

PORTLAND CITY COUNCIL AGENDA
City Hall, 1220 SW Fifth Avenue

WEDNESDAY, 9:30 AM, January 6, 1993

DUE TO LACK OF A QUORUM
THE PORTLAND CITY COUNCIL
DID NOT MEET

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CITY OF
PORTLAND, OREGON

OFFICIAL
MINUTES

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 7TH DAY OF JANUARY, 1993 AT 9:30 A.M.

THOSE PRESENT WERE: Mayor Katz, Presiding; Commissioners Blumenauer, Hales, Kafoury and Lindberg, 5.

OFFICERS IN ATTENDANCE: Cay Kershner, Clerk of the Council and Linda Meng, Chief Deputy City Attorney.

Commissioner Hales and Fire Marshall Len Davis introduced Charlotte, the City's first Arson Detection dog "Charlotte".

Kevin Rodino of the Connecticut State Police K-9 Section described the training Charlotte has undergone to prepare for arson detection work.

Commissioner Lindberg nominated Commissioner Hales to be President of Council for the six-month term beginning January 1, 1993. Commissioner Kafoury seconded and the motion carried. (Y-5)

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

CONSENT AGENDA - NO DISCUSSION

- 1 Cash Investment balances for November 19 through December 16, 1992 (Report; Treasurer)

Disposition: Placed on File.

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Mayor Vera Katz

- 2** Request from Jeffrey Liddicoat for Council hearings to fund study on income tax revenue increase (Communication)

Disposition: Referred to Commissioner of Finance and Administration.

- 3** Authorize reimbursement of expenditures with debt issuance (Resolution)

Disposition: Resolution No. 35091. (Y-5)

- *4** Contract with Colamette Construction for tenant work in the 3rd & Alder Parking Facility for \$116,067 without advertising for bids (Ordinance)

Disposition: Ordinance No. 166153. (Y-5)

Commissioner Charlie Hales

- *5** Carryover excess vacation hours for two Bureau of Fire employees (Ordinance; waive Code Section 4.16.040)

Disposition: Ordinance No. 166154. (Y-5)

Commissioner Gretchen Kafoury

- *6** Amend agreement with Ecumenical Ministries of Oregon for the Portland Housing Center by increasing the amount by \$2,260 (Ordinance; amend Agreement No. 28077)

Disposition: Ordinance No. 166155. (Y-5)

- *7** Amend Ordinance No. 166127 to make technical correction regarding contract with Genesis, Inc. (Ordinance; amend Ordinance No. 166127)

Disposition: Ordinance No. 166156. (Y-5)

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Commissioner Mike Lindberg

- 8** Accept contract with Dennis Harding Painting for recoating equipment in Bull Run Watershed as complete, waive liquidated damages, release retainage and make final payment (Report; Contract No. 28127)

Disposition: Accepted.

- 9** Accept contract with Houston Well Screen Company for reservoir screens as complete, release retainage and make final payment (Report, Contract No. 27572)

Disposition: Accepted.

City Auditor Barbara Clark

- *10** Cancel sewer system development charge at 10944 NE Glisan Street (Ordinance; amend Ordinance No. 165783)

Disposition: Ordinance No. 166157. (Y-5)

- *11** Reduce system development charge at 7236 SE Raymond Street (Ordinance; amend Ordinance No. 165978)

Disposition: Ordinance No. 166158. (Y-5)

REGULAR AGENDA

Commissioner Earl Blumenauer

- *12** Amend contract with James M. Montgomery Consulting Inc., for the Balch Creek Watershed Stormwater Management Plan and Facility Design for a stormwater detention/water quality pilot project for additional consultant services (Ordinance; amend Contract No. 27743)

Disposition: Ordinance No. 166159. (Y-5)

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City Auditor Barbara Clark

- 13** Assess benefitted property for the costs of constructing the SW Lower Drive and Private Property Sanitary Sewer System (Second Reading Agenda 2204; C-9759)

Discussion: Dan Vizzini, City Auditor's Office, said some questions remained after last week's hearing on a remonstrance by Susan Mesher through her attorney Doug Bomarito. One question was why three properties on Upper Drive were excluded from the local improvement district while Mrs. Mesher's was not. Mr. Vizzini said these properties were excluded because they currently receive gravity feed service from a sewer line constructed many years ago under an LID for which they have already paid. Because they participated in that project, the Auditor's Office determined that they did not benefit from the new sewer on Lower Drive and excluded them. The other question concerned the exclusion of property at 2525 SW Montgomery Drive. He said in this case the property owner requested, and was granted, a revision of the district plan to truncate the sewer since the property pumps onto Montgomery Drive and does not receive direct service from Lower Drive.

