



CITY OF
PORTLAND, OREGON

**OFFICIAL
MINUTES**

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 4TH DAY OF OCTOBER, 1995 AT 9:30 A.M.

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

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

Mayor Katz proclaimed October 4, 1995 as Dr. Lawrence Griffith's day in recognition of his efforts to promote light rail.

Agenda No. 1611 was pulled from Consent. On a Y-4 roll call, the balance of the Consent Agenda was adopted as follows:

CONSENT AGENDA - NO DISCUSSION

- 1607** Accept bid of Municipal Equipment Company for three sewer camera systems for \$42,433 (Purchasing Report - Informal Bid)
- Disposition:** Accepted; prepare contract.
- 1608** Accept bid of A. C. Schommer & Sons for Southeast Precinct Community Policing Facility for \$2,105,000 (Purchasing Report - Bid 9)
- Disposition:** Accepted; prepare contract.
- 1609** Accept bid of Burns International Security Services for security services for Portland Building and City Hall for \$240,718 annually for three years (Purchasing Report - Bid 12-A)
- Disposition:** Accepted; prepare contract.

Mayor Vera Katz

- 1610** Adopt City of Portland Debt Management Policies (Resolution)
- Disposition:** Resolution No. 35451. (Y-4)

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***1612** Agreement with the Bureau of Alcohol, Tobacco and Firearms to reimburse overtime for Portland Achilles Task Force (Ordinance)

Disposition: Ordinance No. 169352. (Y-4)

***1613** Agreement with the Lake Oswego Police Department to provide access to the Portland Police Data System (Ordinance)

Disposition: Ordinance No. 169353. (Y-4)

Commissioner Earl Blumenauer

1614 Set hearing date, 9:30 a.m., Wednesday, November 1, 1995, to vacate a portion of NE Oregon Street (Report; Petition; C-9884)

Disposition: Adopted.

1615 Accept completion of SW Multnomah Blvd. Bikeway Project by Eagle-Elsner, Inc. and release retainage (Report; Contract No. 29972)

Disposition: Accepted.

Commissioner Charlie Hales

***1616** Contract with Sandy Rural Fire Protection District for mutual emergency assistance (Ordinance)

Disposition: Ordinance No. 169354. (Y-4)

***1617** Contract with Clackamas County Rural Fire Protection District #1 for mutual emergency assistance (Ordinance)

Disposition: Ordinance No. 169355. (Y-4)

***1618** Contract with Multnomah County Fire District #14 for mutual emergency assistance (Ordinance)

Disposition: Ordinance No. 169356. (Y-4)

***1619** Contract with Tualatin Valley Fire and Rescue, a fire district, for mutual emergency assistance (Ordinance)

Disposition: Ordinance No. 169357. (Y-4)

***1620** Contract with City of Milwaukie, Oregon for mutual emergency assistance (Ordinance)

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Disposition: Ordinance No. 169358. (Y-4)

- *1621 Contract with Boring Rural Fire Protection District #59 for mutual emergency assistance (Ordinance)

Disposition: Ordinance No. 169359. (Y-4)

- *1622 Contract with City of Lake Oswego, Oregon for mutual emergency assistance (Ordinance)

Disposition: Ordinance No. 169360. (Y-4)

- *1623 Agreement with Metro for the Local Share Component of the Open Spaces Bond Measure (Ordinance)

Disposition: Ordinance No. 169361. (Y-4)

- *1624 Authorize a contract and provide for payment for Parklane Park improvements (Ordinance)

Disposition: Ordinance No. 169362. (Y-4)

Commissioner Gretchen Kafoury

- 1625 Accept Albina Yard reroofing project as complete, authorize release of retainage and make final payment to Buckaroo-Thermoseal, Inc. (Report; Contract No. 29820)

Disposition: Accepted.

- *1626 Authorize agreement with KOIN TV News for access to the City's 800 MHz trunking radio system (Ordinance)

Disposition: Ordinance No. 169363. (Y-4)

- *1627 Amend Pay and Park regulations, authorizing alternate signage (Ordinance; amend Code Chapter 14.36)

Disposition: Ordinance No. 169364. (Y-4)

Commissioner Mike Lindberg

- 1628 Accept completion of the Lents Basin CSO sump project, Phase 5, and authorize final payment to Brundidge Construction, Inc. (Report; Contract No. 29689)

Disposition: Accepted.

