



CITY OF  
**PORTLAND, OREGON**

**OFFICIAL  
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 7TH DAY OF DECEMBER, 1994 AT 9:30 A.M.

THOSE PRESENT WERE: Mayor Katz, Presiding; Commissioners Blumenauer, Hales and Kafoury, 4.

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

Agenda Nos. 1870 and 1874 were pulled from Consent. On a Y-4 roll call, the balance of the Consent Agenda was adopted as follows:

**CONSENT AGENDA - NO DISCUSSION**

- 1859** Accept bid of Harris Uniforms for \$161,166 annually for two years and of R&R Uniforms for \$80,583 annually for two years for body armor for the Police Bureau (Purchasing Report - Bid 32-A)
- Disposition:** Accepted; prepare contract.
- 1860** Accept bid of Trojan Technologies, Inc. and Envirex, Inc. for ultraviolet disinfection and microscreen equipment for the Columbia Boulevard Wastewater Treatment Plant for \$477,500 (Purchasing Report - Bid 46)
- Disposition:** Accepted; prepare contract.
- 1861** Accept bid of James Cassetta Construction for SE Milwaukie/Bybee street improvements for \$133,222 (Purchasing Report - Bid 51)
- Disposition:** Accepted; prepare contract.
- 1862** Accept bid of Pacific Water Works Supply Co., Inc. for supply of gate valves and tapping valves for \$89,533 annually for three years and the bid of Consolidated Supply Co. for butterfly valves for \$11,838 annually for three years for the Bureau of Water Works (Purchasing Report - Bid 52-A)
- Disposition:** Accepted; prepare contract.

DECEMBER 7, 1994

**Mayor Vera Katz**

**1863** Nominate Baruti L. Artharee to serve as a member of the Metropolitan Exposition-Recreation Commission (Resolution)

**Disposition:** Resolution No. 35340. (Y-4)

**\*1864** Authorize a three-year contract with Regional Financial Advisors, Inc. for financial advisory services (Ordinance)

**Disposition:** Ordinance No. 168323. (Y-4)

**\*1865** Establish three Maintenance Worker positions in Parks & Recreation; one Housing Inspector in the Bureau of Buildings; one Police Sergeant, one Public Safety Specialist and one Program Coordinator in the Police Bureau in accordance with the Personnel Rules adopted by Council (Ordinance)

**Disposition:** Ordinance No. 168324. (Y-4)

**\*1866** Authorize the purchase of City Code Pocket Guide for the Police Bureau from Pocket Press, Inc., a company co-owned by a City employee (Ordinance)

**Disposition:** Ordinance No. 168325. (Y-4)

**Commissioner Earl Blumenauer**

**1867** Accept completion of the improvement of streets within the Win Sivers Business Park LID and construction of street lighting, traffic signals, storm and sanitary systems; release retainage to Eagle Elsner, Inc. (Report; Contract No. C-9846)

**Disposition:** Accepted.

**\*1868** Authorize a contract and provide for payment for the NE Multnomah Street Lighting Project (Ordinance)

**Disposition:** Ordinance No. 168326. (Y-4)

**\*1869** Authorize a contract and provide for payment for the SE Milwaukie Avenue/Bybee Boulevard intersection improvement (Ordinance)

**Disposition:** Ordinance No. 168327. (Y-4)

DECEMBER 7, 1994

**Commissioner Charlie Hales**

**1871** Accept contract with Ken Leahy Construction for cart paths at Heron Lakes Golf Course as substantially complete, authorize final payment and release retainage (Report; Contract No. 29188)

**Disposition:** Accepted.

**\*1872** Authorize a change order to Purchase Order with Kurahashi & Associates to provide additional engineering services for street improvements adjacent to the Ed Benedict Park and increase the amount and time (Ordinance; amend P.O. No. 29512)

**Disposition:** Ordinance No. 168328. (Y-4)

**Commissioner Gretchen Kafoury**

**1873** Appoint Valerie B. Currie to the County-wide Housing and Community Development Commission (Resolution)

**Disposition:** Resolution No. 35341. (Y-4)

**\*1875** Intergovernmental Agreement with City of Newberg for access to the City's 800 MHz trunking radio system (Ordinance)

