



CITY OF
PORTLAND, OREGON

**OFFICIAL
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 12TH DAY OF OCTOBER, 1994 AT 9:30 A.M.

THOSE PRESENT WERE: Commissioner Kafoury, Presiding; Commissioners Blumenauer, Hales and Lindberg, 4.

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

On a Y-4 roll call, the Consent Agenda was adopted as follows:

CONSENT AGENDA - NO DISCUSSION

- 1625** Cash investment balances for August 25 through September 21, 1994 (Report; Treasurer)

Disposition: Placed On File.

- 1626** Contract with Hessel Tractor & Equipment Co. for one articulated loader for \$100,096 (Purchasing Report - Bid 97)

Disposition: Accepted; Issue Purchase Order.

- 1627** Vacate NE 120th Avenue between NE Glisan and Davis Streets, under certain conditions (Second Reading Agenda 1595; C-9859)

Disposition: Ordinance No. 168189. (Y-4)

Mayor Vera Katz

- 1628** Recommend organizations eligible to participate in the City's 1994 Charitable Campaign (Resolution)

Disposition: Resolution No. 35315. (Y-4)

- *1629** Pay claim of Gertrude Smith (Ordinance)

Disposition: Ordinance No. 168190. (Y-4)

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***1630** Pay claim of Hersaly Chang (Ordinance)

Disposition: Ordinance No. 168191. (Y-4)

***1631** Accept a grant of \$200,000 from the Oregon Department of Transportation, Traffic Safety Division, for DUII enforcement (Ordinance)

Disposition: Ordinance No. 168192. (Y-4)

***1632** Intergovernmental Agreement with Multnomah County for Multi-Agency DUII enforcement (Ordinance)

Disposition: Ordinance No. 168193. (Y-4)

Commissioner Charlie Hales

***1633** Call for bids for well drilling and testing in Waterfront Park, authorize a contract and provide for payment (Ordinance)

Disposition: Ordinance No. 168194. (Y-4)

***1634** Contract with the Port of Portland for fire prevention and suppression services (Ordinance)

Disposition: Ordinance No. 168195. (Y-4)

***1635** Authorize an agreement with U.S. West for a Metropolitan Area Network for an estimated annual amount of \$50,600 for a five-year period without advertising for bids and provide for payment (Ordinance)

Disposition: Ordinance No. 168196. (Y-4)

***1636** Contract with Hattan/Johnson for \$18,640 to develop a schematic plan and preliminary cost estimate for an addition to the heating/ventilating system at Matt Dishman Community Center (Ordinance)

Disposition: Ordinance No. 168197. (Y-4)

1637 Accept a \$2,387 grant from Oregon Emergency Management for a hazardous materials exercise (Second Reading Agenda 1616)

Disposition: Ordinance No. 168198. (Y-4)

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Commissioner Gretchen Kafoury

- *1638** Call for bids to furnish certain FY 1994-95 replacement City vehicles, authorize a contract and provide for payment (Ordinance)

Disposition: Ordinance No. 168199. (Y-4)

Commissioner Mike Lindberg

- 1639** Accept completion of the Albina Basin CSO sump project Unit 5 and authorize final payment to Brundidge Construction, Inc. (Report; Contract No. 28983)

Disposition: Accepted.

- *1640** Authorize amendment to Ordinance No. 167176 to perform programming for the Low Income Discount Program and provide for Budget Billing (Ordinance; amend Ordinance No. 167176)

Disposition: Ordinance No. 168200. (Y-4)

- *1641** Call for bids for the Wellington sanitary sewer system, authorize a contract and provide for payment (Ordinance)

Disposition: Ordinance No. 168201. (Y-4)

- *1642** Call for bids for the Parkrose sanitary sewer system, authorize a contract and provide for payment (Ordinance)

Disposition: Ordinance No. 168202. (Y-4)

City Auditor Barbara Clark

- 1643** Approve Council Minutes for April 6 through June 29, 1994 (Report)

Disposition: Approved.

- *1644** Cancel City liens on tax foreclosed properties, and properties acquired by the Housing Authority of Portland and various community development corporations (Ordinance)

Disposition: Ordinance No. 168203. (Y-4)

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REGULAR AGENDA

1645

Request from Dave Mazza, Portland Jobs with Justice, to address Council regarding City contracts with Burns International Security Corp./Borg-Warner Corp. and procedures for awarding contracts (Communication)

Discussion: Commissioner Kafoury said she had agreed to give Portland Jobs with Justice 10 minutes to speak this morning and after that Council can discuss what it wishes to do.

