



CITY OF

# PORTLAND, OREGON

OFFICIAL  
MINUTES

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 13TH DAY OF JULY, 1994 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; Kathryn Imperati, Senior Deputy City Attorney; and Chuck Bolliger, Sergeant at Arms.

Agenda Nos. 1148, 1151 and 1154 were pulled from Consent. On a Y-5 roll call, the balance of the Consent Agenda was adopted as follows:

## CONSENT AGENDA - NO DISCUSSION

- 1146** Accept bid of System Construction Company for SE Boise St., SE 67th to SE 70th, sanitary and storm sewer for \$83,112 (Purchasing Report - Bid 195)

**Disposition:** Accepted; prepare contract.

- 1147** Accept bid of Kerr Construction Inc. for Stephens Slough storm drain for \$245,789 (Purchasing Report - Bid 196)

**Disposition:** Accepted; prepare contract.

## Mayor Vera Katz

- 1149** Accept the Office of Affirmative Action Report on the Disabled Opportunity Program (Report)

**Disposition:** Accepted.

- 1150** Adopt City of Portland Investment Policy (Resolution)

**Disposition:** Resolution No. 35293. (Y-5)

- \*1152** Pay claim of Janice Winklebleck (Ordinance)

**Disposition:** Ordinance No. 167891. (Y-5)

**JULY 13, 1994**

**Commissioner Earl Blumenauer**

- \*1153** Modification No. 1 to the City of Portland/Tri-Met Westside Light Rail construction management and services agreement for services related to the Bureau of Fire, Rescue and Emergency Services (Ordinance; amend Contract 29203)

**Disposition:** Ordinance No. 167892. (Y-5)

- 1155** Number dropped

**Commissioner Charlie Hales**

- \*1156** Lease certain spaces in the Multnomah Center with 8 tenant groups from July 1, 1994 through June 30, 1995 (Ordinance)

**Disposition:** Ordinance No. 167893. (Y-5)

**Commissioner Mike Lindberg**

- 1157** Partially release retainage on the Summerplace Sewer Project (Report, Contract No. 29081)

**Disposition:** Accepted.

- 1158** Accept completion of the Fenwick Basin CSO Sump Project Storm Sewer System and authorize payment to Alliance Corporation (Report; Contract No. 28971)

**Disposition:** Accepted.

- \*1159** Designate and assign a parcel of land as a storm drainage reserve easement area for the Balch Creek Storm Water Management Project (Ordinance)

**Disposition:** Ordinance No. 167894. (Y-5)

- \*1160** Call for bids for the Bloomington Sanitary Sewer System, authorize a contract, and provide for payment (Ordinance)

**Disposition:** Ordinance No. 167895. (Y-5)

- 1161** Amend Intergovernmental Agreement for Phase 2 of the Regional Water Supply Plan to clarify the role of the Steering Committee and issues surrounding shared liability (Second Reading Agenda 1131)

**Disposition:** Ordinance No. 167896. (Y-5)

**JULY 13, 1994**

- \*1162** Authorize grants for performance and/or public services that promote the arts and provide for payment (Ordinance)

**Disposition:** Ordinance No. 167897. (Y-5)

- \*1163** Agreement with Oregon Department of Environmental Quality allowing City to act as authorized representative of State for certain ground water monitoring activities (Ordinance)

**Disposition:** Ordinance No. 167898. (Y-5)

- \*1164** Amend Contract with Murray, Smith & Associates, Inc. for \$312,900, to provide additional services to accommodate impacts to the water system related to the Westside Light Rail Transit and Westside Corridor projects and provide for payment (Ordinance; amend Contract No. 28429)

**Disposition:** Ordinance No. 167899. (Y-5)

**City Auditor Barbara Clark**

- \*1165** Contract with the Port of Portland to provide towing hearings (Ordinance)

**Disposition:** Ordinance No. 167900. (Y-5)

**REGULAR AGENDA**

- 1148** Confirm appointment of Michael Doherty and Robert Scanlan to the Metropolitan Arts Commission (Report)

**Discussion:** Commissioner Lindberg noted the outstanding contributions these two appointees have made professionally and to the community and said the Commission is very pleased that they have agreed to serve.

