



CITY OF

# PORTLAND, OREGON

OFFICIAL  
MINUTES

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 16TH DAY OF JANUARY, 1991 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; Kathryn Imperati, Senior Deputy City Attorney; and Officer D. Erickson, Sergeant at Arms.

Agenda No. 68 was pulled from Consent. On a Y-5 roll call, the balance of the Consent Agenda was adopted as follows:

## CONSENT AGENDA - NO DISCUSSION

- 64 Accept bid of Lone Star Northwest, Ross Island Sand and Gravel, Lakeside Industries, Fazio Bros. Sand Co. and Scappoose Sand and Gravel for furnishing aggregates for \$661,082 (Purchasing Report - Bid 65-A)

**Disposition:** Adopted; prepare contract.

- 65 Accept bid of Romania Chevrolet for four extended cab compact pickup trucks for \$37,300 (Purchasing Report - Bid 66)

**Disposition:** Adopted; prepare contract.

- 66 Accept bid of Wentworth Chevrolet for two 5-6 yard dump trucks for \$76,596 (Purchasing Report - Bid 67)

**Disposition:** Adopted; prepare contract.

- 67 Accept bid of Ingersoll-Rand Equipment Sales for two double drum vibratory compactors for \$36,670 (Purchasing Report - Bid 69)

**Disposition:** Adopted; prepare contract.

**Mayor J. E. Bud Clark**

- \*69 Lease agreement with Rose City Village for office space for the Bureau of Police for \$1 per year for three years (Ordinance)

**Disposition:** Ordinance No. 163772. (Y-5)

- \*70 Agreement with Campbell Resources, Inc., to continue and expand the Landlord Training program, not to exceed \$79,080 (Ordinance)

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**Disposition:** Ordinance No. 163773. (Y-5)

- \*71** Authorize contract with Dames & Moore for consulting services for the Fuel Management Project and provide for payment (Ordinance)

**Disposition:** Ordinance No. 163774. (Y-5)

- \*72** Settle the claim of Robert Warrens (Ordinance)

**Disposition:** Ordinance No. 163775. (Y-5)

- \*73** Amend Contract No. 24688 with Nicholas Teeny for Urban Services canvasser services (Ordinance)

**Disposition:** Ordinance No. 163776 (Y-5)

- \*74** Amend Contract No. 25766 with Linn A. Kuczek for Urban Services canvasser services (Ordinance)

**Disposition:** Ordinance No. 163777. (Y-5)

- \*75** Amend Contract No. 25767 with John E. Morrison for Urban Services canvasser services (Ordinance)

**Disposition:** Ordinance No. 163778. (Y-5)

- \*76** Amend Contract No. 25800 with Richard E. Spohn for Urban Services canvasser services (Ordinance)

**Disposition:** Ordinance No. 163779. (Y-5)

- \*77** Amend Contract No. 25931 with Megann Ratzow for Urban Services canvasser services (Ordinance)

**Disposition:** Ordinance No. 163780. (Y-5)

- \*78** Call for bids to furnish Public Address/Sirens for the Portland Police Bureau (Ordinance)

**Disposition:** Ordinance No. 163781. (Y-5)

**Commissioner Earl Blumenauer**

- \*79** Revocable permit to Hamilton Events, permittee, to maintain banners on street light poles from February 17, 1991 to March 18, 1991 (Ordinance)

**Disposition:** Ordinance No. 163782. (Y-5)

- \*80** Grant revocable permit to the City of Portland Water Bureau for existing stone walls and wrought iron fences in SE 60th Avenue and SE Division Street (Ordinance)

**Disposition:** Ordinance No. 163783. (Y-5)

- \*81** Accept a sewer easement for the Englewood sanitary sewer system project, granted by Daryl D. Stutzman (Ordinance)

**Disposition:** Ordinance No. 163784. (Y-5)

- \*82** Accept two sewer easements for an identical parcel of land for the Linn Park (#39) sanitary sewer project, granted by Gordon W. Herigstad, Peggy S. Herigstad and Carol C. Herigstad, authorizing total payment of \$490 (Ordinance; C-9745)

**Disposition:** Ordinance No. 163785. (Y-5)

- \*83** Accept a street deed for the NE 113th Avenue north of NE Glisan Street improvement project, granted by Multnomah County, at no cost to the City (Ordinance)

**Disposition:** Ordinance No. 163786. (Y-5)

- \*84** Accept a street deed for the SW Multnomah Boulevard at SW 40th Avenue Street intersection improvement project, granted by Waverly Properties (Ordinance)

**Disposition:** Ordinance No. 163787. (Y-5)

- \*85** Release property granted by Multnomah Education Service District for the NE Airport Way Street improvement project (Ordinance)

