



CITY OF

PORTLAND, OREGON

OFFICIAL
MINUTES

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 27TH DAY OF FEBRUARY, 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 Sheridan Grippen, Sergeant at Arms.

Agenda Nos. 294 and 309 were pulled from Consent. On a Y-5 roll call, the balance of the Consent Agenda was adopted as follows:

CONSENT AGENDA - NO DISCUSSION

- 290** Request from R. Barry Menashe to address Council regarding property at 1007, 1011 and 1021 NE Tillamook (Communication)

Disposition: Referred to Commissioner of Public Works

- 291** Cash and investment balances for January 17, 1991 through February 13, 1991 (Report; Treasurer)

Disposition: Adopted.

- 292** Accept bid of 2KG Contractors for construction of Fire Bureau training center for \$235,300 (Purchasing Report - Bid 83)

Disposition: Adopted; prepare contract.

- 293** Accept bid of El Camino Resources, Ltd., for furnishing 32 Megabyte central storage upgrade for \$68,500 (Purchasing Report - Bid 92)

Disposition: Adopted; prepare contract.

Mayor J. E. Bud Clark

- *295** Pay claim of Richard W. Vandyne (Ordinance)

Disposition: Ordinance No. 163894. (Y-5)

- *296** Change Agreement with Richard Brainard, Planning and Urban Design to increase scope of work (Ordinance)

Disposition: Ordinance No. 163895. (Y-5)

- *297** Intergovernmental Agreement between the City of Portland and Multnomah County in support of the Urban Services Program (Ordinance)

Disposition: Ordinance No. 163896. (Y-5)

- *298** Authorize issuing a Purchase Order as a contract with Otis Elevator Company for maintenance and repair services on the elevators at the Portland Building (Ordinance)

Disposition: Ordinance No. 163897. (Y-5)

- *299** Amend Contract No. 25738 with Damian Syrnyk for Urban Services canvasser services (Ordinance; amend Contract No. 25738)

Disposition: Ordinance No. 163898. (Y-5)

Commissioner Earl Blumenauer

- 300** Set hearing date, 9:30 am, Wednesday, April 3, 1991, to vacate a certain portion of SW Freeman Street from SW 48th Avenue to SW 49th Avenue (Report; Petition; C-9749)

Disposition: Adopted.

- *301** Modification No. 1 to Contract No. 25839 with Tri-Met for design engineering of Transit Transfers site improvements - Unit 3 Project (Ordinance; modify Contract No. 25839)

Disposition: Ordinance No. 163899. (Y-5)

- *302** Contract with Tri-Met providing for City design of the Transit Transfer site improvements, Unit 4 (Ordinance)

Disposition: Ordinance No. 163900. (Y-5)

- *303** Contract with Pacific Power and Light Company for electrical service to 8500 NE Marx Street (Ordinance)

Disposition: Ordinance No. 163901. (Y-5)

- *304** Accept three sewer easements for the Adventist (#20) sanitary sewer project, granted by Neal J. Bonome and Marcella Kneeland, Erik Roland DeBoer and JMTL Reyven Co., Inc., authorizing total payment of \$980 (Ordinance)

Disposition: Ordinance No. 163902. (Y-5)

- *305** Accept two temporary construction easements for the Linn Park (#39) sanitary sewer project, granted by Brian J. Hogan, and others, and pay \$300 (Ordinance)

Disposition: Ordinance No. 163903. (Y-5)

- *306** Accept two sewer easements for the Linn Park (#39) sanitary sewer project, granted by Moya R. Shaw, Walter W. Zimmerman and Helen M. Zimmerman, authorizing total payment of \$2,047 (Ordinance)

Disposition: Ordinance No. 163904. (Y-5)

- *307** Accept two sewer easements for the Linn Park (#39) sanitary sewer project, granted by John E. Hamilton, and others, and pay \$825 (Ordinance)

Disposition: Ordinance No. 163905. (Y-5)

- *308** Authorize the Commissioner of Public Works and Auditor to execute, record and deliver to Philippe August Cras, a quitclaim deed releasing the City's interest in a portion of certain utility easements, as reserved by the plat of Terraceview (Ordinance)