**Disposition:** Confirmed. (Y-5)

- \*1151** Modify the recently adopted Schedule A wages for the District Council of Trade Unions (DCTU) (Ordinance)

**Discussion:** Cay Kershner, Clerk of the Council, noted that an amendment correcting wages for an additional job classification had been distributed to Council members.

Commissioner Hales moved the amendment; Commissioner Lindberg seconded and, hearing no objections, the Mayor so ordered.

**Disposition:** Ordinance No. 167901 as amended. (Y-5)

- \*1154** Agreement with Robertson, Grosswiler & Company to expedite funding opportunities for infrastructure improvements in the River District (Ordinance; waive Code Chapter 5.68)

**Discussion:** Mayor Katz said she had requested a one week carryover.

**Disposition:** Continued to July 20, 1994 at 9:30 a.m.

- 1145** **TIME CERTAIN: 9:30 AM** - Present water conservation awards and recognize the Water Bureau for special achievements (Presentation by Commissioner Lindberg)

**Discussion:** Commissioner Lindberg recognized special achievements in significant water conservation by two of the City's largest customers. He presented awards from the Pacific Northwest Section of American Waterworks Association to Elf Atochem and the Red Lion Hotels, Inc. The Water Bureau's water conservation program was also recognized for its special achievements in public relations.

**Disposition:** Placed on File.

- 1166** Request of Reverend Bruce Swanson, Mt. Scott Park Presbyterian Church, to address Council regarding a curb extension at 73rd and SE Harold (Communication)

**Discussion:** Bruce Swanson, Mt. Scott Park Presbyterian Church, requested that the curb extension at 73rd and Harold be eliminated from the present Harold Street Neighborhood Traffic Management Project. He said in 1988 their Neighborhood Association requested that traffic be slowed on Harold and this was accommodated through five years of planning. He said bumps were placed on the road and they have been very effective. But since that time at least three things have changed. A neighborhood plan has been completed since then in which the Mt. Scott Community Center has become the central identity point. Second, the Center has seen a more than 30 percent increase in use. Third, greater access for bikes has been requested and this extension will force bicycle traffic to ride in the center of the road. He said the four parking places that the curb extension will take away will also be irretrievably lost.

Susan Hartnett, Bureau of Traffic Management, said the SE Harold project was approved by Council last year after receiving a favorable vote from 69 percent of the 63 percent who responded. She said they believe pedestrian safety is enhanced by curb extensions, allowing pedestrians to see and be better seen by oncoming vehicles. She said while the extension narrows the roadway, the width of a curb extension is less than the width of a parked car.

**JULY 13, 1994**

Mayor Katz asked if Council wished to take public testimony, noting that this is not a public hearing, only a communication from a citizen.

Commissioner Blumenauer said this is a very straightforward issue and unless Council wants to change what it has already approved, it should stand. He said this is a tradeoff of four parked cars for better pedestrian access.

Commissioner Hales asked Ms. Hartnett about what effect the design of improvements to the Mt. Scott Community Center, which would be funded by passage of the Parks general obligation bonds in November, might have. Major renovation would be involved and he is assuming that the curb extensions would still make sense after that work was done. He asked if the sequencing and timing would be affected.

Ms. Hartnett said she was not aware of that until last week but believes unless there are significant changes to the SE Harold Street alignment, the curb extensions continue to make sense because pedestrians are going to have to cross Harold at 73rd to access the Center.

Commissioner Hales said he would not want to have to dig up this part of the project and suggested she check with the Parks Bureau about this.

Commissioner Blumenauer said it would be very easy to make sure that nothing be done at the corner of 73rd and Harold if it would be affected.