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- *1629** Contract with Water Resource Management for design and public involvement related services as required for a flood detention and water quality facility known as the Brookside Wetland and Stream Enhancement Project (Ordinance)
- Disposition:** Ordinance No. 169365. (Y-4)
- *1630** Amend contract with Elcon Associates, Inc. to provide construction assistance for the water reuse system project at the Columbia Boulevard Wastewater Treatment Plant (Ordinance; amend Contract No. 29521)
- Disposition:** Ordinance No. 169366. (Y-4)
- *1631** Approve an agreement for services with Oregon Graduate Institute to conduct sediment contaminant modeling of the Columbia Slough (Ordinance)
- Disposition:** Ordinance No. 169367. (Y-4)
- *1632** Contract with Murray, Smith & Associates, Inc. engineers/planners for a Sanitary Sewage Facilities Basin Plan and a Trunk Sewer Pre-Design Route Study (Ordinance)
- Disposition:** Ordinance No. 169368. (Y-4)
- *1633** Correct Ordinance authorizing Intergovernmental Agreement with Portland State University for water quality and hydrodynamic modeling of the Columbia Slough (Ordinance; amend Ordinance No. 169314)
- Disposition:** Ordinance No. 169369. (Y-4)
- *1634** Amend agreement with Tri-Met for water system modifications related to the Westside Lightrail tunnel segment construction (Ordinance; amend Contract No. 50057)
- Disposition:** Ordinance No. 169370. (Y-4)
- City Auditor Barbara Clark**
- *1635** Cancel sewer system development charge for property at 6506 SE 89th Avenue (Ordinance)
- Disposition:** Ordinance No. 169371. (Y-4)

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***1636** Cancel City liens on tax foreclosed properties which Multnomah County has transferred to various agencies (Ordinance)

Disposition: Ordinance No. 169372. (Y-4)

REGULAR AGENDA

***1611** Contract with Ball, Janik and Novack representation in Washington, D.C. on matters pertaining to the relationship between the City and the federal government (Ordinance)

Discussion: Cay Kershner, Clerk of the Council, said an amendment to the contract had been requested, changing the amount of the contract from \$140,000 to \$144,600.

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

Disposition: Ordinance No. 169373. (Y-4)

Commissioner Charlie Hales

***1637** Agreement with the City of Gresham for \$4,851 of Community Development Block Grant funds to operate a program to provide ombudsman services to seniors residing in subsidized housing (Ordinance)

Discussion: Commissioner Hales said this is on the Regular Agenda solely because it modifies the current year budget.

Disposition: Ordinance No. 169374. (Y-4)

At 9:42 a.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 4TH DAY OF OCTOBER, 1995 AT 2:00 P.M.

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

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

REGULAR AGENDA

Commissioner Charlie Hales

1639

Tentatively deny appeal of Laurelhurst Neighborhood Association against Hearings Officer's decision to approve, with conditions, application of Mt. St. Joseph Residence and Extended Care Center for a conditional use master plan for an existing residential and nursing care facility at 3060 SE Stark (Findings; Previous Agenda 1565; 94-00932 MS CU)

Discussion: Commissioner Hales moved acceptance of the Supplemental findings.

Ruth Spetter, Senior Deputy City Attorney, said she believed the appeal had been withdrawn but to be on the safe side, Council could go ahead and adopt the findings.

Disposition: Appeal withdrawn; findings adopted. (Y-4)

***1638**

TIME CERTAIN: 2:00 PM - Adopt the Report and Recommendations of the Planning Commission on the Fanno Creek Environmental Map Refinement Project and adopt amendments to Title 33 and the official Zoning Maps of the City of Portland (Ordinance introduced by Commissioner Hales; amend Title 33)

Discussion: Tom McGuire, Bureau of Planning, noted that this is a refinement of the existing Environmental Zone in the Fanno Creek Watershed that was applied in January, 1994. There are two parts to the ordinance. The first results from a recommendation passed last April by the Environmental Zone Streamlining Project to remove Code Chapter 33.430 because of the confusion it was causing. To do that, certain changes to the Zoning Map were needed. The second part responds to requests for map error corrections. These corrections will make the zoning more accurate but do not change any of the original decisions in the watershed about inventories or EESE

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analyses of conflicting uses. As an example, he described the existing zoning on one specific site and indicated the proposed zone change. He said in addition to the four amendments noted in a memo dated September 24, he is recommending another, to property owned by Mr. Nawalany, based on a site survey pinpointing the location of the drainage. The environmental protection Zone has been moved to the north of the property and has been somewhat narrowed. The conservation zone has not been changed.

