with Multnomah County for funding the Council for Prostitution Alternatives (Ordinance)

Disposition: Ordinance No. 162979. (Y-5)

- * 707 Authorize restoration of forfeited vacation time to the account of a Police Bureau employee (Ordinance)

Disposition: Ordinance No. 162980. (Y-5)

- * 708 Contract with Prodata Inc. for data processing services at \$25,000 and provide for payment (Ordinance)

Disposition: Ordinance No. 162981. (Y-5)

- * 709 Authorize lease agreement with Wentworth Chevrolet for office space for the Bureau of Police for \$1 per year for two years (Ordinance)

Disposition: Ordinance No. 162982. (Y-5)

- * 710 Amend Professional Services Agreement for contract Hearings Officers services (Ordinance)

Disposition: Ordinance No. 162983. (Y-5)

Commissioner Earl Blumenauer

- 711 Set hearing date, 9:30 a.m., Wednesday, June 6, 1990, to vacate certain portions of N. Cook Street and N. Montana Avenue to expand parking facilities (Report; Petition; C-9705)

Disposition: Adopted.

- 712 Accept completion of the Cully Basin Interceptor, Unit 2 and make final payment (Report; Contract 24733)

Disposition: Adopted.

- 713 Authorize an interagency agreement between the Bureau of Environmental Services and the Portland Development Commission to finance sewer connection charge loans for low-income homeowners within the Mid-County Sewer Project (Ordinance)

Disposition: Passed to second reading.

- * 714 Accept one street deed for the SE Harold Street from SE 92nd Avenue to SE 102nd Avenue Street Improvement Project, granted by John Phillip Davis, at no cost to the City (Ordinance)

Disposition: Ordinance No. 162984. (Y-5)

- * 715 Accept two street deeds for an identical parcel of land for the SE Harold Street from SE 92nd Avenue to SE 102nd Avenue Street Improvement Project, granted by Albert W. Thompson, Shirley D. Thompson, and the State of Oregon, acting by and through the Director of Veterans' Affairs, at no cost to the City (Ordinance)

Disposition: Ordinance No. 162985. (Y-5)

- 716 Vacate a portion of SW 39th Avenue approximately 406 feet south of SW Iowa Street, under certain conditions (Second Reading Agenda 644)

Disposition: Ordinance No. 162986. (Y-5)

- 717 Settle litigation and enter into agreement with National Advertising Company. (Second Reading Agenda 688)

Disposition: Ordinance No. 162987. (Y-5)

MAY 2, 1990

- 718 Enter into agreement with Meadow Outdoor Advertising, Inc. (Second Reading Agenda 689)

Disposition: Ordinance No. 162988. (Y-5)

- * 719 Amend Agreement No. 24847 between the City of Portland and KCM/CMI by extending the Agreement to June 30, 1991 (Ordinance)

Disposition: Ordinance No. 162989. (Y-5)

Commissioner Dick Bogle

- 720 Confirm appointment of Rachel Noble to Citizen Advisory Committee of PIIAC (Report)

Disposition: Confirmed.

Commissioner Bob Koch

- * 721 Call for bids for Kelly Butte Renovation, authorize contract, and provide for payment (Ordinance)

Disposition: Ordinance No. 162990. (Y-5)

- * 722 Call for bids for providing janitorial services at City Hall and the Justice Center, authorize a contract and provide for payments (Ordinance)

Disposition: Ordinance No. 162991. (Y-5)

Commissioner Mike Lindberg

- 723 Approve Change Order #3 (Contract #25706) and accept the project as substantially complete as of April 30, 1990, and authorize final payment with release of retainage for Powell Butte Nature Park (Report)

Disposition: Adopted

- 724 Delete requirement that Water Bureau collection agents be responsible for furnishing bonds. (Second Reading Agenda 667)

Disposition: Ordinance No. 162992. (Y-5)

- * 725 Authorize the Mayor to submit a proposal to Portland General Electric Company for a performance-based contract to augment the Low-Income Multi-Family Weatherization Assistance Program in the City of Portland (Ordinance)

Disposition: Ordinance No. 162993. (Y-5)

- * 726 Authorize application for a grant from the Environmental Protection Agency to analyze the vulnerability of the City's groundwater wells and aquifers to chemical spills (Ordinance)

Disposition: Ordinance No. 162994. (Y-5)

- 696 TIME CERTAIN: 9:30 AM - Support State Constitutional Amendment Ballot Measure #1, which would allow local vehicle registration fees to be spent for public transportation purposes (Resolution introduced by Commissioner Blumenauer)

Commissioner Blumenauer said passage of this measure will give local communities local choices.