Ms. Hartnett said she had not talked to the Parks Bureau but understands they are looking at improvements within the park property itself and there has been no discussion about vacating right-of-way.

Commissioner Hales said there would be major construction, however, and it may not be wise to have new infrastructure in place beforehand.

Mayor Katz said she believes Council would like to proceed with the extensions with the understanding that they not impact the rehabilitation of Mt. Scott.

Commissioner Blumenauer said he believes that if the bond measure passes and improvements are made to the Center, more people from a wider area will be drawn to it and people will feel that it is safer to walk, lessening the need for parking spaces. He said staff will check with Parks to make sure that what is built need not be torn down later.

Commissioner Blumenauer moved that the matter be filed for no further consideration. Commissioner Kafoury seconded and the motion carried.

**Disposition:** Placed on file for no further consideration.

1167

Request of Dan Blazing to address Council regarding his sewer connection fees (Communication)

**Discussion:** Commissioner Lindberg said he referred the request made by Mr. Blazing at his April 6 Council appearance to staff and the City Attorney to see if there was some legal way to grant an exemption and make some accommodation with Mr. Blazing on his sewer connection charges. He read a portion of a response from City Attorney Pete Kasting stating that he had been unable to find a rationale to justify Code amendments waiving connection charges for people who wish to maintain unauthorized mobile homes on their property. Commissioner Lindberg said after receiving this opinion he did not feel he could grant an exemption. He said the City Attorney had recommended that Mr. Blazing be granted this request to address Council but suggested that this be the final disposition of the matter.

Dan Blazing, 12231 SE Kelly, disagreed with the City Attorney's findings. He asked why staff member Linda Dartsch did not respond.

Commissioner Lindberg noted that Mr. Blazing had appealed this to the highest level and that he personally, as well as staff, have spent hours on it. He said what Mr. Blazing wants violates the Code.

Mr. Blazing said the City Attorney leaves the door open to change the Code. He said he never asked for special favors on the mobile home but only for fair and equitable treatment. As for the mobile home, there are only two in the City and while he has been asked to pay, the other people have not. He said he does not want to get threatening letters asking him to hookup.

Commissioner Kafoury moved that the report be filed. Commissioner Blumenauer seconded and hearing no objections, the Mayor so ordered.

**Disposition:** Placed on file for no further consideration.

**Commissioner Earl Blumenauer**

1168

Consider vacating a portion of N. Kaiser Center Drive at the request of Kaiser Permanente (Hearing on Report; C-9840)

**Disposition:** Approved. City Engineer prepare ordinance.

**Commissioner Charlie Hales**

\*1169

Provide for surcharge on fees charged at municipal golf courses and establish effective dates (Ordinance; amend Code Section 20.20.010)

**JULY 13, 1994**

**Discussion:** Regarding distribution of the surcharge, Mayor Katz said she believes School Superintendent Jack Bierwith will recommend that the money be provided to individual school site councils. She said there are four options in terms of distribution which can be discussed at a Council Informal scheduled August 2, if Council desires. This ordinance, however, deals only with the fees.

Commissioner Kafoury asked why Council cannot simply make the decision to give the money to the school councils today so they can begin their planning.

Commissioner Hales said he thought the issue was whether to distribute the money to the districts or to the site councils.

Mayor Katz said there were several options as to who makes the decision, including Council, the School Board or individual school sites.

Commissioner Hales said the way the ordinance is written, any of those options would be appropriate, depending on which procedure is better for the individual school districts. Collection would start immediately and distribution will be in time for fall.

Commissioner Kafoury asked if the City still planned to link this to athletics.

Mayor Katz said no, the money will go to the existing Trust Fund and the distribution is what needs to be reviewed after checking in with the school boards.

Commissioner Kafoury said the Office of Finance and Administration's report references the High School Athletic Trust fund.

Commissioner Hales said that is wrong, the funds will go into the already existing Youth Trust fund.

