



CITY OF
PORTLAND, OREGON

**OFFICIAL
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 28TH DAY OF DECEMBER, 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; Ben Walters, Deputy City Attorney; and Officer Chuck Bolliger, Sergeant at Arms.

Agenda Nos. 2004 and 2014 were pulled from Consent. On a Y-5 roll call, the balance of the Consent Agenda was adopted as follows:

CONSENT AGENDA - NO DISCUSSION

- 1984** Cash investment balances for November 17 through December 14, 1994 (Report; Treasurer)
- Disposition:** Placed on File.
- 1985** Accept bid of Ross Island Sand & Gravel Company, Lone Star Northwest, Scappoose Sand & Gravel Company and Columbia River Sand and Gravel, Inc. for furnishing annual supply of aggregates for \$636,983 (Purchasing Report - Bid 43-A)
- Disposition:** Accepted; prepare contract.
- 1986** Accept bid of Len Hufford Construction for Rose City golf course cart barn for \$66,780 (Purchasing Report - Bid 56)
- Disposition:** Accepted; prepare contract.
- 1987** Accept bid of Pacific International Pipe Enterprises, Inc. for annual supply furnishing concrete vault sections and appurtenances for \$48,707 (Purchasing Report - Bid 63-A)
- Disposition:** Accepted; prepare contract.

DECEMBER 28, 1994

1988 Accept bid of ABB Kent Meters, Inc. for small domestic meters for \$137,550 (Purchasing Report - Bid 64-A)

Disposition: Accepted; prepare contract.

1989 Accept bid of U.S. Pipe & Foundry Co. for ductile iron pipe for \$286,363 annually for two years (Purchasing Report - Bid 65-A)

Disposition: Accepted; prepare contract.

1990 Accept bid of R.C. Machine for Benson drinking fountains with appurtenances for \$50,700 (Purchasing Report - Bid 66)

Disposition: Accepted; prepare contract.

Mayor Vera Katz

1991 Recommend approval of State of Oregon Business Development Fund loan for Oya Kara dba Oya/Exquisite Hand Created Roses for \$10,000 (Resolution)

Disposition: Resolution No. 35351. (Y-5)

1992 Approve certain surety bond agreements and delegate authority to execute and deliver (Resolution)

Disposition: Resolution No. 35352. (Y-5)

***1993** Contract with Preston Gates & Ellis for bond counsel services (Ordinance)

Disposition: Ordinance No. 168398. (Y-5)

***1994** Contract with Ater Wynne Hewitt Dodson & Skerritt for bond counsel services (Ordinance)

Disposition: Ordinance No. 168399. (Y-5)

***1995** Authorize a contract with Stoel Rives Boley Jones & Grey for bond counsel services (Ordinance)

Disposition: Ordinance No. 168400. (Y-5)

***1996** Amend agreement with Standard Insurance Co. for employee life and long-term disability insurance (Ordinance; amend Contract No. 27142)

Disposition: Ordinance No. 168401. (Y-5)

Commissioner Earl Blumenauer

1997 Declare the purpose and intention of the City to construct HCD street and storm sewer improvements in the SE Lafayette/88th Avenue LID (Resolution; Street; C-9880)

Disposition: Resolution No. 35353. (Y-5)

Commissioner Charlie Hales

***1998** Agreement for services with TriData Corporation for a fire station location study for \$112,179 (Ordinance)

Disposition: Ordinance No. 168402. (Y-5)

***1999** Authorize a contract with Len Huffard Construction for \$66,780 for Rose City golf course cart barn (Ordinance)

Disposition: Ordinance No. 168403. (Y-5)

***2000** Renew agreement with the Association for Portland Progress for management of Waterfront Park parking lots (Previous Agenda 1960; amend Contract No. 26366)

Disposition: Ordinance No. 168404. (Y-5)

Commissioner Gretchen Kafoury

2001 Confirm appointment of William A. Graham and Patricia A. Montgomery and reappointment of Dennis Nelson, Pauline K. Nelson, Park Woodworth, Bernard V. Foster and Marc S. Pettibone to the Taxicab Board of Review (Report)

Disposition: Confirmed.