Disposition: Ordinance No. 163906. (Y-5)

Commissioner Gretchen Kafoury

- *310** Authorize grant application to support funding of the Albina Community Plan (Ordinance)

Disposition: Ordinance No. 163907. (Y-5)

- *311** Provide development permit issuance regulations in compliance with zoning code regulations and change fee for home occupation permits (Ordinance; amend Code Section 24.10)

Disposition: Ordinance No. 163908. (Y-5)

Commissioner Mike Lindberg

- *312** Amend Code provision relating to exclusion from parks (Ordinance; amend Code section 20.12.265)

Disposition: Ordinance No. 163909. (Y-5)

- *313** Set hearing on withdrawal of territory from Hazelwood Water District, Powell Valley Road Water District, Rockwood Water District and Metzger Water District at 9:30 am, March 13, 1991 (Ordinance)

Disposition: Ordinance No. 163910. (Y-5)

- *314** Contract with Intergraph Corporation and another vendor for CAD equipment and software for the Bureau of Water Works without advertising for bids and provide payment (Ordinance)

Disposition: Ordinance No. 163911. (Y-5)

REGULAR AGENDA

- 294** Preliminary approval of Economic Development Revenue Bonds (Resolution)

Discussion: Cay Kershner, Clerk of the Council, noted that this should properly be heard on the Regular Agenda.

Disposition: Resolution No. 34817. (Y-5)

- *309** Contract for professional services with David Chandler, Ph.D., in the amount of \$23,900 (Ordinance; waive City Code 5.68)

Discussion: The Clerk noted that the amount shown in the title in the agenda was incorrect but that the correct amount (\$13,500) was shown on the ordinance itself.

Disposition: Ordinance No. 163912. (Y-5)

- 315** Request that Congress reject the proposed National Energy Strategy, reaffirm the City's commitment to implementing the City's Energy Policy and encourage Portland's citizenry to increase energy efficiency (Resolution introduced by Mayor Clark, Commissioner Blumenauer, Commissioner Bogle, Commissioner Kafoury and Commissioner Lindberg)

Discussion: Commissioner Lindberg noted the support of the entire Council for this resolution. He said they were disappointed to see a national strategy which focuses on increasing oil supplies rather than emphasizing conservation and fuel efficiency measures.

Angus Duncan, Regional Power Planning Council, criticized the proposed national policy for its failure to recognize energy conservation as the first source of supply.

Scott Lowery, Director, Solar Energy Association of Oregon, decried the lack of national leadership on energy issues over the last 15 years. He said it is imperative for local and state governments to take a leadership role in demanding change.

Commissioner Blumenauer said energy policy issues touch each of us in terms of how we live and the future of our children. He said the total national deficit can be attributed to the loss in imported autos and imported oil.

Disposition: Resolution No. 34818. (Y-5)

Commissioner Dick Bogle

- *289 TIME CERTAIN: 9:30 AM** - Create a Liquor License Impact Area in inner North/Northeast Portland (Ordinance introduced by Commissioner Bogle and Commissioner Kafoury; amend Code Chapter 7.18)

Discussion: Gary McGrew, License Bureau, proposed three changes to the ordinance: 1) add the word "outlet" after the words "liquor license" in Section (C) (1); 2) capitalize the word Favorable in Section (C) (2); and 3) delete the word "alcoholic" on the last line of Section (C) (2). He said with passage of this ordinance, the City should see a reduction of liquor-related problems in the area.

Lt. Charles Moose, Police Bureau, said both the Police and the neighborhood have clearly identified liquor-related problems as a significant barrier to neighborhood liveability. He said this impact area gives them another tool for dealing with these problems and also fits in with the idea of community policing. He stated that the effect of this ordinance will be to compel partnerships and force owners to cooperate with the Police and neighbors to solve these problems.

Rod Beard, Liquor License Inspector, Police Bureau, described the increase in liquor-related problems since 1986 and noted that alcohol is as much a problem in the area as drugs. He said owners who have cooperated have seen fewer problems and this will give them a way to deal with stores that cater to gang members and drinkers.