Dave Mazza, Portland Jobs with Justice, a local affiliate of the National Rights Organization, said this continues a conversation they have been having with Council over the last several months about social issues involving how the City does its business and its impact on working people. He presented Council with a letter addressing those issues, namely the decline in wages and working conditions and the interactions between the companies responsible for that situation and the City. He said this material deals specifically with Borg Warner Security, a corporation with a number of subsidiaries, including Burns International and Pony Express. He cited attempts by Borg Warner to suppress the efforts of Pony Express employees to collectively bargain, adding that many charges of labor law violations are currently being investigated. He contended that since the company's conduct is outside the limits of acceptable behavior, elected bodies should intervene. In this case they ask Council to review its contract with Borg-Warner, particularly its affiliate, Burns Security, and consider suspending it until the company begins to operate within acceptable standards. Taxpayers dollars should not be spent on companies that are breaking the law.

Mr. Mazza cited support from a number of other individuals and organizations, adding that they also expect statements of support from the Oregon Public Employees Union and the Northwest Labor Council. He said the Metropolitan Human Relations Commission has passed a resolution stating that the City should not conduct business with any company, including local affiliates, that flagrantly violates the law or exhibits a pattern of behavior not in accord with community standards.

Jeannie Birdwimple, labor activist, said she attended the annual Borg Warner shareholders meeting where very little concern was shown for the benefits of employees. Concerns raised by the Teamsters and Pony Express about pay and benefits were ignored even though it was clear that Borg Warner directors knew how the workers were treated, despite their claims that Borg Warner had nothing to do with Pony Express or the other subsidiaries. It was also clear that the security end of Borg Warner, primarily Burns Security, is the biggest part of their business

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while Pony Express represents only about 10 percent. In reviewing the City's contract with Burns, they found that the City was paying \$9.00 an hour per guard and when overhead, administrative costs and other employee expenses are subtracted, the per hour pay would probably be no more than \$7.00, which does not constitute a living wage. The City should have noted that fact before approving this contract.

Mr. Mazza said some of the moral questions need to be looked at and the City should send a strong message to the business community about what is acceptable behavior.

Commissioner Kafoury reminded Council that during the hearings on Prosperous Portland she had offered to set up a work group to take a look at worker rights for people who contract with the City. The first meeting is scheduled next week. She said they will look at the City's agenda for the upcoming legislative session, adding that there seemed to be a consensus among Council members to advocate for an increase in the minimum wage, health benefits and retirement plans. At the same time they hope to review internal City contracts with regard to acceptable business practices. She has asked General Services to review the Burns Security contract and is open to any suggestions from Council about how to proceed. She recommended that this item be referred to the work group.

Commissioner Hales said he would support that. He said they saw the same issue expressed by Local 290 about construction contracts and what constitutes a responsible bidder. That set of issues needs to be looked at closely.

Commissioner Lindberg concurred. He said it is clear that issues of workers rights, including the disparity of incomes between the rich and poor, are one of the major challenges facing this country. He said Jeff Golden from his staff will join the work group and he himself is interested in meeting with Jobs for Justice once a month to continue discussions on these issues and try to effect some changes in the community.

Disposition: Referred to Commissioner of Public Affairs.

Mayor Vera Katz

1646

Authorize submission of FY 1994-95 Fall Supplemental Budget to the Multnomah County Tax Supervising and Conservation Commission (Resolution)

Discussion: Commissioner Kafoury said there are several items she failed to include as part of this adjustment which she may need to bring

under Contingency, specifically the Turning Point.

Commissioner Lindberg said he would like to see all these things pulled together in some kind of orderly way before tapping Contingency.

Disposition: Resolution No. 35316. (Y-4)

Commissioner Earl Blumenauer

- *1647** Accept a grant in the amount of \$20,000 for development of a parking management plan to meet the per capita parking space reduction requirement of the Transportation Planning Rule (Ordinance)

Disposition: Ordinance No. 168204. (Y-4)

Commissioner Gretchen Kafoury

- 1648** Review enforcement of the City of Portland's Civil Rights ordinance (Report)

Discussion: Terry Anderson, Commissioner Kafoury's office, said this is the third anniversary of the enactment of the City's civil rights ordinance and an appropriate time for a summary of the enforcement activities since its passage.

Madelyn Wessel, Deputy City Attorney, said she has closely monitored the cases and the enforcement activities of both entities (BOLI and the Fair Housing Council) assisting the City with enforcement. She said she has yet to hear a single complaint from anyone who brought cases before them. The level and timeliness of service has been excellent and, by contracting out, the City has saved a great deal of money and provided uniform enforcement. Both Eugene and Salem have basically adopted Portland's system, indicating its positive impact on other cities around the State.