***2002** Authorize contract with Aron Faegre and Associates for design of Southeast Precinct Police facility remodel for \$150,500 and provide for payment (Ordinance)

Disposition: Ordinance No. 168405. (Y-5)

***2003** Contract with Andrea Bainbridge Design for space planning for Bureau of Buildings' offices on 9th floor of the Portland Building (Ordinance)

Disposition: Ordinance No. 168406. (Y-5)

DECEMBER 28, 1994

- *2005** Enter into a lease for space at 10 SW Ash (Ordinance)
Disposition: Ordinance No. 168407. (Y-5)
- *2006** Increase contract for design of new Walnut Park/Northeast Precinct development project (Ordinance; amend Contract No. 28201)
Disposition: Ordinance No. 168408. (Y-5)
- *2007** Contract with Parangelo Players for \$12,000 for the Gangbusters Program and provide for payment (Ordinance)
Disposition: Ordinance No. 168409. (Y-5)
- *2008** Amend agreement with Bank of America Oregon, Bank of California, N.A., First Interstate Bank of Oregon, N.A., Key Bank of Oregon, United States National Bank of Oregon and West One Bank, Oregon (Banks) and Key Bank of Oregon (Agent) (Ordinance; amend Agreement No. 50205)
Disposition: Ordinance No. 168410. (Y-5)
- *2009** Contract with Multnomah County for \$62,327 to provide funding for the Bridgeview Project (Ordinance)
Disposition: Ordinance No. 168411. (Y-5)
- *2010** Contract with Multnomah County for \$18,456 to provide funding from Emergency Shelter Grant funds for Bridgeview Project (Ordinance)
Disposition: Ordinance No. 168412. (Y-5)
- *2011** Extend the professional services agreement with Becker Projects to provide additional services (Ordinance; amend Contract No. 29017)
Disposition: Ordinance No. 168413. (Y-5)

Commissioner Mike Lindberg

- 2012** Accept completion of the Gabriel Park Wet Meadows construction project and authorize final payment of James Cassetta Construction Service (Report; Contract No. 29458)
Disposition: Accepted.

- *2013** Contract with Unisys Corporation to provide hardware and software for a Water Bureau remittance processing system, with image capture capability, for \$268,274 and provide for payment (Ordinance)

Disposition: Ordinance No. 168414. (Y-5)

REGULAR AGENDA

- *2004** Authorize purchase of property located at SE 106th and Cherry Blossom Drive (Ordinance)

Discussion: Commissioner Kafoury said this is the purchase authorized last week to obtain property for the new precinct.

Disposition: Ordinance No. 168415. (Y-5)

- *2014** Authorize application to Environmental Protection Agency for a grant in the amount of \$10 million for Columbia Slough restoration (Ordinance)

Discussion: Commissioner Lindberg described some of the revitalization projects for the Columbia Slough that the Bureau of Environmental Services hopes to fund with this grant. Included are plans for stream bank restoration, community education, construction of wetlands and new recreational opportunities. They have been discussing with Senator Hatfield the benefits of a multi-objective approach and believe EPA supports this also. As a result of this work, improvements should include markedly clearer water, significantly improved vegetative cover, new pollution reduction facilities and a roof drain disconnect program. At the same time they hope to also employ at-risk youth, implement an educational program and build a new interpretative center. He said this is a 55 percent federal grant with a 45 percent local match and because the City is spending so many millions of dollars along the Slough, the Bureau has already budgeted the funds required for the local match. He said partnerships have also been formed with other entities such as the Watershed Council, Portland State University and others. Ninety percent of the grant will ease the burden on rate payers as it was money the City would have had to spend anyway. Considering the rate impact due to the Combined Sewer Overflow (CSO) project, this will provide needed relief. They will also aggressively pursue MBE/FBE contractors. He concluded by thanking Senator Hatfield for his extraordinary efforts in making this multi-objective approach happen.