Pat Bolliger, Police Bureau, said their review of 713 detox reports in the impact area for the period between May 1 and September 30, 1990, indicates that a serious street drinking problem exists. He said these statistics could be reduced if outlets would identify and restrict sales to problem street drinkers.

Doug Henshaw and Art Hendricks, Mainstream Youth Program staffpersons, said this ordinance will help deliver the message to young people that public drinking and drunkenness are not okay. They noted that alcohol, not drugs, is the primary problem for many youth.

Lt. Beard displayed exhibits showing the number of gang crimes and police incidents in the area.

Tom Clark, owner of Century Market, described efforts to resolve the problems at his store, including the hiring of outside security, curtailing hours, eliminating malt liquor displays, and locking up the beer section.

Neighborhood representatives speaking in support of the ordinance included:

John Campbell, NE Coalition of Neighborhoods
Betsy Radigan, Piedmont Neighborhood Association Chair
Michael Matteucci, Eliot Neighborhood Association
Joyce Harris, Vernon Neighborhood Association
Lisa Gladstone, Woodlawn Neighborhood Association

Proponents said passage of this ordinance will help reduce crime in the area and empower citizens to regain control of their neighborhoods.

Commissioner Blumenauer congratulated the License and Police Bureaus for their documentation of the problem, noting that such groundwork was needed, not only to make a case with the OLCC, but to drive home the point that Council has zero tolerance for bad management in stores selling alcohol within the impact area.

Commissioner Lindberg said he was impressed to learn how effective a similar impact designation in Old Town has been in reducing police incidents.

Commissioner Kafoury said this represents exactly what community policing is supposed to be, with the neighborhoods taking responsibility and then coming to Council to reinforce their efforts.

Commissioner Kafoury moved to amend the ordinance as proposed by Mr. McGrew. Commissioner Bogle seconded and the motion carried (Y-5).

Disposition: Ordinance No. 163913 as amended. (Y-5)

- 316** Appeal of Delmark Goldfarb against decision of the Bureau of Parks and Recreation to grant a special use permit to Oregon Food Bank to use the Tom McCall Waterfront Park for the period of July 5-7, 1991 (Findings; Previous Agenda 224)

Discussion: Commissioner Lindberg asked if people could testify on the findings.

Kathryn Imperati, Senior Deputy City Attorney, said Council was not required to allow comment on the findings but could if it wished.

Mayor Clark asked Mr. Goldfarb if he wished to comment.

Mr. Goldfarb said he had not seen the findings.

The Clerk noted that Council was voting on the motion to deny Mr. Goldfarb's appeal.

Disposition: Findings Adopted. (Y-5)

- 317** Report for sale of Mayor Clark's city vehicle (Purchasing Report)

Discussion: The Mayor said the high Blue Book price for the car was \$1,475 but that, to be on the safe side, he will pay \$1,500.

Disposition: Adopted.

Mayor J. E. Bud Clark

- 318** Recommend proposal for annexation case A-2-91 in the South Wilkes area be forwarded to the Portland Metropolitan area Local Government Boundary Commission (Report)

Disposition: Placed on File.

- 319** Authorize filing annexation case A-2-91 in South Wilkes with the Portland Metropolitan area Local Government Boundary Commission (Resolution)

Disposition: Resolution No. 34819. (Y-4)

- *320** Transfer appropriations within and between certain operating bureau budgets, special appropriations and between funds; adjust resources and requirements in various funds (Ordinance)

Discussion: Commissioner Blumenauer said if Council approves the Bureau of Environmental Services budget that has been presented, the Bureau would like authorization to go ahead and fill some of the key positions necessary to deliver its program. He said he would like to make

an amendment to the quarterly allotment ordinance so that, if the budget is approved, they can begin the hiring process now as it will take some time to fill the positions because of the specialized skills called for.

The Mayor said he thought this was an appropriate way to do things.

Commissioner Blumenauer moved the amendment that had been circulated to Council earlier. Commissioner Kafoury seconded and the motion carried (Y-4).