Mayor Katz noted that Mr. Nawalany has raised the issue of notification in regard to this matter.

Mr. McGuire said his issue is with the original notice sent when the time the original Fanno Creek protection Plan was being considered and it is probably correct to state that the property owner at that time did not receive notice.

Mayor Katz asked how much notice was given on this particular piece.

Mr. McGuire said as early as May, 1995, when Mr. Nawalany was notified about an upcoming public meeting and about the Planning Commission hearing.

Thomas Nawalany, attorney at 10260 SW Greenburg Rd., Suite 400, 97232, said he submitted a brief today because he has been trying to work out a compromise with the Planning Bureau which would allow him to build his project as planned. He only got their decision today. He said he acquired the property in 1994 with the intent to develop it according to the Comprehensive Plan. At that time neither he nor the previous owner had any knowledge of the environmental zone on the property. He said he only found out at a preapplication conference when he was told by Mike Hayakawa that there could be some restriction on the property. After that he tried to get answers from the City as to exactly what the effect would be but could get none because staff was in the process of working on the Fanno Creek update. He said Mr. Hayakawa had indicated that if he could get his zone change and building permit applications in before this update was passed, these restrictions would not be applied to his site. He said he is in the process of doing that. He said applying the restrictions without his or the prior owner's prior knowledge is a form of ex post facto law, particularly as the process as applied to his property is not a simple correction which would only expand or decrease the environmental zone. Rather it is a matter of imposing brand new regulations. He said he would prefer that this be considered on its own and not as part of the Fanno Creek process.

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Commissioner Hales asked his opinion of the proposed amendment.

Mr. Nawalany said he presented his building plans to Mr. McGuire yesterday and has no problem with the protection zone over the creek. The problem is with the conservation zone around it. He urged Mr. McGuire to compromise and somehow allow him to build in it but was told today that the conservation zone must stay.

Commissioner Hales asked if it was infeasible to build in the conservation zone.

Mr. Nawalany said he is not absolutely sure yet but it will be very difficult. He believes Mr. McGuire's suggestion that he excavate under grade in order to provide parking would cause even more environmental disturbance.

Mayor Katz asked Mr. Nawalany if he would have been able to go ahead if he had presented his plans prior to the enactment date.

Mr. Nawalany said he understood that once he filed his application, his plan would be reviewed according to the regulations in place at the time. However, the decision was appealed by the neighborhood association. He asked that this ordinance not be designated as an emergency, in order to give him more time to try to work things out, or that his property be excluded.

Mayor Katz noted that he had applied for the zone change under the old rules and asked if those would apply.

Mr. McGuire said it is a question of when the City can begin to process his building permit application. The current zoning on the site is R5 and he is applying for a 12-unit apartment complex which cannot be built in an R5 zone. He has applied for a zone change to R2. He said the City will process the application once the zone change is approved and the site is zoned R2. At that point the City could approve a multi-family residential project.

Ms. Spetter said the zoning is on appeal and until that is resolved the property has R5 zoning.

Mr. Nawalany said he is in a ridiculous situation as he has a zone that is approved without environmental restrictions. However, his building permit is going to be processed under those restrictions. He said he has a decision granting the zone change but it is being appealed.

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Mr. McGuire requested that the ordinance pass with an emergency clause as a long list of developers is waiting to get the corrected maps so they can move forward.

Anne Radcliffe, 6305 SW Pally Court, thanked the City for adding back in a resource which had inadvertently been omitted from earlier maps.