Dean Marriott, Director, Bureau of Environmental Services, said this is a \$10 million appropriation for one year but it will take more than 12 months to spend it.

DECEMBER 28, 1994

Mayor Katz asked what people would be able to see after the first or second year of expenditure.

Liane Scull, Manager, Columbia Slough project, said people will see increased tree planting along the Slough which will improve water quality significantly as the canopy develops. There will be some pollution-reducing facilities plus increased training in the community and construction of the Ramsey Lake wetlands to treat stormwater separated out of the CSO program.

Commissioner Lindberg referred to a spread sheet which lists exactly how the funds will be spent over a three-year period. He noted that the EPA could have directed that the \$10 million be spent on big pipes for the CSO program but instead has been supportive of this comprehensive approach.

Mr. Mariott said the spread sheet is still a work in process and some of it will be subject to change.

Disposition: Ordinance No. 168416. (Y-5)

Mayor Vera Katz

***2015**

Intergovernmental Agreement with Portland Police Bureau, Housing Authority of Portland and Multnomah County Sheriff's Office for law enforcement and drug prevention services (Ordinance)

Discussion: Police Commander Orr, North Precinct, said the Sheriff's Office and Police Bureau are committed to working together toward a comprehensive community-based approach for law enforcement drug prevention. Portland Police have placed an officer in Columbia Villa working with deputies from Multnomah County. They find this works well, enhancing the coordination of resources and increasing communication between both entities and residents. This formalizes the agreement and authorizes funding for one full-time officer from North Precinct.

Disposition: Ordinance No. 168417. (Y-5)

At 9:50 a.m., Council recessed.

DECEMBER 28, 1994

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 28TH DAY OF DECEMBER, 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; Ben Walters, Deputy City Attorney; and Officer Chuck Bolliger, Sergeant at Arms.

2016

TIME CERTAIN: 2:00 PM - Liquor license application for Restaurant Concepts, Inc., dba The Gypsy, 625 NW 21st Avenue, Dispenser Class A liquor license (renewal); Unfavorable recommendation (Report)

Discussion: Mike Sanderson, License Bureau, said staff and the Northwest District Association (NWDA) propose an unfavorable recommendation to the OLCC because the licensee has not taken effective steps to address problems created by its patrons. Police, OLCC and neighborhood volunteers have all attempted to address problems related to late-night noise and disturbances but all efforts have failed because the licensee did not recognize early on that its patrons were the largest contributing factor. He cited a letter from Chief Moose expressing concern for district officer safety as well. The applicant has expressed the possibility of gradually changing its clientele, largely through implementation of a compliance plan, but staff believes a gradual approach is not sufficient. Senate Bill 126 holds licensees accountable for the behavior of their patrons and this is exactly the type of case it was designed to deal with.

Perry Christianson, Portland Police Drug and Vice Division, conveyed the concerns of two Police district officers about The Gypsy. He said Officer Dawn Urban believes The Gypsy is primarily responsible for much of the noise and many of the disorderly acts along NW 21st and states that, after much effort on her part, she has run out of ideas for how to work with the licensee. One of Officer Jason Sanders' reports describes threatening and hostile crowd behavior which required calling in high priority coverage patrol units to return order. He said there were a number of incidents where Police failed to take appropriate action because of the crowds and lack of cover. The Police believe this is an untenable situation which must be addressed.

Jim Neill, attorney representing Restaurant Concepts, Inc., operator of The Gypsy, said the problem is not specifically The Gypsy but the changes that have occurred in the Northwest neighborhood. He referred to the Portland State University (PSU) Northwest neighborhood livability study which points out that the problems are caused by the