Disposition: Ordinance No. 163914 as amended. (Y-5)

Commissioner Earl Blumenauer

- 321** Return Council Agenda Item No. 1944 (1990) and report on December, 1990 request of Manuel Fagundes to address Council (Report)

Discussion: Manuel Fagundes asked for a review of City policy regarding sewer installation and assessments along SE Harold. He said he was originally informed that his sewer assessment would be \$3,828, but 18 months later when he went to hook up, he was told the cost was \$5,502, a 44% increase over the initial estimate. He said Environmental Services is wrong in maintaining that Title 17 requires them to apply the sewer rates in force at the time of payment. In reality, only the sewer connection charge portion, \$915, is required to be at the current rate, not the total cost. The City Charter and State Constitution also state that charges for such improvements should not exceed the cost of providing them. He said he has not tried to avoid connection, only to be treated equitably, and asked that he be charged only the cost of providing the service, \$3,828.

Bonnie Morris, Finance/Customer Service Manager for the Mid-County Sewer County Project, said Mr. Fagundes' property is along a trunk line, which costs much more than is charged back to the customers. Trunk lines are financed through federal grants, contributions from all City users through the connection charge, currently \$925, and through a systems development rate that tries to mirror what the assessment would have been had it been part of a Local Improvement District. She said in Mr. Fagundes' case, even his current assessment of over \$5,000 does not come close to the actual cost of building the sewer. She said he is mixing up the trunk line with an assessment through a Local Improvement District, which his is not.

Mayor Clark asked about the difference in charges.

Ms. Morris said the rates are set every two years. Mr. Fagundes' property was provided sewer service through the South Mid-County Interceptor Line which was completed in late 1989. Such properties pay an "in lieu of assessment" charge to help towards construction of the lines but do not

pay the full cost. That charge is established by Council in the biannual rate study. Since his original notification, there have been three rate increases. Each time there has been a rate increase all property owners, including Mr. Fagundes, have been notified beforehand of the proposed increase and given three options for locking in the current rate. She said the majority of those notified did lock in the lower rate. Because he failed to do so when he had the opportunity, the Bureau recommends that no exception be made now to allow him to pay the original, lower charges.

Commissioner Blumenauer asked that the recommendation of the Bureau of Environmental Services be accepted and the matter be filed for no further consideration. Commissioner Bogle seconded and the motion carried. (Y-4)

Disposition: Placed on File for no Further Consideration.

- 322** Consider vacating a certain portion of N. Beech Street, N. Kaiser Center Drive, N. Montana Avenue and two alleys at the request of Kaiser Permanente Medical Care Program (Hearing; C-9751)

Disposition: Adopted.

- *323** Continue negotiations to purchase two permanent sewer easements and one temporary construction easement for construction of the Linn Park (#39) sanitary sewer system project; begin condemnation proceedings, if necessary, and obtain early possession (Ordinance)

Disposition: Ordinance No. 163915. (Y-5)

Commissioner Mike Lindberg

- *324** Accept and transfer a \$3,500 grant from the Rose E. Tucker Charitable Trust to the Metropolitan Arts Commission (Ordinance)

Disposition: Ordinance No. 163916. (Y-5)

- *325** Accept and transfer a \$70,000 grant from the Meyer Memorial Trust to the Metropolitan Arts Commission (Ordinance)

Disposition: Ordinance No. 163917. (Y-5)

City Auditor Barbara Clark

- 326** Assess property for sidewalk maintenance through May 31, 1990 (Second Reading Agenda 285)

Disposition: Ordinance No. 163918. (Y-5)

FEBRUARY 27, 1991

Commissioner Blumenauer moved for Suspension of the Rules in order to consider an emergency ordinance that had been misplaced. Commissioner Bogle seconded and the motion carried. (Y-5)

- *326-1** Contract with Oman/Jerrick Associates to write an inspection manual for the Bureau of Transportation Engineering and provide for payment.
(Ordinance)

Disposition: Ordinance No. 163919. (Y-5)

At 11:07 a.m., Council recessed.

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 27TH DAY OF FEBRUARY, 1991 AT 2:00 P.M.