Commissioner Hales said the system seems to be working effectively, noting that as it has become more visible, the number of cases has increased. He said he is curious about the increase in the number of cases going to court, from one to eight.

Ms. Wessel said it is quite consistent with other causes for action under state or federal laws which prohibit discrimination based on age, race or gender. She said it is common for complaints to use an agency like the Bureau of Labor and Industries (BOLI) at the investigative stage and if these cases appear to have merit, they leave the administrative system and are taken to court.

Commissioner Lindberg asked what measures had been taken to educate

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people about the program, noting that when Council authorized the \$35,000 to BOLI it expected that some of that money would be used to launch that education effort.

Ms. Wessel said both BOLI and the Fair Housing Council have made some educational efforts, as she and Keeton Lowery had, particularly in the first year. A flier on housing rights has been developed which, when completed, will help although additional efforts could be made in educating the gay and lesbian community about the scope of protection.

Commissioner Lindberg suggested that a brochure about employment rights be produced as well.

Ms. Anderson said they are currently considering additional efforts they can make and the Metropolitan Human Relations Commission is another avenue that will be pursued in getting the word out.

Commissioner Lindberg said education is very important in outlining preventive aspects to people who own businesses and housing.

Commissioner Kafoury said when the civil rights ordinance was passed Council indicated that it wanted to retain direct oversight. She said her preference is to transfer programs to the bureaus so they are not left to the whims of an individual elected official, noting that today's action authorizes transferring this to the Bureau of Housing and Community Development for monitoring. She also suggested that Council call for some level of public education in the contract with BOLI.

Disposition: Accepted.

- *1649** Extend agreement with the State of Oregon's Bureau of Labor and Industries for enforcement of the City of Portland's Civil Rights ordinance (Ordinance; amend Contract No. 27893)

Disposition: Ordinance No. 168205. (Y-4)

- *1650** Agreement with the Fair Housing Council of Oregon for enforcement of the City of Portland's Civil Rights ordinance (Ordinance)

Disposition: Ordinance No. 168206. (Y-4)

City Auditor Barbara Clark

- 1651** Assess property for large lot deferral contracts through August, 1994 (Second Reading Agenda 1621; L0048)

Disposition: Ordinance No. 168207. (Y-4)

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1652 Assess property for sewer system development charges through August, 1994 (Second Reading Agenda 1622; Z0584 through Z0588)

Disposition: Ordinance No. 168208 as amended. (Y-4)

At 10:05 a.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 12TH DAY OF OCTOBER, 1994 AT 2:00 P.M.

THOSE PRESENT WERE: Commissioner Kafoury, Presiding; Commissioners Blumenauer, Hales and Lindberg, 4.

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

1653 TIME CERTAIN: 2:00 PM - Consider request for Comprehensive Plan map amendments and changes to the zoning for property located at NE 13th Avenue and Levee Road from RF to R3, Residential, and from R20 to R3, Residential, in order to develop a mobile home park (Hearing introduced by Commissioner Hales; LUR 94-00243 CP ZC)

Discussion: Pete Kasting, Senior Deputy City Attorney, noted certain procedures required for participants in quasi-judicial hearings.

Mike Hayakawa, Planning Bureau, said the applicant is requesting Comprehensive Plan map amendments and zoning changes in order to develop a 135-unit mobile home park. He noted the applicable approval criteria, adding that staff made an unfavorable recommendation to the Hearings Officer, finding that this proposal did not meet the goals and policies of the Comprehensive Plan or the existing map pattern. The Hearings Officer agreed and further found the proposal did not support Statewide land-use planning goals or the East Columbia Natural Resources Management Plan. She also found that it was not possible to tell whether the service criteria were met, particularly regarding transportation, and specifically rejected the applicant's argument that the proposal is very similar to what would be allowed as a PUD under the R10 zone. The applicant contends that this proposal is no different from a manufactured housing subdivision, which is allowed under R10. The reasons cited by opponents focus on traffic generation, the land-use pattern and impacts on property values, drainage, environmental resources and the character of the area.

Mr. Hayakawa showed slides of the property, which is an area of very low density and still maintains a rural flavor despite some residential development to the east of the site. The property has a totally undeveloped jurisdictional wetland on it.