**Disposition:** Ordinance No. 163788. (Y-5)

**Commissioner Dick Bogle**

- \*86** Consent to transfer Electric Lightwave, Inc., franchise (Ordinance)

**Disposition:** Ordinance No. 163789. (Y-5)

**Commissioner Mike Lindberg**

- 87** Accept contract with Excel Environmental, Inc., for asbestos abatement as complete and authorize final payment of \$58,290 (Report; Contract 26548)

**Disposition:** Adopted.

**City Auditor Barbara Clark**

- 88** Revise City's initiative and referendum provisions to update and clarify procedures (Second Reading Agenda 56)

**Disposition:** Ordinance No. 163790. (Y-5)

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- \*68** Create two positions and establish salary rates for the Compensation Plan in accordance with the Personnel Rules adopted by the City Council (Ordinance)

**Discussion:** Cay Kershner, Clerk of the Council, said the ordinance needed to be amended to correct the effective date of the salary rate for Job Class 2129 to November 6, 1990.

Commissioner Blumenauer so moved; Commissioner Bogle seconded, and the motion carried. (Y-5)

**Disposition:** Ordinance No. 163791 as amended. (Y-5)

- \*89** Purchasing Agent to sign a Purchase Order as a contract with Plank Company for safety shoring and transfer funds (Ordinance introduced by Commissioner Blumenauer and Commissioner Lindberg)

**Disposition:** Ordinance No. 163792. (Y-5)

**Mayor J. E. Bud Clark**

- \*90** Adopt Supplemental Budget for FY 1990-91 of \$57,167,435; increase resources and requirements in various City funds and make appropriations (Ordinance)

**Disposition:** Ordinance No. 163793. (Y-5)

- \*91** Contract with US West Communications to provide "DSI Service" and provide for payment (Ordinance)

**Disposition:** Ordinance No. 163794. (Y-5)

**Commissioner Earl Blumenauer**

- 92** Update Council on the status of the Vehicle Forfeiture Ordinance (Report)

**Discussion:** Commissioner Blumenauer said, by any measure of success, this ordinance has lived up to Council expectations. The notion of taking away their vehicles is an effective way of removing drivers with suspended licenses off our streets, and it has also given Police an effective tool in dealing with prostitution.

Roger Hidiger, Police Sergeant, reported on the number of vehicles seized and on the costs incurred and revenues received. He said they are just now beginning to see their revenues catch up with costs.

Paul Elsner, Deputy City Attorney, said the ordinance had been legally challenged during the past year but so far the courts have found it to be constitutional. He said the City had been contacted by many other cities interested in passing similar regulations. He expressed hope that the City can convince the state legislature to make some needed changes in ORS forfeiture statutes at the coming session.

**Disposition:** Adopted.

- 93 Set hearing date, 9:30 am, Wednesday, February 20, 1991, to vacate certain portions of SW Canterbury Lane and a certain portion of SW 49th Avenue (Report; Petition; C-9732)

**Disposition:** Adopted.

**Commissioner Dick Bogle**

- 94 Amend Taxicab Regulations relating to rates (Ordinance; amend Code 16.48.130)

**Discussion:** Dennis Nelson, License Bureau Manager, said the requested increase in meter rates is the first such increase since 1985 and is triggered by the recent rise in gas prices. He said the proposal will increase the flag drop charge from \$1.30 to \$2.00 and increase the mileage rate from \$1.40 to \$1.50. The Bureau hopes that the increase in the flag drop charge will provide an incentive for cab drivers to increase service to short-fare customers, which has been a problem in the past.

Commissioner Lindberg asked if City regulations prohibit taxis from refusing short fares and if we evaluate service to see if the public is well served.

Mr. Nelson answered yes to the first question but noted that the City does not have built-in service standards and relies on complaints and feedback from riders. He said the complaints are often about the length of the wait, especially for short-fares, but that the Bureau hopes the recent increase in the number of permits will be an incentive for cabs to pursue short fares.

Commissioner Lindberg noted that the City had recently added 40 more permits and asked Mr. Nelson how we know this is enough.

Mr. Nelson said there is no scientific measure and added that the Bureau considers the current level of service in the City adequate but not great.

Mayor Clark said it might not be a bad idea to create our own rating system.

Mr. Nelson said the taxicab industry is much more responsive now to the need for providing better service but that there is no easy way to monitor it. He said he will take this issue, and the need for better information about service, back to the industry.

Commissioner Kafoury said the issue for everyone is the short fares and asked Mr. Nelson to keep Council apprised if there is an increase in complaints after the fares increase.