Bill Robertson, representing Transportation 2000, said the fees can now be used only for roads and Measure 1 will broaden the choice voters have by giving them the flexibility of deciding how these fees can be used.

Cheryl Perrin, Fred Meyer Inc., said this measure has broad-based support and is essential if our transportation system is to avoid gridlock.

Disposition: Resolution No. 34719. (Y-5)

REGULAR AGENDA

- 727 Assess improvement of N. Dekum Street from the west line of N. Delaware Avenue to the east line of N. Boston Avenue, and construction of sumps (Hearing; Ordinance; C-9645)

Disposition: Passed to second reading.

- * 728 Authorize the City to enter an agreement with Richard Tell Associates, Inc. for physics consulting services for the measurement and documentation of RF power densities on Healy Heights, for a fee not to exceed \$50,000, and provide for payment (Ordinance; waives 5.68; introduced by Commissioner Blumenauer and Commissioner Koch)

Disposition: Ordinance No. 162995. (Y-5)

Mayor J. E. Bud Clark

- 729 Adopt a General Reserve Fund Use Policy (Resolution)

Disposition: Continued to May 3, 1990

MAY 2, 1990

- * 730 Adopt a Supplemental Budget for FY 1989-90 of \$18,454,995; increases resources and requirements in various City funds; and makes appropriations (Ordinance)

Disposition: Ordinance No. 162996. (Y-5)

- * 731 Authorize a contract with Columbia Center for Employment Strategy to provide research, technical assistance and policy implementation services for economic development and employment (Ordinance)

Disposition: Ordinance No. 162997. (Y-5)

Commissioner Earl Blumenauer

- 732 Improve SW 47th Avenue, SW Vacuna Street, SW Coronado Street, and SW Buddington Street, and construct a storm sewer system. (Resolution; C-9400)

Disposition: Resolution No. 34720. (Y-5)

- 733 Provide for time and manner of constructing the Richardson, Englewood, and Floyd Light Sanitary Sewers. (Second Reading Agenda 681)

Disposition: Ordinance No. 162998. (Y-5)

- 734 Provide for time and manner of improving as a district: streets within the SE Mitchell/68th District HCD Improvement Project, and construction of sumps. (Second Reading Agenda 682)

Disposition: Ordinance No. 162999. (Y-5)

- * 735 Approve an intergovernmental agreement with Multnomah County relative to enforcement of the polystyrene foam ordinances of each government (Ordinance)

Disposition: Ordinance No. 163000. (Y-5)

Commissioner Bob Koch

- 736 Support Senate Concurrent Resolution 108 and similar legislation which acknowledges Lithuanian independence and the right of self-determination of the Lithuanian people (Resolution)

Commissioner Koch read a statement in Lithuanian and said President Bush has asked for a response from citizens in support of Lithuanian independence.

MAY 2, 1990

Al Tekorius, Portland Lithuanian Association, said the Baltic states were illegally incorporated against their will into the Soviet Union and asked Council to support the Lithuanian people in their struggle for independence.

Other individuals speaking in support of the resolution included:

John Dixon, Refugee worker
Joyce Palke, Citizens Defense Education Community
Kostof Varga, Portland Lithuanian Association

Commissioner Blumenauer said he understands the hard feelings refugees have towards the Soviet Union but urged Council to be cautious about getting involved in foreign policy and acting counterproductively at a time when Gorbachev is faced with loss of control and the unraveling of the Soviet Union.

Commissioner Bogle said he supported the Lithuanian people in their struggle for freedom.

Disposition: Resolution No. 34721. (Y-3; N-2 Blumenauer, Lindberg)

Commissioner Koch requested a one-week continuation for the Bureau of General Services ordinances that follow.