Paul Norr, 1020 SW Taylor, Suite 530, 97205, attorney representing developer John Schrag, said their basic disagreement with the Hearings Officer's decision is that they believe what they are proposing is essentially the same development that would be allowed under the current zoning,

where 135 units would be considered appropriate. That is exactly what the applicant is proposing. Mr. Norr said they are requesting the R3 zone because it is the only one in which the developers can put a manufactured or mobile home park. However, they are asking for density at the existing R10 level, or no more than 135 units, each restricted to detached, single-family homes which is exactly what the Code allows today. He noted that under both State law and City Code, manufactured home units can be placed on any existing lot on any street anywhere in the City, anywhere in the State. From their point of view, what they want to put on the site is no different, physically and impact-wise, from what can be put on the site today. The only difference is that the Schraggs want to do it as a manufactured home park where they can maintain ownership of the property and the project. At other manufactured home parks, individual spaces are leased and individual tenants purchase their own homes and place them on the site.

Mr. Norr said all the City service bureaus have acknowledged that City services are available or can reasonably be made available at the R10 density. He said the Hearings Officer found that services are not available at the R3 density level of over 400 units. The applicants agree but that is not what they are asking for. They are asking that density be restricted to the R10 level of 135 units. Noting that over a third of the site is dedicated wetlands, Mr. Norr said they have absolutely no intention to encroach in the wetlands. Applicants feel very strongly that what they are asking in terms of development on the site is essentially what can be done today. Planning staff does not like Comprehensive Plan Map amendments and would prefer that this be done as a PUD subdivision where the applicant would create 135 individual lots and then not sell any of them, retaining ownership in the Schrag family. In this way, when a manufactured home is placed on one lot it does not become a park. He said applicants believe that is not conceptually honest and it also precludes homeowners from all the protections of the residential landlord-tenant act. Finally, applicants are very concerned about facing legal challenges claiming that if this looks and operates as a manufactured home park, then it is one. He noted that staff has no conceptual disagreement with placing 135 manufactured homes on this site but want to go about it a different way. Applicants, however, do not think their way works. He asked for tentative conceptual approval of this request at which point he will prepare findings in support of the applicable approval criteria. He stressed that applicant is not trying to do anything that will have any impact greater than what can be done today under existing law.

John Schrag, 11640 NE Morris, 97220, described how they came to believe that a high quality manufactured home project would be preferable to stick-built homes in this area. He said they sought out the concerns of the neighborhood and Columbia Edgewater Country Club. He said he was aware he could do this project as a PUD subdivision from the start, and

also aware that such a subdivision would produce a hybrid, not a park, and put him in the position of creating an entity that was not legal within the existing zone. The only way to do this honestly, he felt, was to request a Comprehensive Plan Map amendment and zoning change, rather than a PUD. He said they have designed a high quality development that adheres strictly to R10 densities and meets all the infrastructure and design requirements of a PUD. It is designed so it cannot be enlarged and it protects the wetland. He said while he has heard all the arguments against this project, the facts are that the land is designated R10 and this project is at R10 density with strict codes, covenants and restrictions to maintain high standards and protect the neighborhood and environment from harm. As a park, this would be under single ownership. If done as a PUD subdivision, there would be 135 separate manufactured home owners accountable to no one. He noted that before any permits are granted, the project must meet all City codes and requirements to the staff's satisfaction. Mr. Schrag emphasized that, whether done as PUD subdivision or an R3 manufactured home park, this development will be exactly the same. Regarding the zoning, he and his family believe they have been caught in an Alice-in-Wonderland of contradictions since Planning staff has stated they have no problem with the end result, the 135 unit manufactured home community. However, staff wants it created through a PUD which would be run as a de facto park since the lots would not be sold. He said this makes no sense, especially when the physical development is exactly the same.

Larry Zimmer, 9114 NE Levee Rd., 97211, representing East Columbia Neighborhood Association, said the proposed zoning change to R3 does not fit with the character of the neighborhood where lots range from R10 to two acres in size. While the applicant proposes to build only to an equivalent R10 density, once the zoning change is granted there is no way of assuring that this or a future owner will not change his mind and build out to the allowed R3 density. He said statements by the applicants that the existing character of the neighborhood supports this zone change are totally untrue, as this will be completely out of place among single family homes on large rural lots. He also questioned statements by the applicant that the proposed park will serve as an anchor for new residential development in the area and reinforce the stability of existing housing. He said there is already a thriving residential development nearby with several others in the engineering stage. He said the proposed zone change will decrease neighborhood stability and is exactly counter to applicant's statements.

Regarding Goal 4, Housing, Mr. Zimmer also disagreed with the applicant's contention that the proposal introduces quality and affordable single-family housing to the neighborhood as that use is already there. As for Goal 6 and 6.5, Transportation, the applicant's conclusion that the proposed map amendment is as equally supportive of City goals as the R10

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and R20 zoning is not borne out by his arguments as it is based on artificial limitation of the size of the development to 135 units. The neighbors, however, believe there is no guaranteed way to limit the future size and, if R3 is approved here, it can be applied for on nearby parcels, making the existing neighborhood an island in a sea of high-density housing. He also contended that the project fails to meet other City goals, including transit, wetlands protection, citizen involvement, potable water, sanitary services, stormwater drainage and the Albina Community Plan. He concluded by noting that the Neighborhood Association has voted unanimously to oppose this project.