Gary Hicks, Washington County resident, spoke in opposition to the golf surcharge for non-residents. He said the golf courses are completely self-sufficient and questioned the legality of charging non-residents who will receive absolutely no benefit from this. He said this surcharge should be viewed as taxation without representation.

Mayor Katz said the reason for the Council Informal is to discuss distribution of the \$2.0 million for the next two years.

**Disposition:** Ordinance No. 167902. (Y-5)

**JULY 13, 1994**

**Commissioner Mike Lindberg**

- 1170** Accept 1994 Bull Run Watershed annual activity schedules from the Bureau of Water Works and the U.S. Forest Service per 1979 Memorandum of Understanding (Report)

**Disposition:** Adopted. (Y-5)

- \*1171** Enter into a five year contract with a first year cost of \$3,200,000 with Sverdrup Civil, Inc. to provide program management and technical expertise to the Combined Sewer Overflow program (Ordinance)

**Discussion:** Commissioner Lindberg introduced the consultant team that has been selected for the Combined Sewer Overflow project, which is to be implemented over a 17-year period. He stressed the importance of managing it correctly because of its magnitude and complexity, adding that they believe a public/private partnership would be best. He said they are recommending that the consultant's contract be awarded to Sverdrup Civil, noting that the \$3,200,000 cost in the first year will ensure that the Cornerstone Projects are done on time and within budget, that MBE/FBE involvement will be improved in construction and that the public will be involved in siting and implementation decisions. An additional 35 people will be needed to implement the CSO program and space outside the Portland Building will be needed to accommodate them. He introduced members of the management team.

Alan Arrant, Program Manager for Sverdrup Civil, said the scope of work devised here will carry this project forward for the next 17 years. He said Sverdrup's purpose is to get the program up and running with City staff but from day one Sverdrup's goal is to work themselves out of a job and transition Bureau employees into positions that Sverdrup employees hold at the beginning. They also want the MBE/FBE program to provide a milestone in terms of activity.

John Lang, Bureau of Environmental Services, said they are very pleased with the help Sverdrup has already given them and hope to return to Council periodically with some real success stories.

Commissioner Hales said he continues to be concerned about redundant capacity between City bureaus and private consultants. The question is how much staff capacity and how much consultant capacity is dedicated to project management and are both needed. This is another version of the City Auditor's Span of Control report. He said he is satisfied in this case but this issue needs to be continually addressed in both budget and management reviews.

**Disposition:** Ordinance No. 167903. (Y-5)



**JULY 13, 1994**

- \*1172** Authorize the Commissioner-in-Charge to enter into a lease agreement for office space for the Combined Sewer Overflow program management office not to exceed \$16.75 per square foot per year (Ordinance)

**Disposition:** Ordinance No. 167904. (Y-5)

- 1173** Establish fees for services provided by the Bureau of Traffic Management (Previous Agenda 1137)

**Discussion:** Commissioner Blumenauer moved to amend the ordinance to adopt a substitute Exhibit A. Commissioner Lindberg seconded.

Commissioner Blumenauer said the revised fee schedule incorporates all the suggestions made by Council. It would provide no increase in fees for hotel, taxi, film or media zones. It also freezes the fee for government permits at \$30.00.

Mayor Katz asked about the revenue impact.

Commissioner Blumenauer said it is anticipated that this will reduce projected revenues by \$66,711 in the first year and the Office of Transportation Director is currently reviewing whether it will be necessary to come back to Council for budget reductions.

Roll was called on the amendment, which carried. (Y-5)

Commissioner Kafoury said Council will need to address the impact on the Bureau but she likes the idea of setting up special funds to help pay for film and video, for instance. She said she thinks the City should be very careful about saying that an entire industry pays no fee.

Commissioner Blumenauer said while Transportation collects no fees from such activity, the Police bureau and others do. He noted that while this item had been before the Executive Assistants three times over the last six months, no feedback was received until the last two weeks. He said he would like to see this process improved so that concerns can be flagged earlier.