Mr. Vizzini said Mrs. Mesher currently receives service from the sewer line on Montgomery Drive under a waiver signed in 1961. At the time of connection the property owner did not pay for inclusion in the Montgomery Drive sewer because it was expected that the property would participate in a future sewer project. For that reason, it was included in the Lower Drive Sewer. He said the property abuts the improvement, receives gravity service and whether it uses the sewer or not is irrelevant as far as the apportionment method is concerned. He said the City has a long standing policy of preferring gravity feed service to pump systems because of its reliability.

Commissioner Hales asked how long the temporary sewer would continue to function.

Mr. Vizzini said once a sewer line is built it is considered a permanent improvement so the sewer line on Montgomery Drive will be maintained by the City till kingdom come. He said the Mesher property has now been connected to SW Montgomery for 30 years but when the waiver was issued in 1962 it was considered a temporary solution because the property sits primarily below street grade and the City felt the best permanent solution

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was a gravity feed line. He said the Montgomery Drive sewer line was designed primarily to serve up-hill properties and not to provide service to both sides of the street so the argument could be made that if the Mesher property, and its neighbors, were given permanent access the line would exceed its own design capacity and no longer be viable.

Mayor Katz asked if sale of the Mesher property had the effect of nullifying the unrecorded sewer waiver.

Mr. Vizzini said a waiver is nullified if it is not recorded, the property changes hands and the new owner does not receive constructive notice. In this case the waiver was signed in 1961 and a new property owner was recorded in February, 1962. He said, however, the case for the assessment is not dependent on the waiver, which is only important in terms of formation of the district. He said the Auditor's Office believes that since the property is served and benefits from the project it should be included in the district.

Mayor Katz asked if the Environmental Zone overlay issue had been resolved.

Mr. Vizzini said Council adopted an ordinance which waived the environmental requirements so that the sewer could be built. He noted that this was the only remonstrance filed against the assessment, adding that this property owner had also remonstrated against formation of the district but had been overruled by the Council in June.

Doug Bomarito, attorney representing Sue Mesher, said the City seems to have conceded that the waiver is not an issue and is now basing the assessment on the fact that Mrs. Mesher is a benefitted property. He argued that she is not, noting that the main level of her residence gravity feeds its sewage to the Montgomery Drive sewer. A pump is used only for the lower level but for that reason alone, the City considers her a benefitted property of the new system. He said she has never used the old system the other residents around her used and will not be using the new system. He said her situation is almost identical to the property at 2525 SW Montgomery except that the owner has to pump all his sewage while Mrs. Mesher only pumps a small portion. He asked for similar treatment for his client.

Commissioner Blumenauer moved to overrule the remonstrance and pass the ordinance. Commissioner Kafoury seconded. Commissioner Blumenauer

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pointed out that this is not a case where there is any double payment since, because of the waiver, the property owner has been using a sewer she never paid for. If she is excluded, increased costs will be allocated to the remaining property owners.

Disposition: Remonstrance overruled. (Y-5) Ordinance No. 166160 (Y-5)

- 14** Assess property for sewer system development charges through November, 1992 (Second Reading Agenda 2205; Z0229 through Z0248)

Disposition: Ordinance No. 166161. (Y-5)

Commissioner Blumenauer moved to suspend the rules to consider an ordinance filed with Council today. Commissioner Kafoury seconded and the motion carried (Y-5)

Suspension of the Rules

- *15** Amend City Code Section 17.36.022 to extend deadline for applications under the mid-county sewer financial assistance program (Ordinance)

Discussion: Commissioner Blumenauer said because of inclement weather on the last day to sign up for reduced sewer rates, a one week extension of the deadline was being requested.

Disposition: Ordinance No. 166162. (Y-5)

At 10:00 a.m., Council adjourned.

BARBARA CLARK
Auditor of the City of Portland

Cay Kershner
By Cay Kershner
Clerk of the Council

THURSDAY, 2:00 PM, JANUARY 7, 1993

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