Mr. Nelson said if they find this increase does not provide the expected incentives for short-fares they can revisit the issue.

Steve Moscovitz, Attorney representing the Northwest Taxi Association, noted that costs for cab drivers have increased 36% in the five years since the last rate increase. He said the increase in the flag drop charge fairly allocates the costs of

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doing business by addressing front-end costs.

David Dushane, Broadway Cab, said most of a cab driver's cost is incurred in the first mile. He added that while City Code requires that cab drivers accept all calls, this is hard to do when a driver loses money in doing so.

At 10:15 a.m., Council recessed.

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 16TH DAY OF JANUARY, 1991 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; Ruth Spetter, Senior Deputy City Attorney; and Officer D. Erickson, Sergeant at Arms.

Mayor Clark asked that the liquor license applications be considered first.

## REGULAR AGENDA

### Commissioner Dick Bogle

- 97 Liquor license application for Norcrest China Co., dba Made in Oregon, 10 NW 1st Avenue, package store liquor license (tasting) new outlet, favorable recommendation (Report)

**Disposition:** Favorably recommended (Y-4; Blumenauer absent)

- 98 Liquor license application for Hun Parke, dba Grocery Plus, 4626 SE Hawthorne Blvd., package store license, new outlet; favorable recommendation (Report)

**Discussion:** Loren Long, who said he lived nearby, objected to the presence of another store in the vicinity selling liquor. He said the City should be trying to keep people away from liquor.

**Disposition:** Favorably recommended (Y-4; Blumenauer absent)

- 95 Appeal of David R. Bighouse against Variance Committee's decision to deny application for a 7'8" chain link barbed wire fence within front yard setbacks (along Killingsworth/30th) at 3009 NE Killingsworth (Hearing; VZ 178-90)

**Discussion:** Suzanne Searle, Planning Bureau staff, said this proposal is for a 7'8" chain link fence with barbed wire on top within the two front yards on 30th and Killingsworth. The area is zoned C2L, with commercial on the four corners. However, the zoning is residential to the north and east of Mr. Bighouse's property, which is why he needs a variance to build a fence of that height. Ms. Searle said the Variance Committee rejected the request on three grounds: 1) there was no property hardship; 2) the barbed wire creates an anti-social atmosphere; and 3) the problem is a social, not a land use, issue.

The appellant, Ms. Searle said, contends that the fences are necessary to protect vehicles in the building and that a 3'6" fence as allowed in Code would not stop vandalism or robbery. She said the business has been in the neighborhood since 1954.

Mayor Clark asked how long the fence had been there.

Ms. Searle said about two years but that the complaint about a Code violation was made several months ago.

David Bighouse, appellant, noted that neither the Concordia Neighborhood Association nor his immediate neighbors objected to the fence, even with the barbed wire. He said the fence protects against break-ins and that his neighbors seem to like it because it cuts down on vandalism. He said there are other existing fences in the neighborhood in excess of 8 feet and that no one except the Planning Commission has objected to his.

George Walrod, 5533 NE 30th, objected to the fence, particularly to the barbed wire on top. He said he believes this fence encourages a feeling that the neighborhood needs to fortify itself in order to be safe.

The Mayor asked what Mr. Bighouse would be able to do under the new Code.

Ms. Searle said the fence height requirement would still be 3'6" on the perimeter of the property, but could be as high as the applicant wanted if the setback requirements of 10 or 15 feet were met.

Mr. Bighouse noted that his building was 10 feet from the 30th Avenue side and that if the fence was setback 15 feet it would be inside the building. He said there is nothing restricting the use of barbed wire.

Commissioner Blumenauer said although Council approved a similar fence on Alberta, this one bothered him because it is in a more residential area.

Commissioner Lindberg said he is definitely going to vote against this one and that he thought he had consistently voted against similar requests in the past. He said he believes other solutions, such as alarm systems and lighting, should be considered and that fences this high with barbed wire are bad for the neighborhood.

Mayor Clark noted the existence of several even higher fences nearby. He said he does not like to set precedents.

Commissioner Kafoury asked what would happen under the new zoning code.

Ms. Searle said under the new zoning code, the applicant could come in for an adjustment and there would probably be a good chance that the five criteria could be met and he could get one. No property hardship needs to be shown.

Commissioner Kafoury said it seemed silly to her to deny this and tell Mr. Bighouse to come back later to get an adjustment.

Commissioner Lindberg said it sounds to him like a mistake has been made if the new Code will allow things like this.

Commissioner Blumenauer asked Doug Warren of the Planning staff for an overview of how such a request would be treated under the new Code.