Commissioner Kafoury said her office had raised the film and video issue early and had been told that his office wanted this report to come to Council first.

Mayor Katz said she also understood that he wanted to bring the report to Council and then get feedback.

Commissioner Kafoury and Mayor Katz agreed about the need to make better use of the Executive Assistants' time.

**JULY 13, 1994**

**Disposition:** Passed to Second Reading as amended July 20, 1994 at 9:30 a.m.

David Higdon, representing Golf Digest Magazine, presented the City with a Junior Development award for its promotion of junior golf programs.

Fontaine Hagedorn, Parks Bureau, said it is nice to get national recognition and acknowledged the contribution of concessionaires as well.

At 10:40 a.m., Council recessed.

**JULY 13, 1994**

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 13TH DAY OF JULY, 1994 AT 2:00 P.M.

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

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

**Commissioner Gretchen Kafoury**

- 1176** Appeal of Absolute Towing against decision of the Towing Board of Review to terminate its contract with the City for vehicle towing and storage (Report)

**Discussion:** Dennis Nelson, Manager, Bureau of Licenses, asked that this and the following item be continued one week.

**Disposition:** Continued to July 20, 1994 at 9:30 a.m.

- \*1177** Contract with Absolute Towing, Inc. for towing, storage and disposal of abandoned vehicles (Previous Agenda 1104)

**Disposition:** Continued to July 20, 1994 at 9:30 a.m.

- 1178** Liquor license application for Stars, L.L.C., dba Stars, 5 N.W. 2nd Avenue, Dispenser Class A liquor license (new outlet); Favorable recommendation (Report)

**Discussion:** Mr. Nelson asked that this be referred back to Commissioner Kafoury's office to allow the Police additional time for its investigation.

**Disposition:** Referred to Commissioner of Public Affairs.

- 1174** **TIME CERTAIN: 2:00 PM** - Make certain determinations and findings related to and adopt the Fifth Amendment to the Oregon Convention Center Urban Renewal Plan (Ordinance introduced by Mayor Katz)

**Discussion:** Larry Dully, Portland Development Commission, said this action would remove the Commission's authority to acquire land to construct a headquarters hotel in the Oregon Convention Center Urban Renewal area. He noted that the Commission approved this amendment subject to three conditions: 1) reaffirmation of the long-term importance of expanding convention business in Portland, including the need for a headquarters hotel;

**JULY 13, 1994**

2) reexamination by the Commission of the feasibility of providing a Convention Center hotel; and 3) retention by the Commission of properties it owns at SE First and Holladay and Martin Luther King Blvd. at least until the Convention Center has been expanded or until 1999.

Mayor Katz asked whether the land can be sold off for other purposes.

Mr. Dully says this makes it very clear that the agreement the Commission had with Alan Peters and Nick Bunick has expired and, since the Commission is not in a position to purchase the property, by this action there can be no future dispute that their ability to sell or redevelop the property has in any way been impaired.

**Disposition:** Passed to Second Reading July 20, 1994 at 2:00 p.m.

**1175**

Appeal of Pacific Coast Towing against decision of the Towing Board of Review to terminate its contract with the City for vehicle towing and storage (Report)

**Discussion:** Dennis Nelson, Manager, License Bureau, described the procedure recommended, including granting the City and the appellant 10 minutes each.

Mayor Katz said she would like to allow anyone else wishing to testify to have three minutes.

Mr. Nelson said currently the City contracts with approximately 30 companies in seven districts to do its towing business. A Towing Board of Review oversees these contracts as spelled out in the Code. This appeal relates to the Towing Board of Review decision to terminate the contract of Pacific Coast Towing. He said in July, 1993 the company signed a two-year contract which includes a provision that either the City or the contractor, on 60-days' written notice, may terminate the contract at its sole discretion for any reason deemed appropriate. The issue in this case is that in July, 1993 this company and Impound Specialties applied for a two-year contract and the Towing Board restricted the two companies to one towing rotation in its district. This was done because the contract indicates that if one or more persons own a substantial financial interest in two or more companies, they only get one rotation. This is to cut down on the ability of one company, through clones, from taking over all the towing business in one district.