Dan Pollock, 4334 SW Greenhills Way, 97221, General Manger, Columbia Edgewater County Club, said the Club has voted to oppose this change for three major reasons: 1) concern with the nuisance the Club's lake will be for children living in the development and the need to fence the entire course; 2) the negative visual impact on the neighborhood and; 3) traffic hazards resulting from the 750 units allowed under R3 zoning. A second set of concerns has to do with Club members who use 13th Avenue as an access road as the development would have a heavy impact on Marine Drive.

Steve Schell, 707 SW Washington, No. 1200, 97205, attorney representing Columbia Edgewater, said R10 and R3 are not the same, noting that there is a wetland on the property and Columbia Edgewater is concerned about drainage into that wetland as no drainage plan is provided. With the new EPA requirements for drainage on site, the question is where does the drainage go if not into the wetland. Columbia Edgewater is very concerned about what will happen to that whole area as it is developed, especially as there is no provision for the wildlife corridor that crosses it to the east. Also, this property is on the approach path for the airport and having housing there is not a good idea. Another concern is the effect on an area where the density is appropriately very low. Mr. Schell also cited the narrowness of the roads and the traffic problems associated with this. High densities should be put next to employment centers, near transportation and other needed services.

Terry Ellett, 1630 NE Gertz Rd., 97211, said she is worried that her adjacent vacant lot will be used for parking by mobile home residents and also believes children will have no place to play except in the wetland or their vacant lot. She also voiced concern with the density and the effect of the project on the character of the neighborhood, adding that the original concept presented by Mr. Schrag has largely gone by the wayside. Another problem is that the skinny streets will preclude the use of horses to get through the area to the Arboretum.

Sally Beck, 9009 NE Levee Road, 97211, said her property is down-slope from the Schrag property and she is very concerned about surface runoff.

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She said most the neighbors feel this area is a little bit of country in the City and if she had known a mobile home park would be built there, she would not have bought here.

In rebuttal, Mr. Norr said the applicants thought they had an innovative and creative solution to putting R10 density housing on the site. But what they have been faced with is people saying they are not opposed to R10 development, just this R10. He said they agree that 400-700 units is not appropriate and that is not the issue, adding that all City bureaus have said that services are available or can be reasonably made available with the improvements required. While this is a rural area today, it is not going to stay that way as it is within the urban growth boundary and is designated for R10 and R20 development, with a number of similar projects now in the planning process. He said 15 years after this property was designated for R10 or R20 density, the Shrags are asking to develop this property at the density, R10, it was designated 15 years ago. He said he has faith that if Council approves the R3 density, with a condition limiting development to 135 units, that is all that will ever be built on this site.

Commissioner Hales said the Comprehensive Plan is a document everyone ought to be able to rely on, both property owners and neighbors. To approve a change, the requested designation must be found to be equally or more supportive of the Comprehensive Plan as a whole, not simply the allowable density. The Hearings Officer's report specifically states that the proposed mobile home park is not the equivalent of a typical PUD subdivision as, regardless of the number of units, the standards for developing a mobile home park allow for a much more intense level of development with less consideration of offsite impacts. For those reasons, he moved that the request be denied.

Commissioner Lindberg seconded.

Commissioner Kafoury said she does not think this proposal meets the criteria for a map change but, at some point, she would like to address the issue of manufactured housing as it seems to raise a lot of fear in people's minds. She said as they look at affordable housing and higher densities, the City will have to address this. She said she did not like the notion that somehow these housing units are not up to community standards but in this case the criteria are not met.

Commissioner Lindberg agreed with Commissioner Kafoury that creative, proactive ways need to be found to ensure that manufactured housing can be built. Rather than deal with that issue in the context of individual cases, he suggested a follow-up on what Commissioner Kafoury suggested to see how this can be developed.

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Mr. Hayakawa said recently passed State law allows manufactured housing on all residential lots, except in historic districts. Staff is talking to the applicant about reexamining the development of this site and will help in identifying the substantive issues and possible roadblocks so that something similar can be developed on this property.

Disposition: Denied. (Y-4)

At 2:55 p.m., Council adjourned.

BARBARA CLARK
Auditor of the City of Portland

Cay Kershner
By Cay Kershner
Council Clerk