**Disposition:** Ordinance No. 168329. (Y-4)

**Commissioner Mike Lindberg**

**1876** Accept contract with James W. Fowler, Inc. for the Summerplace sanitary sewer as complete and provide for final payment (Report; Contract No. 29081)

**Disposition:** Accepted.

**\*1877** Agreement with Murray, Smith & Associates, Inc. to provide engineering and design services for Willamette River basins (Ordinance)

**Disposition:** Ordinance No. 168330. (Y-4)

**\*1878** Agreement with Mitchell Nelson Welborn Reimann Partnership to provide engineering and design services for Willamette River basins (Ordinance)

**Disposition:** Ordinance No. 168331. (Y-4)

**DECEMBER 7, 1994**

- \*1879** Contract with Envirex, Inc. for furnishing and delivering microscreen equipment for reuse water system at the Columbia Boulevard Wastewater Treatment Plant and provide for payment (Ordinance)  
**Disposition:** Ordinance No. 168332. (Y-4)
- \*1880** Contract with Trojan Technologies, Inc. for furnishing and delivering ultraviolet disinfection equipment for reuse water system at the Columbia Boulevard Wastewater Treatment Plant and provide for payment (Ordinance)  
**Disposition:** Ordinance No. 168333. (Y-4)
- \*1881** Call for bids for the Flavel Park sanitary sewer system, authorize a contract and provide for payment (Ordinance)  
**Disposition:** Ordinance No. 168334. (Y-4)
- \*1882** Contract with Crane & Merseth Engineering/Surveying for a Sanitary Sewer Master Plan (Ordinance)  
**Disposition:** Ordinance No. 168335. (Y-4)
- \*1883** Contract with Anne Symonds & Associates, Inc. to provide engineering and design services for the Willamette River and Columbia Slough basins and provide for payment (Ordinance)  
**Disposition:** Ordinance No. 168336. (Y-4)
- \*1884** Authorize the Bureau of Water Works to exchange property for a lot line adjustment and accept an easement for water facilities on the property of HIBP Assoc. at no cost to the City (Ordinance)  
**Disposition:** Ordinance No. 168337. (Y-4)

**City Auditor Barbara Clark**

- 1885** Certify abstract of votes for municipal non-partisan general election held on November 8, 1994 (Report)  
**Disposition:** Accepted.
- 1886** Approve Council Minutes for July 6 through September 28, 1994 (Report)  
**Disposition:** Approved.

DECEMBER 7, 1994

REGULAR AGENDA

**1870** Intergovernmental Agreement with the Tri-County Metropolitan Transit District of Oregon for support of the development and production of a National Rail Conference to be held in Portland at the Oregon Convention Center September 16-18, 1995 (Ordinance)

**Discussion:** Paul Richmond, Box 454, 97207, said railroads have traditionally seized land and he is concerned that with light rail, where development is occurring and land is changing hands, Portland is serving as a national model for this kind of activity.

**Disposition:** Passed to Second Reading December 14, 1994 at 9:30 a.m.

**\*1874** Enter into a sublease for space at 1300 SW 5th (Ordinance)

**Discussion:** Commissioner Kafoury requested that this be held over one week.

**Disposition:** Continued to December 14, 1994 at 9:30 a.m.

**Mayor Vera Katz**

**\*1888** Accept an 11-month grant in the amount of \$441,627 from the Center for Substance Abuse Prevention on behalf of the Regional Drug Initiative (Ordinance)

**Discussion:** Carol Stone, Regional Drug Initiative, 522 SW 5th, Suite 1310, 97204, said this is actually a five-year grant but needs to be renewed annually. The total grant is actually close to a \$4 million grant when indirect costs are included. This grant will allow RDI to expand their work with the families of at-risk youth and will also provide resources to support the Asian/Pacific-Islander Consortium. RDI has already trained 2300 employers on how to establish alcohol and drug policies in the workplace and will expand efforts in this area as well. It also expects to train more volunteers in the community, expand educational programs on the alcohol availability guidelines and continue to oppose the legalization of drugs. In addition, this grant will make more resources available to the City of Gresham to form their own community partnerships. Ms. Stone noted strong national competition for this grant, adding that Portland was ranked number one because of its existing programs and partnerships.