DECEMBER 28, 1994

mix of retail and residential land use, leading to more traffic congestion and more parking problems. This leads to more noise and more commercial activity which may conflict with the livability of some residents. When area residents were asked to identify primary problems, lack of parking, auto theft, vandalism and the rising cost of living ranked among the highest. Too many bars and too much noise ranked near the bottom of the list. He said the impact of noise and alcohol-related problems largely depended on how close residents were to the commercial district. If the survey was intended to provide evidence that bar and restaurant patrons were the root of the district's problems, it backfired. He said he believes The Gypsy has become the scapegoat for the area's problems and that growing commercialism is the primary problem. He said Council should recognize the reality that this no longer a quiet, residential neighborhood and realize that closing The Gypsy is not necessarily the answer. He said some of the material in the report is unfair, i.e. blaming the licensee for cruising automobiles with loud radios or for the times when people congregate on 21st. The report seems to blame The Gypsy anytime there is a disturbance on the street. He said the licensee purchased this facility in May, 1992 and originally planned to make this a neighborhood restaurant and bar with a full menu which would attract the numerous young adults living in the area. Since then the owner has spent approximately \$250,000 on improvements, mostly to increase food service. Except on rare occasions, it does not offer live music, nor does it attempt to be a night club. Food sales have continued to rise and now approach \$500,000, indicating The Gypsy is a serious food operation. He noted a petition in support signed by 310 patrons, 90 percent of whom are residents of Northwest Portland. Mr. Neill argued that there should be a place in this neighborhood where younger, single residents can congregate and have fun.

Mr. Neill described some of the steps the operators have taken to resolve the problems, resulting in a very comprehensive compliance plan with the OLCC. He said the most significant change in this plan is the agreement to close at 1:00 a.m. instead of 2:30 a.m., noting that the License Bureau report shows that approximately 70 percent of the incidents occurred after 1:00 a.m. He said if the facility closed at 1:00 a.m., presumably many of these would not have happened -- since this closing time was adopted in October, there have been no incidents at all. Citing a recent disturbance well after 1:00 a.m. on NW 21st, he suggested that other bars and restaurants adopt similar closing hours. He said rather than closing, The Gypsy would like to continue to solve any problems by evolution, slowly attacking each issue on a case-by-case basis and working to increase food sales while still serving this particular clientele.

DECEMBER 28, 1994

Mr. Neill said most of the reported incidents occurred outside and while they concede some of these come from their customers they also believe they evolve from their neighbors' operations as well. He noted that no requests have been made for increasing security on the street, despite Officer Christianson stating that Police were sometimes afraid to go into the area. In 1993, NWDA asked The Gypsy to prepare a security plan with area restaurants and bars and as part of that plan a security patrol was proposed. Thirteen different operators were asked to participate but none agreed and the matter was tabled. He said if The Gypsy's license is renewed it will agree to provide a security patrol at its sole expense from May through September for the area on 21st and 22nd between Hoyt and Johnson, between the hours of 9:00 p.m. and 2:30 a.m. He said the compliance plan with OLCC is working and that, if the Gypsy loses its license, over 50 employees will lose their jobs. The licensee is a responsible operator who also operates the Lotus Cafe downtown and is opening a new restaurant in Northeast.

Marvin Pohl, President, NWDA, said the Board voted eight to two, with two abstentions, against renewing The Gypsy's license. He said the PSU impact study has no bearing on the issue today and Mr. Neill's interpretation is not necessarily valid. Mr. Neill's assertion that too much blame was being placed on The Gypsy for what is an areawide problem is exactly counter to what The Gypsy's prior attorney stated, claiming that there was no such thing as an areawide problem. He said that may be why The Gypsy got a new lawyer. He said the Police and License Bureau documentation clearly shows there is a problem with The Gypsy and while the operator has made some effort to deal with these problems he recalls that it did not agree to a security patrol either, due to liability problems. He said 19 of the 44 incidents documented in the report occurred before 1:00 a.m. and the NWDA Board believes that if The Gypsy closes at 1:00 a.m., the problems will just move up one hour. The neighborhood should not have to wait another year, for more documentation, when no other restaurant in the area has this amount of documentation on record. He noted that The Gypsy received a favorable endorsement in 1993 because Council could not prove that any single outlet was the cause of the late night noise problem. This report, however, documents that it is the cause of the problem. He said other ideas NWDA came up with to deal with the problem were again negated by The Gypsy's attorney because of liability. He said the Neighborhood Association cannot make or enforce policy and the City should seek more local control from the OLCC as currently it will probably grant these people a license, despite Council's recommendation. The question is what is the role of citizens and the City in creating economic development plans in mixed use areas which do not negatively affect livability, as this operation does.