Major Foster, 3813 H Street, Vancouver, WA, said he is the designer of Mr. Nawalany's project. He said as part of the application process for the building permit and zone change, they were required to dedicate a drainage easement to the Bureau of Environmental Services. They then adjusted the protection zone to coincide with the drainage easement but the conservation area around the property has certain restrictions that could possibly prevent his project from going forward as proposed. He said they have to conform to several sets of regulations and, while all the suggestions proposed by Mr. McGuire yesterday may possibly allow the project in the conservation zone, they do not accord with standard zoning and building ycode regulations. Imposition of the conservation zone would reduce the number of units significantly, from 12 to 9, or less. He said any building over 100 linear feet has to be 30 feet or more from the front property line. That is what necessitated the current placement on the property. Other similar regulations come into play in the design of the project and must be considered.

Tim Heltzel, 3705 SW Court, asked for confirmation that Map 3325 (Lots G and H), where revisions were made in August, was part of what is before Council today. (He was satisfied that it was.)

Liz Callison, 6039 SW Knightsbridge Dr., 97219, asked that several items be added to the record.

Commissioner Hales said Council will act on this today.

Ms. Callison said, as a member of the Streamlining Committee, in the three or four years since the environmental zones were first mapped by staff, many areas have been clearcut or otherwise reduced in environmental value. She said she had been informed by Matt Aho, former staff member of the Southwest Neighborhood District Coalition, that about 30 percent of Fanno Creek District land which was zoned either EP or EC was removed from the Environmental Zone inventory during the refinement process. Will this now be added back into the buildable lands inventory? She said she has two concerns with the Fanno Plan. The first relates to the recent loss of standing by community members in the local land-use process. As a result of the streamlining process, neighbors lost their right to be

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notified of land development in environmentally zoned areas and to comment on errors in an open review before a Hearings Officer. She said typical errors might involve previously unidentified resources or resources incorrectly placed on the maps. She said the development industry has displayed great reluctance in both the discovery and stewardship of natural resources on local properties. Ms. Callison said the Planning Bureau should not have to continue with an unending process of mapping refinements, either in Fanno Creek or citywide. The refinement project was done at the instigation of the homebuilders association and development industry. If neighbors were fairly included in the land-use process, as they were until this year, it would not be necessary to force staff to keep redrafting losses of resources.

Amin Wahab, Fanno Creek Watershed Manager, said the zoning refinement process is an open-ended one. He said they rely on the zoning regulations to protect some of the resources, particularly those close to stream corridors. He endorsed the staff recommendations and opposed any change in the conservation zone at this time, noting that the City is under DEQ compliance requirements for the Tualatin Valley Watershed basin, into which Fanno Creek drains.

Commissioner Hales asked Mr. McGuire what his recommendation was regarding Mr. Nawalany's request. He said he is still unclear as to the amendment.

Mr. McGuire said the amendment would narrow the protection zone somewhat, shifting it slightly to the north. This is based on a survey Mr. Nawalany had done which basically coincides with the Bureau of Environmental Services drainage easement. He said he discussed other development options in his conversations with Mr. Nawalany yesterday. He noted that the current proposal would not meet at least two of the development standards and would be subject to environmental review. That is not an outright denial but would be subject to review and probably some mitigation.

Commissioner Hales asked if there were other ways to meet the development standards to potentially accommodate the density allowed by the zone.

Mr. McGuire said yes.

Mayor Katz asked if Mr. Nawalany could get that density with another design.

Mr. McGuire said it is possible.

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Commissioner Hales said the City made a policy decision when the streamlining project was done that density requirements would not be strictly applied in environmental zones. That was the tradeoff which applies in this and many other cases. This is a difficult situation for this property owner but no more difficult than it is for many others. He moved to adopt the report as amended, including the amendments dated October 4, and pass the ordinance.

Disposition: Ordinance No. 169375 as amended. (Y-4)

Commissioner Gretchen Kafoury

1640

Liquor license application for Cory and Brett Bonime, dba Dingo's Taco Bar, 4612 SE Hawthorne Blvd., restaurant liquor license (new outlet); favorable recommendation (Report)

Discussion: Gary McGrew, License Bureau, said one remonstrance was received, objecting to the added traffic and late night noise this outlet would cause. However, the Bureau believes the good neighborhood agreement addresses these concerns and forwards a favorable recommendation.

Commissioner Kafoury moved to favorably recommend the application.

Disposition: Favorably recommended. (Y-4)

At 2:43 p.m., Council adjourned.

BARBARA CLARK
Auditor of the City of Portland

Cay Kershner

By Cay Kershner
Clerk of the Council