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

Disposition: Continued to May 9, 1990.

- * 738 Call for bids for providing for repair and service of manlift components of City vehicles for the Bureau of General Services, authorize a contract and provide for payments (Ordinance)

Disposition: Continued to May 9, 1990.

- * 739 Call for bids for providing for repair and service of paint strippers for the Bureau of General Services, authorize a contract and provide for payments (Ordinance)

Disposition: Continued to May 9, 1990.

- * 740 Call for bids for providing for service, repair, overhaul and replacement of automatic transmissions for light and medium vehicles for the Bureau of General Services, authorize a contract and provide for payments (Ordinance)

Disposition: Continued to May 9, 1990.

MAY 2, 1990

- * 741 Call for bids for providing for repair, replacement and installation services for medium and heavy trucks, and off-road vehicle tires for the Bureau of General Services, authorize a contract and provide for payment (Ordinance)

Disposition: Continued to May 9, 1990.

- * 742 Call for bids for repair and service of street sweepers for the Bureau of General Services, authorize a contract and provide for payments (Ordinance)

Disposition: Continued to May 9, 1990.

The meeting was recessed at 10:35 a.m.

MAY 2, 1990

195

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

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

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

REGULAR AGENDA

- 744 Deny appeal of Charles Schietinger and approve application of Walter Remmers for a zone change and variance, with conditions, at 708 and 821 SW Maplecrest Court (Findings; 7952 and 7953)

Cay Kershner, Clerk, said on April 18, Council tentatively voted to approve the zone change and deny the variance based on findings prepared by City Attorney Kathryn Imperati and that her findings are to be used today in making a final decision.

Disposition: Findings Adopted. (Y-4)

- 743 **TIME CERTAIN:** 2:00 PM - Appeals of Lois Wakelin/Gary Marshal and Richmond Neighborhood Association against approval of the application of Joseph W. Angel for a zone change from R5 to C2 in order to construct a restaurant and parking lot at 1616, 1626, and 1636 SE 39th Avenue (Hearing; 7958)

Mayor Clark outlined the process for testimony and Council discussed carryover dates and procedures if the matter is not concluded today.

Bob Glasscock, Planning Bureau, reviewed the Hearings Officer's decision with conditions and the appellants' issues. He said the code is very specific about the criteria for approval of a zone change and states approval will be granted if the zone change is to the maximum plan designation and adequate services are presently available or can be reasonably made available.

Mr. Glasscock said the Hearings Officer had determined that with the condition of a left turn refuge, services would be adequate and that nuisance impacts such as noise, lights and litter could be addressed by the additional conditions and compliance standards. The C2 zone designation is in compliance with the Comprehensive Plan approved ten years ago.

MAY 2, 1990

Doug McCallum, Traffic Engineer in Bureau of Traffic Management, said many of the issues raised by the appellants were best addressed by the applicant's traffic consultant.

Ky Holland, Richmond Neighborhood Association and Inner Southeast Coalition Chair, said they are challenging the Hearings Officer's decision based on the issue of adequacy of services. He said traffic on the street is already at capacity and appellants do not believe added turning movements and ingress and outgress of traffic should be put into the middle of this congestion. He said they have requested a small scale study to reevaluate this area.

Mr. Holland said placing a fast food restaurant in the neighborhood will result in impacts on traffic and noise that cannot be mitigated. He said the Comprehensive Plan is not a guarantee of zone changes but open for updating and that the neighborhood needs to be protected from the irreparable damage this restaurant will cause.

Pat Barton, Richmond Neighborhood Association, disputed the results of applicant's traffic studies and said the neighborhood had arrived at very different results with slight changes in the data input. He said their studies show the road system is at overcapacity now and the level of service is inadequate. He showed a video of traffic at 39th and SE Hawthorne.

Robert Keech, traffic engineer, said the neighborhood's analysis raised legitimate concerns about the impact of the Burger King facility, especially the drive-through window, on traffic congestion and safety.

David Crow, Richmond Neighborhood Association Board Member and member of the American Planning Association, said the applicant's traffic study had not correctly addressed access or future traffic impacts and that the impact during peak hours would be severe.