Paul Richmond, PO Box 454, 97207, said a recent U.S. Department of Justice report shows that programs such as DARE have no effect in

stopping drugs and studies indicate these programs actually create more crime. He said with the consolidation of education, law enforcement and social services, another level of unaccountable bureaucracy is being created, with unprecedented powers to intrude in the lives of citizens. He blamed the current outbreak of juvenile crime on the creation 20 years ago of the Children Services Division and its programs which deprive parents of discretion in raising their children because it may be termed abuse. He said all the different agencies going into the schools and telling kids all about drugs and their effects are the ones creating the problem.

**Disposition:** Ordinance No. 168338. (Y-4)

**\*1889** Accept a grant addendum of \$4,950 from the State of Oregon Public Utilities Commission for Motor Carrier Safety Inspection Program in the Police Bureau Traffic Division (Ordinance)

**Disposition:** Ordinance No. 168339. (Y-4)

**Commissioner Gretchen Kafoury**

**1890** Commend President Clinton and U.S. Housing Secretary Henry Cisneros for increased federal efforts to end homelessness in America (Resolution)

**Discussion:** Commissioner Kafoury said there are indications that Secretary Cisneros will not be there much longer and the City is making one last major attempt to obtain a \$10 million housing grant. She noted that a lot of the commitments the City has made with the business community and others depend on receiving that money.

Paul Richmond, PO Box 454, 97207, said one of the policies pushed by the Clinton Administration has been the advent of warrantless searches in publicly-owned housing. He said Mr. Cisneros recently informed him that some additional partners in the new federal housing projects include the Bureau of Alcohol, Tobacco and Firearms, the INS and others, indicating an increased loss of civil liberties.

**Disposition:** Resolution No. 35342. (Y-4)

**S-\*1891** Amend Title 24 regulations to require clearing permits for tree cutting and root grubbing on sloped areas; amend Title 3 regulations to provide citation authority to the Bureau of Buildings (Ordinance; amend Code Chapters 3.015, 24.10 and 24.70)

**Discussion:** Cay Kershner, Clerk of the Council, said a Substitute was filed and distributed earlier. Commissioner Kafoury moved the

**DECEMBER 7, 1994**

Substitute; Commissioner Hales seconded and, hearing no objections, the Mayor so ordered.

Commissioner Kafoury said this does not prohibit tree cutting, it only requires that people get permits before they cut. She said the irony is that in the Powell Butte case Mr. Rich, the first tree cutter, had a permit which he acquired before realizing he did not need one. She said this Code change ensures that an erosion assessment can be made prior to tree cutting, thus slowing down the process. While this ordinance helps a little, the best thing is for neighbors to work things out with property owners. She said a suggestion was made to raise the fine to \$1,000, making it more consistent with other civil penalties. She moved to amend Section 330.015 (B)(3) to raise the fine from \$500 to \$1,000 for each citation.

**Disposition:** Substitute Ordinance No. 168340 as amended. (Y-4)

**Commissioner Mike Lindberg**

**\*1892** Intergovernmental Agreement with the Metropolitan Service District, including acceptance of a \$40,340 grant, for implementing a multifamily recycling container program (Ordinance)

**Disposition:** Ordinance No. 168341. (Y-4)

**\*1893** Accept a \$11,500 contribution from Bonneville Power Administration for FY 1994-95 Electronic Line-Voltage Thermostats Study (Previous Agenda 1856)

**Disposition:** Ordinance No. 168342. (Y-4)

**City Auditor Barbara Clark**

**1894** Assess property for sidewalk maintenance through October, 1994 (Hearing; Ordinance; Y1001)

**Discussion:** Dan Vizzini, Auditor's Office, said this is the first group of sidewalk assessments under the new maintenance program which contracts out these repairs. This also reflects the second time assessments have been brought in under the new streamlining process. He said in response to some calls about these assessments staff is refining the notification process to put properties posted by the Maintenance Bureau on the lien accounting system so that if they change hands people will find out more quickly about the required repairs. He said in this group of properties staff found that a number of properties changed hands between the time they were listed for repair and the time the work was done without the seller telling the buyer.