DECEMBER 28, 1994

Matt Witt, 1611 NW 32nd Ave., said the Northwest community is changing but OLCC has not recognized that its regulatory approach must change also. It must adapt to a different way of dealing with citizens.

Ted Anderson, 2046 NW Irving, 97209, said the problem with The Gypsy is not the changes in Northwest but their deliberate marketing attempt to attract the late night "party 'til you puke" crowd. He said it does not happen at any other Northwest bar or restaurant and criticized its custom of pouring loud and belligerent customers out onto the street. He said this has no place in the Northwest, or Portland.

Frank Dixon, 2205 NW Johnson, 97210, said Mr. Neill's argument that the licensee is a scapegoat should be rejected as the documentation clearly supports nonrenewal of the license because of The Gypsy's negative impact on livability.

Officer Caldwood, Portland Police, said this type of problem did not occur 19 years ago when he first patrolled here. He said he has been working this area for the last five years and noted that the Blue Moon, which serves the same clientele, does not have similar problems. He said his idea of fun is not having a Police riot, noting that more security has been added and there are now two extra officers in Northwest Portland, including a bicycle officer. He said The Gypsy has attracted the wrong crowd for a long time -- those who want to drink and get stupid -- and a slow change will not do any good. He said a review of the petition would probably indicate that those who signed it did not live on 22nd and Johnson, where residents see the problems every night.

Commissioner Kafoury moved that the unfavorable recommendation of the Police and License Bureaus be upheld. Commissioner Blumenauer seconded.

Commissioner Blumenauer said even if one counted only the incidents occurring prior to 1:00 a.m., that would be sufficient grounds for nonrenewal. He said OLCC has been responding to Council's recommendations very favorably despite the restrictions mandated by Oregon State law. He concluded by stating that the City does not need businesses like this.

Commissioner Hales said the Code requires only a commonsense link, not an absolute cause and effect relationship, between a given application and a history of inappropriate and illegal activity around its premises. He said this is one case where there is clearly enough evidence to make a strong recommendation for nonrenewal. He said Council has been consistently firm about the effect on neighborhood

DECEMBER 28, 1994

livability and OLCC is rightfully backing the City on this. The Council is not a bunch of prohibitionists but is dedicated to maintaining neighborhood livability. He said applicants should talk less about fault and more about responsibility, adding that they should not have waited to get serious about this responsibility until the License and Police Bureaus issued their negative reports. He said they should apply a golden rule standard about what is appropriate in the neighborhood, concluding that the kind of activity going here on is not acceptable in any neighborhood.

Commissioner Lindberg said it is clear that the owners refuse to recognize their responsibility and it is clear from the reports and statistics that there is poor management. It is also an extreme case because of the personal injury to neighbors and Police. This is not a matter of having fun but of a lack of respect.

Mayor Katz said reference to the fact that The Gypsy's license would be denied because the Mayor lives in Northwest Portland is absolutely false. She said she has never discussed this application with any Council members.

Disposition: Unfavorably recommended. (Y-5)

Commissioner Gretchen Kafoury

2017

Liquor license application for Sam & Nancy Lee, dba Day & Night Grocery, 1957 W Burnside Street, Package Store liquor license (renewal); Favorable recommendation, with restrictions (Report)

Discussion: Mike Sanderson, License Bureau, cited the persistent problem of street drinkers in this area and efforts by the store to deal with them. The Bureau recommends a favorable endorsement with restrictions because some problems continue despite good-faith efforts by the licensee to minimize the sale of alcoholic beverages to street drinkers. The restrictions would be on the sale of fortified wines or beer in containers larger than 16 ounces, products favored by street drinkers. This is in keeping with the City's approach to dealing with street drinking problems.