Mr. Crow said this proposal does not meet public facilities and services requirements for zone changes and would result in objectionable impacts in violations of the C2 zone. He outlined issues he believes the Hearings Officer failed to adequately address including policing and gang activity, buffering, and the adverse impacts that noise, garbage disposal, lights, and odors would have on the neighborhood. He said this facility does not promote neighborhood liveability and introduces an auto-oriented business into an area which should be pedestrian-oriented.

MAY 2, 1990

Mark McKenney, 1625 SE 40th, said this facility will decrease livability to unacceptable levels. He cited concerns about noise, lights and traffic and said the neighborhood is 100 percent against the Burger King because of where it is located.

James Strenz, Mt. Tabor Neighborhood Association, said his neighborhood was particularly worried about the traffic impact on 60th Avenue.

Barbara Rommel, Laurelhurst Neighborhood Association, said her group has twice voted to request Council to deny the zone change because of the adverse impact on traffic.

Pat Anuschat, South Tabor Neighborhood Chair, said her neighborhood objects, not to Burger King, but to a traffic-oriented business that will add to the problems on the street.

Patrick Smith, Sunnyside Neighborhood Association, said the Hawthorne area is in the middle of a neighborhood revitalization and that this facility does not fit the character of the neighborhood. He said they have requested a change back to residential as part of the zoning code rewrite.

Ed Sullivan, attorney for appellants Gary Marshal and Lois Wakelin, said his clients were concerned with the conditions of approval requested by the staff relating to traffic and noise. He outlined a number of conditions his clients have requested to mitigate traffic and noise problems, including elimination of the drive-through window and a request for a public site plan review by a sound engineer.

Because of new information introduced today, Mr. Sullivan requested a setover of seven days to review the new material.

Robert Bernstein, Traffic Engineer, said he reviewed the research presented and found that this proposed use is not consistent with the arterial streets classification because of its disruption of the traffic flow. He said the traffic analysis needs to be extended to cover the issue of congestion in the parking lot itself and its effect on 39th Avenue traffic and that the site layout also needs to be looked at again.

Albert Duble, Acoustical Engineer, said he conducted an acoustical study of the site plan and a 24-hour measurement. He said the six-foot masonry wall is grossly inadequate and will do virtually nothing to abate the noise.

MAY 2, 1990

Stephen Janik, Attorney for applicant Joe Angel, also requested a holdover in order to respond to new material. He asked Council to look dispassionately at the applicable legal standards in the Code and noted that the Planning staff and Hearings Officer had granted the zone change after six hours of testimony. He said they should be guided by the Comprehensive Plan commercial designation established ten years ago and subsequent decisions made since that time. He said 39th Avenue is an auto-oriented area and is classified as a major city street, a designation reserved for streets carrying the highest volumes of traffic.

Mr. Janik cited the Code which says if conditions are met, the zone change will, not may, be granted and the City has no right to apply any other standards. He said there are two standards to be met: 1) is the rezoning to the maximum intensity of Comprehensive Plan designation; 2) Are services adequate to support zoning change? The answer to the first question is yes and with respect to the second, traffic is the only real issue. He said Mr. Kittelson, applicant's traffic expert, and the City experts agree that it will be adequate, that the left turn refuge will work, and that there will be very little the impact on neighborhood streets. He said applicant agrees to the Hearings Officer's condition providing a left turn refuge even though their position is that it is not essential.

Wayne Kittelson, Traffic Engineer, said his studies show that adequate transportation services are available in the area for the proposed use. He said with the Burger King in place and with some relatively minor adjustments they can make the 39th & Hawthorne intersection operate substantially better than it does today.

Mr. Kittelson said there will be no significant traffic safety problems and the site will have negligible effects on neighboring streets. He showed slides and a video to support these findings and described the field studies that formed the basis for their conclusions.

Mr. Janik rebutted testimony from witnesses about traffic and noise impacts and said that the generalized Comprehensive Plan policies they cite do not apply to a site specific rezoning to bring properties into conformance with the Plan. He said the standard in City Code 33.42.030(a) prohibiting objectionable uses such as noise and lights can not be applied here unless the use is way beyond what is normally allowed.