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

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

- 327 TIME CERTAIN: 2:00 PM** - Appeal of Friends of Cathedral Park Neighborhood Association against decision to approve application of Open Meadow Learning Center for a conditional use and variance to operate a private high school at 7654 N. Crawford (Hearing; CU 94-90)

Steve Gerber, Planning Bureau, said this was a request for a conditional use to operate a private school at this North Portland location. He said the Hearings Officer approved the use with conditions that limited student cars, parking for night meetings, size of the student body, hours of operation and called for placement of barriers around the site's perimeter. The appellants base their appeal on safety, traffic and parking problems, and also object to the location of a school in an exclusively residential area. In addition, they contend that the historic structure of the residence calls for a less intense use and oppose granting the setback variance.

Mr. Gerber said the conditional use criteria were addressed by the Hearings Officer and staff, noting that a conditional use can be approved only when it can be shown that its location is not contrary to the public interest and will not adversely affect property values or environmental conditions. Mr. Gerber showed slides and described the site. He said this use meets all the conditional use criteria except for that specific to private schools relating to side yards. However, because of the prior existence of the structures and their historic status, the staff recommended, and the Hearings Officer approved, the requested variance for the setback. He said concerns raised about this particular school seem to be unjustified, based on the testimony of neighbors at the school's present location. Finally, Mr. Gerber said the attorney for Open Meadow Learning Center has questioned the legality of this appeal.

Laurie King, Board Member, Friends of Cathedral Park, said the neighborhood association appealed because they found out at the eleventh hour that neighbors were vehemently opposed to this use and they felt that all parties had a right to be heard on this matter.

Debbie Espinoza, 7730 N. Crawford Street, said she represented at least 65 residents in the immediate neighborhood of the proposed site for Open Meadow Learning Center. She submitted a copy of the letter with signatures that was presented to the Cathedral Park Neighborhood Association, requesting that the appeal be filed on their behalf.

Ms. Espinoza contended that the proposed use does not meet conditional use criteria which require that such use is not injurious to the public health, peace or safety, or value of surrounding properties. She contended that the school will have a significant impact on neighborhood traffic, noting that only one street, N. Polk, serves as a thoroughfare into this four-block cul de sac of residences. She called the condition not allowing students to drive to school unrealistic because of the difficulty of monitoring compliance. In addition, she said the peace and safety of this solely residential neighborhood would be negatively impacted because of the backgrounds of the students, many of whom are no longer permitted to attend public schools because of prior behavioral problems.

Ms. Espinoza said this historic property should be restricted to residential use or as a home for the elderly. She said the main structure is only 45 feet from the property line and objected to the exception for the garage and greenhouse in order to preserve the historic structure of the site. She contended that applicants have not shown practical difficulty or unnecessary hardship as required for granting the setback.

Mayor Clark asked what the use of the house had been used for recently.

Ms. Espinoza said as a residential alcohol and substance abuse center which has since gone bankrupt.

Morton Winkel, Attorney for applicant and member of the Board of Open Meadow Learning Center, confirmed Mr. Gerber's comment that they do object to the perfection of the appeal. He said the Center operates an extraordinary program.

Carol Smith, Director, Open Meadow Learning Center, said this is a 20 year-old program offering an alternative school program for 55 students who compete for admittance. She said the students are well-supervised and the 89.9% attendance rate speaks well for the commitment of the students. She said they believe this use will be compatible with the neighborhood, citing the school's excellent track record at their present location. She said there have been no incidents involving gang activity and that their presence posed no threat to public safety or to increased traffic. She described the program as a highly structured one, noting that students are not allowed to drive cars and must stay on campus for lunch. She said the neighborhood had not been exclusively residential since 1986 when a residential rehabilitation center operated in the home.

Individuals testifying in favor of granting the conditional use to the Open Meadow Learning Center included:

Michael McCarthy, 5494 SW Idaho, 97221
Mary Denevan, 4711 NE 31st Avenue 97211
Pauline Anderson, Multnomah County Commissioner
Nathan Jones, Director, Alternative Education, Portland Public Schools
Hal Ogburn, Director, Multnomah County Juvenile Justice Systems
Opal Chancler-Moore, Oregon State Crime Prevention Board Member,
3708 NE 17th
Jeff Shadrick, 3233 N. Lombard
Adrian Navarre, 1401 NE 68th
Crystal Misner, 4609 NE 35th Place
Jawavan Barr, 4249 N. Alaska
Jerry Sweeney, 7816 N. Kellogg
Robert Norwest, 5802 N. Michigan, #21
James Whipple, 1315 N. Shaver
Nina Harris, 9533 N. Leonard
Nancy Near, 7207 N. Syracuse
Allan Luethe, 11309 NW Skyline, Principal, Sellwood Middle School
Leon Fuhrman, 3496 Hulsay Ave. S.E., Salem, Oregon 97302
Patrick Burk, Principal, Ockley Green Middle School, 6031 N. Montana
Deidra Gibson-Cairas, 4443 SE 28th Place
Bill Baker, 10512 NW 4th
Leslie Anderson, speaking for Nick Barnett, 705 N. Killingsworth
Melvin Meaney, 5122 N. Bowdoin

Supporters, including educators and Open Meadow students, parents and board members, praised the school's program and the importance of having alternative schools available to students residing in North Portland.

Opponents included:

Debbie Espinoza, 7730 N. Crawford, speaking as a homeowner
Daniel Ard, 6819 N. Polk

Opponents questioned the appropriateness of the school in a residential area and raised traffic and access concerns.

Terry Scott, 8736 N. Willamette, former Cathedral Park Board member, questioned the neighborhood association stand. He said he had conducted the investigation into the impact of the school at its present site and surveyed nearby neighbors who reported that the impact was minimal. He said he did not believe the school, transported to the proposed location, would in any way disrupt lives or property.

Commissioner Blumenauer asked if he presented this report to the neighborhood association.

Mr. Scott, noting that he is a former board member, said the board members signed off on his report but that the names he has seen associated with this appeal are those who came in and forced the association to change its mind.

Laurie King, Cathedral Park Neighborhood Association board member, said Debbie Espinoza does not speak for the entire neighborhood association. She is a member, but does not represent the whole association. The association was originally going to go on record in favor of the school but at the eleventh hour, after vehement opposition surfaced, it was decided to approve the appeal to facilitate more discussion and allow the opponents to have their side fully heard.

Commissioner Blumenauer said if the association was not officially opposed to it, it was troubling to take the time of so many people by bringing it to Council. He said as a courtesy, neighborhood associations are given free appeal rights but appeals to Council are not for discussion purposes.

Ms. King said she felt she was between a rock and a hard place because at the last minute the association was innundated with people opposed to the school. She said even though the association did not take a stand, it felt it had to be democratic and let those opposed be heard.

Mayor Clark said in the future, if a group other than the neighborhood association itself is opposed, it should be their responsibility to appeal and pay for it themselves.

Ms. Espinoza said 19 persons opposed this conditional use and she believed they had legitimate land use concerns to bring to Council, not just emotional issues. She said they did not intend to misrepresent the neighborhood.

Commissioner Blumenauer moved to deny the appeal. Commissioner Bogle seconded.

Mr. Kasting said no new findings were needed if there are no revisions to the Hearings Officers' findings.

Commissioner Blumenauer said he was concerned about the mixed signals from the neighborhood and about neighborhood association use of the appeals process. He said there was no evidence of safety or traffic problems and he believes this is a program the City is lucky to have.

Commissioner Bogle said the school has addressed neighborhood concerns. He expressed hope that they could be invited to a school event in the future.

FEBRUARY 27, 1991

Commissioner Kafoury, noting the critical need for such facilities, said she is optimistic that the neighbors will come to find that their fears were unjustified.

Disposition: Appeal denied. (Y-4)

At 3:35 p.m. Council adjourned.

BARBARA CLARK
Auditor of the City of Portland

Cay Kershner

By Cay Kershner
Clerk of the Council

FEBRUARY 28, 1991

BUDGET SESSIONS

This week, Council will hold work sessions on the FY 1991-92 Budget on Tuesday, February 26, from 1 to 5 pm and on Thursday, February 28, from 9 to 10 am and from 1:30 to 3:30 pm. Regular Council business will be conducted on Wednesday.

A schedule of budget hearings is available from the Office of Finance and Administration, 1120 SW 5th Avenue, Room 1250; 796-5288.