**DECEMBER 7, 1994**

He said by placing the posting notices on the lien accounting system that gap will be closed as the title companies will pick up this information and make buyers aware of their obligation.

**Disposition:** Passed to Second Reading December 14, 1994 at 9:30 a.m.

Commissioner Kafoury moved acceptance of the item on the Four-Fifths agenda. Commissioner Hales seconded and, hearing no objections, the Mayor so ordered.

#### **FOUR-FIFTHS AGENDA**

**1894-1** Authorize petition to Multnomah County, Oregon Circuit Court to review decision of Civil Service Board of October 13, 1994 granting appeal of Sung Sung (Resolution introduced by Mayor Katz)

**Discussion:** Kirk Berger, Personnel Director, said Personnel has become concerned about actions taken by the Civil Service Board, some of which are outside the scope of its authority. In this case the Board decided to substitute a passing score, earned by a job applicant three years earlier, for a failing score earned on a more recent exam. This was done partly on the basis that the applicant had been a City employee during that time and performed effectively. However, since the employee did not pass the current exam, allowing the Board to make judgments, on a case by case basis, about who qualifies for City jobs beyond the scope of the examination results clearly subverts the whole examination process.

Mayor Katz asked if the exam is paper and pencil.

Mr. Berger said this is a supplemental exam in which the applicants respond to four or five open-ended questions describing their experience. In this case the employee erred in not completing the exam because he believed people knew about his performance since he was a City employee. The graders were not able to give him a passing score. The Civil Service Board looked at performance and the fact that he passed a similar exam three years ago.

Mayor Katz said as the City develops a human resources policy, one issue is to look not only at objective paper-and-pencil exams but also at on-the-job performance.

Mr. Berger said as they change the way they conduct examinations, particularly in promotional situations, there are obviously opportunities to place less reliance on this kind of exam. However, in this case the Board should not be able to second guess the existing Personnel Rules.



**DECEMBER 7, 1994**

Commissioner Blumenauer asked what will happen to the job applicant.

Mr. Berger said there is still some discussion going on with the City Attorney as to whether the City can make its point about the Board's decision without precluding the employee from perhaps being on the list.

Commissioner Blumenauer said he does not want to subvert the personnel system but does not feel comfortable booting out a qualified employee.

Mr. Berger said he has been advised there will be no openings in this classification during the remainder of the life of this eligibility list. A new examination will most likely occur prior to any additional appointments being made in this class and therefore, it could be presumed that the employee can reapply when the next exam is administered.

Commissioner Hales said he does not understand Commissioner Blumenauer's concern.

Commissioner Blumenauer said he is concerned that, to prove a point about the Civil Service Board, this employee will be booted out.

Mr. Berger said he would not be booted out, as he still has a job in a lower classification. He said there is no position in the higher classification presently and they do not anticipate any future openings in that classification during the life of this list.

Commissioner Hales said he is surprised no one from the Civil Service Board is here to testify as this is the first time he has seen Council challenge any decision of the Board. He asked how often this happens.

Mr. Berger said he is not aware of any prior instances and while this is the only decision Personnel is bringing to Council they are concerned about other Board decisions which appear to be beyond its scope.

Commissioner Hales asked if the Board was aware that this item was before Council this morning.

Mr. Berger said the Board did not know specifically about this action although the Civil Service Board secretary has conveyed Personnel's general concerns and its intention to take this approach.

Commissioner Hales said he does not think it is a bad thing for staff to

**DECEMBER 7, 1994**

challenge this as an inappropriate action but is amazed that Council would be considering such a challenge without having the Board here to defend their decision.

Mr. Berger said one reason for bringing this now is to meet the 60-day deadline for filing a writ of review. He said there is also an issue of as to when the clock starts on the 60-day time limit as the Board is supposed to issue a decision through its minutes, which have not yet been provided for the October 12 meeting when this decision was made.