MAY 2, 1990

139

Joseph Angel, applicant, objected to allegations that he had received special treatment because he was a member of the Planning Commission. He said he acquired the 39th Avenue property based on his reliance on the Comprehensive Plan C2 designation. He said they tried to address the issues raised by the Richmond Neighborhood Association but to no avail though other neighborhoods have found the issues less cut and dried.

Council agreed to continue the testimony to 2:00 p.m. Time Certain, May 10 and agreed that those persons who had signed up to testify at today's hearing would be allowed to testify then.

Bob Keech, Traffic Engineer, rebutted Mr. Kittelson's testimony, stating that it did not deal with the issue of spillback and that use of the drive-through window was still understated and could lead to serious safety problems.

Gail Preston, Chair of the Land Use Committee for Richmond Neighborhood Association, asked why, if the Code criteria is the only thing to be considered, the Planning staff in its report had addressed Comprehensive Plan goals and policies.

Commissioner Lindberg asked for a City Attorney opinion as to what criteria Council can use, especially regarding other goals and policies, to make its decision.

City Attorney Pete Kasting said he would prepare a written opinion for Council.

Council determined that at the May 10 hearing, in addition to allowing time for public testimony, ten minutes will be allotted to each of the two appellants and twenty minutes to the applicant to rebut and respond to new information.

Council recessed at 5:30 p.m.

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 3RD DAY OF MAY, 1990 AT 2:00 P.M.

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

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

729 Adopt a General Reserve Fund Use Policy (Resolution)

Discussion: Steve Bauer, Director of the Office of Finance and Administration, said this policy establishes two reserve funds. The first five-percent reserve provides funds to cover single-year emergencies while the second five-percent creates a counter-cyclical reserve fund to allow for continuing services during a recession.

Other individuals speaking in support of the policy were:

Drew Barden, City Economist
Tim Grewe, Office of Financial Planning
Melinda Peterson, Personnel Director
Loren Wyss, Citizens Investment Advisory Committee
Rosemary Jane, Bureau Advisory Coordinating Committee
Chair
Mark Gardiner, Public Financial Management

Ms. Peterson said the policy can assist the City in labor relations by clearly establishing the City's intention to maintain a healthy reserve in order to weather periods of economic downturn.

Mr. Grewe said the City Attorney advised amending the resolution to require that a verbatim transcript of today's testimony be attached as an exhibit to provide a permanent record of Council's resolve.

Commissioner Koch moved to approve the amendment. On a second by Commissioner Lindberg, the motion carried (Y-5).

Disposition: Resolution No. 34722 As Amended. (Y-5)

MAY 3, 1990

REGULAR AGENDA

Commissioner Earl Blumenauer

- 746 Amend Title 17, Chapter 17.36 of the City Code to revise sewer in-lieu-of assessment charges and to clarify definitions of dwelling units (Chapter 17.36.005), sewer user service charges (Chapter 17.36.010), and equivalent dwelling units (Chapter 17, Figure 4). (Second Reading Agenda 683)

Disposition: Ordinance No. 163001. (Y-5)

Commissioner Mike Lindberg

- * 747 Accept a Statutory Bargain and Sale Deed and Assignment for the Springwater Line east of SE McLoughlin Boulevard from the Portland Traction Company in connection with the development of the 40 Mile Loop (Ordinance)

Commissioner Lindberg thanked those who had worked so hard to overcome the legal obstacles and make this happen.

Disposition: Ordinance No. 163002. (Y-5)

- 745 TIME CERTAIN: 3:00 PM - Spirit of Portland Awards Ceremony

Discussion: Mayor Clark and the Commissioners presented awards to: Doris Tait, Keturah Pennington, Barbara Grimala, Neighborhood Accountability Board, Thach Nguyen, Patti Morris, Konrad Daae, Gayle Preston, Jose Martinez and the Brentwood-Darlington Neighborhood.

Disposition: Placed on file.

At 3:55 p.m., Council adjourned.

BARBARA CLARK
Auditor of the City of Portland

Cay Kershner

By Cay Kershner
Clerk of the Council