Mr. Warren said he believes we are on shaky ground in predicting whether permission for the fence would or would not be granted under the new Code. However, the criteria for a variance and an adjustment are entirely different and the Bureau is supposed to use a more subjective kind of analysis about the impact as opposed to the hardship concept, which has been very difficult to meet.

Commissioner Bogle said he thinks it is a hardship to do business in a high crime area when you have unsecured property. He said he had voted for the similar variance for Rose City Cab on Alberta Street and would vote yes on this one too for the same reason, that it is a public safety issue.

Mayor Clark said he considers this a high crime impact area and that is the only reason he will vote for this.

**Disposition:** Tentatively grant appeal. Y-3; N-2, Blumenauer and Lindberg)  
Findings scheduled for February 6, 1991.

- 96 Appeal of Stephen P. Arel against decision to approve application of Stewart Dean and Mary Jones for variances to reduce lot size and width in order to build a single family residence at 3700 SW Hillside Drive (Hearing; VZ 100-90)

**Discussion:** Suzanne Searle, Planning Bureau, said this is a case Council heard earlier and remanded back to the Variance Committee after the City Attorney's office directed that the two lots must be considered as separately owned. The Variance Committee denied some of the requests but approved others, including requests for reduced lot area and width, and a modified reduction in the required garage setback. It found that the steeply sloping site required a larger west side yard setback and that it met the variance criteria of an R10 zone. Appellant states that the Committee erred in interpreting the remand on the ownership issue as a request by Council to allow grandfathering.

Peggy Hennessey, Attorney representing Stephen P. Arel, said her client is appealing the variances which would allow reduction of the lot size from 10,000 to 7,500 square feet, and of the lot width from 70 to 60 feet. She said the Variance Committee took Council's remand on issue of separate ownership as a directive to waive the area and width requirements. She said the Variance Committee based its decision on subsection (g) of PCC 33.22.050 to grant the reductions but failed to require that the property comply with the narrow and specific variance criteria. Ms. Hennessey asked that Council either reverse the Variance Committee decision or remand it back for further consideration of the mandatory approval standards.

Stewart Dean, applicant, 3125 SW Scholls Ferry Court, said this lot was platted in 1909 and is larger than most others in the neighborhood. He said a just-completed survey indicates the property has 7,535 square feet. He read a letter of support from David and Patricia L. Williams and urged Council approval, contending that the lot is becoming a serious dumping ground.

Ken Dieringer, 1120 NW 25th, #2, identified himself as an interested purchaser of the lot. He said simply owning a substandard and nonbuildable lot is a hardship because it denies the right to develop one's property. He said it was hard to understand the objections to these variances when you looked at what had

already been approved in the neighborhood.

Neighbors testifying against granting the variances included:

Jerry Jones, 3723 SW Hillside Dr.  
Erica Phillips, 3728 SW Hillside Dr.  
Dennis P. Mederos, 3320 SW 37th

They questioned the accuracy of the lot size as indicated on Mr. Dean's survey and also contended that the size of the house is too big for the lot. They said the majority of neighbors oppose these variances and that the property hardship on the Deans was self-imposed.

Ms. Hennessey, in rebuttal, said hardship by mere ownership of a substandard lot, as defined by Mr. Dieringer, has not been supported by LUBA. LUBA has found that each variance request must comply with each of five separate approval criteria. She contended that the Variance Committee failed to address these and reminded Council that it is the burden of the applicant to show compliance with each and every standard.

Mr. Dean, in his rebuttal, reasserted that a licensed surveyor had determined the property to be in excess of 7,500 square feet. He said many other lots in the area were substandard and had been granted variances in order to make them buildable.

Mr. Dieringer said the Variance Committee had noted in its decision that the request for lot area and width reductions fall within the stated criteria for granting such variances in R10 zones and, because of the steep site, there is a hardship associated with topography. He said what the Variance Committee approved was substantially less than what Planning staff had recommended.

**Disposition:** Tentatively deny appeal. (5-0) Prepare findings for February 7, 1991 at 2:00 p.m.

At 3:12 p.m., Council adjourned.

BARBARA CLARK  
Auditor of the City of Portland

*Cay Kershner*  
By Cay Kershner  
Clerk of the Council

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**THURSDAY, 2:00 PM, January 17, 1991**

Beginning Thursday, December 20, 1990, and continuing through January 31, 1991, the City Council will hold special sessions for the purpose of discussing the Budget. The meetings will be held Thursday afternoons from 2:00 to 4:30 pm in Council Chambers, 1220 SW 5th Avenue, Portland, Oregon 97204.

These meetings are planned as work sessions and no public testimony will be accepted unless otherwise directed by the Council.