Harry Auerbach, Deputy City Attorney, said time periods generally run from the time an order was issued but to be on the safe side the most restrictive time period should be used, which in this case would be the date of the hearing itself. If it turns out the Board needs to take another step before the decision is final and appealable, nothing has been lost.

Commissioner Blumenauer questioned whether this is the most effective way to deal with the Civil Service Board, which is made up of long-suffering volunteers. He said perhaps Council should meet with them to share concerns.

Mr. Berger said he intends to continue a dialogue with the Board about Personnel's concerns to see if some agreement can be reached. The Board might choose to reconsider its decision without going through all the legal ramifications but staff believes that because this case would set an extremely untenable precedent for administering Personnel Rules it could not rely on that approach in this instance.

Commissioner Hales said he hopes this decision can be communicated to the Board and that it is given an opportunity to ask Council to reconsider this decision. He said the fact that the City is appealing one of its board's decisions is more than odd and should spark other activities, not a legal wrangle.

Mayor Katz said since the employee will not lose his job, she is comfortable with this. Until the City moves to performance-based exams, it needs to protect the integrity of the current system.

Mr. Berger said the exam process for this classification is more performance-based but because the employee failed to be complete in describing his experience, the graders had no choice but to evaluate the information in front of them, not make judgments beyond what was submitted in the application.

Commissioner Blumenauer said he would vote aye with the understanding that the Board volunteers would be informed that

**DECEMBER 7, 1994**

litigation is not Council's first choice.

**Disposition:** Resolution No. 35343. (Y-4)

Mayor Katz noted that Item No. 1887, passed on the Consent Agenda, should have been heard on the Regular calendar. Council moved to reconsider the Consent Agenda after removing Item No. 1887 and, in a Y-4 roll call, approved the Consent Agenda minus Items 1870, 1874 and 1887.

**S-1887**

Encourage diversity in the oaths of office for elected and appointed officials (Second Reading Agenda S-1855; amend Code Chapter 3.74)

**Discussion:** Mayor Katz noted that on the second reading the public is generally not permitted to testify.

Commissioner Kafoury, in response to concern raised by a citizen attending the meeting, noted that this does not limit people but allows them, based on their individual religious and personal preference, to make a statement.

Mayor Katz said this gives people the option of what they attest to when they take an oath in the City.

**Disposition:** Substitute Ordinance No. 168343. (Y-4)

At 10:23 a.m., Council recessed.

**DECEMBER 7, 1994**

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 7TH DAY OF DECEMBER, 1994 AT 2:00 P.M.

THOSE PRESENT WERE: Mayor Katz, Presiding; Commissioners Blumenauer, Hales and Kafoury, 4.

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

**1895** **TIME CERTAIN: 2:30 PM** - Spirit of Portland awards (Presentation introduced by Mayor Katz)

**Discussion:** Mayor Katz said these are annual awards given out to volunteers, businesses, City employees and neighborhoods who best represent the spirit of Portland and, in their interactions, provide a service to the City. She noted that this is the eleventh year of the awards.

Diane Linn, Director, Office of Neighborhood Associations, displayed the flag designed for Center Neighborhood Association. Flags for the Hawthorne Business Association and Mill Park Neighborhood Association are also being added.

Awards were presented in the following categories:

Volunteers:

Kay Collier  
Kay Durtschi  
Kate Lamb  
Alta Mitchoff  
Jay Mower  
Janice Pelster  
Hershel Stout

City employees:

Police Officer Charlie Brown  
Mike Hayakawa, Planning Bureau

Businesses:

Insulated Window Corporation  
LaBeck's, Inc.

Outstanding Community Service:

Beach Street Patrol Black United Front "Hope & Hard Work" program

**DECEMBER 7, 1994**

**Disposition:** Placed on File.

At 2:37 p.m., Council adjourned.

**BARBARA CLARK**  
Auditor of the City of Portland

*Cay Kershner*

By **Cay Kershner**  
Clerk of the Council