June Lee, representing her father Sam Lee, said the measures they have taken to minimize the problems with street drinkers have been witnessed and praised by the Police and many concerned citizens in the immediate neighborhood. She said her father believes it is only fair that all stores in the area, such as Elias, should have the same restrictions, rather than singling out his store. She said when these problems occurred, the drinks were purchased by regular customers who in turn delivered them to the street drinkers. When the owner found

DECEMBER 28, 1994

out, employees were told not to permit those customers into the store to buy anything, even gum. Also, when they discovered people were drinking beer out of soda cups, they ceased the sale of empty soda cups. In addition to mandatory i.d. checking, they ask for apartment keys and rent receipts from customers who are strangers to them and as a result, there are fewer problems in the neighborhood, even though the improvement has not been 100 percent. She said their main concern is the restriction on malt liquor and proposed, as of Jan. 1, 1995, to discontinue the sale of 40-ounce cans except for Pabst and Olympia, items favored by their regular customers whose business they rely on. She said these products are not purchased by the street drinkers but by their responsible customers. If these two items do cause any problems, they will voluntarily cease their sale. In the meantime, all the other restrictions would still apply.

Mayor Katz asked if they marked their bottles.

Ms. Lee said yes.

Sam Lee, owner of Day and Night Grocery, displayed the sign which is already posted, about the restrictions.

Officer Caldwood, Portland Police, said he goes by Mr. Lee's store every night and has found Mr. Lee to be very cooperative. However, when the regular night clerk was gone for a month there was a marked increase with street drinking problems and some of the bottles were not marked. Some of the problems are due to the language barrier and to the Asian reluctance to say no to customers. While Mr. Lee sells a lot of liquor and groceries to neighbors who do not cause any problems he should cut off these problem products even though there are still two other stores which sell them. Sales should be stopped at these stores as well. Officer Caldwood said he sees a shift from malt beverages to 16-ounce cans of conventional beer and this means that clerks will have to recognize street drinkers and cut them off regardless of the products they buy. He said if this restriction hurts Mr. Lee more than the other two stores that is not fair; all should be on an equal footing, particularly as Mr. Lee has been the most cooperative of the three.

Mayor Katz said the OLCC is getting close to ruling on restrictions the City has recommended for these other two stores. She asked about Mr. Lee's request.

Mr. Sanderson said they realize there is a limited, legitimate market for these products but the problem for staff is that when they attempt to make judgments based on an individual licensee, they can run afoul of change of ownership issues. He noted that there is an application for a new owner at this store on file now and they do not know his level of

DECEMBER 28, 1994

commitment to compliance. If all stores are on an equal footing the Bureau will not have to make judgments about motives, intents, etc.

Commissioner Hales said administratively that makes sense yet the most important variable seems to be the responsibility and cooperativeness of the applicant. He said when a responsible applicant makes a request under a Code that allows Council to take the applicant's record into account, it is hard to say no.

Commissioner Kafoury said they have voluntary agreements with several dozen nearby businesses who do not sell any 40-ouncers. She said if Council starts making exceptions it will end up with a nightmare. The intent of the voluntary agreements was to make them uniform and there is no reason why any store should have even a tiny window of exception.

Commissioner Hales said he hopes the other stores can be brought up to that standard as swiftly as possible because of his concern for a viable business that is doing a good job.

Mark Terry, OLCC, said he is also struggling with this issue because Mr. Lee has an excellent compliance record. But Elias, Hoyt Street Market and Fred Meyer are also in the immediate neighborhood and he has to consider restricting all the package stores licensees if he can show that the neighborhood has been negatively impacted by street drinkers. That is the case here so he has to bring all the licensees together and work on them as a group. He said he needs a clear direction from Council as to the products it wants restricted and some sense of the level playing field.

Commissioner Kafoury moved to adopt a favorable recommendation with restrictions. Commissioner Hales seconded.

Disposition: Favorably recommended with restrictions (Y-5)

Council voted to elect Commissioner Hales president of Council for the term beginning January 1, 1995.

At 3:25 p.m., Council adjourned.

BARBARA CLARK
Auditor of the City of Portland

Cay Kershner
By Cay Kershner
Clerk of the Council