Mayor Katz asked him to explain what a rotation is.

Mr. Nelson said the towers operate within a specific geographic district and calls are dispatched in rotation as received. The issue here is that Mary Jerome was shown as the owner of Pacific Coast while her husband, Bill Jerome, owned Impound Specialties. In August, the Board found that they

**JULY 13, 1994**

could only have one rotation but in November, 1993 allowed that the two companies could resume separate spots on the rotation after documentation was supplied that the couple had divorced. Almost immediately thereafter the Bureau began receiving information that the two companies were again operating as one. On January 18, 1994 an employee of Western World Recovery submitted photographs documenting the placement of magnetic signs of one company over another while on a City-ordered police tow, a direct violation of the Board's order to not interchange equipment. On March 16, the Board voted to terminate the contracts with both Pacific Coast and Impound Specialties under the 60-day notice provision because they were not operating as separate businesses. In April, the Board heard additional testimony but declined Pacific Coast's request to reconsider its March decision. Impound Specialties did not appeal this decision but Pacific Coast has, referring to another section of the contract where specific contract violations are called for. The heart of the issue is that Pacific Coast has shown itself unwilling to abide by the terms of the contract and the very specific and direct rulings of the Board. For that reason, staff recommends denial of the appeal.

Mary Jerome, President, Pacific Coast Towing, asked that Council permit this to be heard by CARP, the Citizens Advisory Review Panel. She said this would allow them to have a fair hearing and present the violations against Pacific Coast Towing at that time. She said there have been no proven violations by Pacific Coast Towing and they would like to keep the contract.

Mayor Katz asked her if she wanted to respond to any of the allegations right now.

Ms. Jerome said the allegations are all untrue, adding that she has nothing to do with Impound Specialties and is divorced from Bill Jerome.

Ben Walters, City Attorney, described two separate avenues by which a contractor may be removed from the contract. First, if there is a violation, the Tow Board may convene a panel to consider it and make a determination. Secondly, either party to the contract may give 60 days notice of termination with no requirement that a finding of violation be made. In this case the City exercised the 60-day notice provision while the tower has asked for a Citizens Advisory Review Panel. The panel is convened only when there is a violation and if the City is proceeding under the violation section, convening the panel is automatic and no request is necessary. That provision was not exercised and is not applicable here.

Mr. Nelson said the CARP panel is generally used to investigate citizen complaints regarding a specific incident, such as overbilling. The 60-day provision is a more general one allowing the City to determine over time whether it wants to continue to do business with this contractor. The second option was chosen in this case because of the open defiance of a direct Board

**JULY 13, 1994**

order and substantial testimony supporting this. The Board felt that the trust between the City and this contractor was broken and this was the basis for the termination.

Mayor Katz asked if the appellant had an opportunity to testify at the Towing Board hearing.

Mr. Nelson said the Board voted in March to begin the 60-day clause and a formal hearing was conducted at the April meeting. After hearing testimony the Board refused to reconsider its early vote and the termination process continued.

Commissioner Kafoury moved to uphold the Tow Board's decision and deny the appeal. Commissioner Lindberg seconded.

Commissioner Kafoury said in this case she believes the appellant had a fair and full hearing before the Tow Board. She said if Council does not agree, it may take testimony today as well.

Mayor Katz said her only question concerns the advantage or disadvantage of the two different processes for being heard.

**Disposition:** Appeal denied. (Y-5)

At 2:30 p.m., Council adjourned.

BARBARA CLARK  
Auditor of the City of Portland

*Cay Kershner*

By Cay Kershner  
Clerk of the Council