



CITY OF

PORTLAND, OREGON

**OFFICIAL
MINUTES**

NOTE: All items scheduled for February 14 were heard instead on Thursday, February 15, 1996 at 2:00 PM, due to the flood.

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 15TH DAY OF FEBRUARY, 1996 AT 2:00 P.M.

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

OFFICERS IN ATTENDANCE: Cay Kershner, Clerk of the Council; Linda Meng, Chief Deputy City Attorney, and Michael Holstun (3:50 pm), Senior Deputy City Attorneys; and Officer Chuck Bolliger, Sergeant at Arms.

Association of Portland Progress Board members George Passero and Tammy Hinkel, thanked City employees and citizens for their efforts during the flood emergency.

- 218** **TIME CERTAIN: 9:30 AM** - Confirm appointment of Jim Coon, Dave Brook, Sheila Holden, Sardar Khalsa and Robert Wise to the Sustainable Portland Commission (Report introduced by Mayor Katz)

Discussion: Commissioner Lindberg introduced the Commission appointees.

Disposition: Confirmed. (Y-4)

- 219** Accept a report on the Sustainable Portland Commission's accomplishments in 1995 and workplan for 1996 (Report introduced by Commissioner Lindberg)

Discussion: Bob Wise, Co-chair, Sustainable Portland Commission, outlined the work of the commission, noting that the Sustainable City principles adopted last year by Council help the City integrate sometimes conflicting environmental and economic policies. The Commission also surveyed City bureaus to identify good examples and gaps that could be closed. An environmental update of Portland Today, which tracks the City's environmental health and was done with help from Portland State University students, will be issued in April. Also planned is a brown bag lunch series on environmental topics.

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Jim Coon, Commission member, described the work of the Green Team in developing City purchasing guidelines regarding use of recyclables, energy, toxic materials, etc.

Nancy Bond, Green Team member, said they concentrated on renewed recycling efforts, helping with the commercial recycling program and upgrading paper collection recycling. They are also sponsoring a Green Fair for City employees.

David Manheart, Commission member and Development Director, Friends of Trees, said the Commission's input was also incorporated in the recently adopted Outer Southeast Community Plan.

Susan Anderson, Director, Energy Office, said the brown bag program for City employees is part of their environmental technology challenges effort. She said Portland General Electric is going to provide electric outlets for cars downtown and is challenging others. It is hoped the City will be one of the first responders to that challenge.

Disposition: Accepted. (Y-4)

***220** **TIME CERTAIN: 10:00 AM** - Adjust the FY 1995-96 Budget for Period Four Adjustments (Ordinance introduced by Mayor Katz; Previous Agenda 217)

Discussion: Mindy Feely, Office of Finance and Administration, said the biggest part of this tri-annual budget adjustment is recognition of additional revenues.

Disposition: Ordinance No. 169785. (Y-4)

Agenda No. 239 was pulled from Consent. On a Y-4 roll call, the balance of the Consent Agenda was adopted as follows:

CONSENT AGENDA - NO DISCUSSION

221 Accept quote of Bengel Construction Company to construct paving for the Brentwood water main project for \$44,838 (Purchasing Report - Informal Quotation)

Disposition: Accepted; prepare contract.

222 Accept bid of Copenhagen Utilities and Construction, Inc. for NE/SE 122nd Avenue sidewalks and curb ramps for \$246,315 (Purchasing Report - Bid 56)

Disposition: Accepted; prepare contract.

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223 Vacate a portion of NE Pacific Street, under certain conditions (Ordinance by Order of Council; C-9908)

Disposition: Passed to Second Reading February 21, 1996 at 9:30 a.m.

Mayor Vera Katz

224 Confirm appointment of Nyla McCarthy to the Metropolitan Human Rights Commission (Report)

Disposition: Confirmed.

225 Confirm appointment of Elaine Johnson to the Private Industry Council (Report)

Disposition: Confirmed.

226 Approve an amended Personnel Rule concerning the adoption of an expedited hearings process by the Civil Service Board (Resolution)

Disposition: Resolution No. 35498. (Y-4)

***227** Establish one Senior MIS Support Analyst and one Programmer position in Fire, Rescue and Emergency Services; one Sr. Administrative Specialist, one Police Sergeant, one Storekeeper and two Identification Technician positions in the Police Bureau in accordance with the Personnel Rules adopted by the City Council (Ordinance)

Disposition: Ordinance No. 169786. (Y-4)

***228** Establish one Administrative Assistant, one Secretarial Clerk II, Sr. Programmer Analyst and two Programmer positions in the Bureau of Buildings; one Architect/Landscape position in Parks & Recreation in accordance with the Personnel Rules adopted by the City Council (Ordinance)

Disposition: Ordinance No. 169787. (Y-4)

***229** Pay claim of Gray Stojanovich (Ordinance)

Disposition: Ordinance No. 169788. (Y-4)

Commissioner Earl Blumenauer

***230** Accept a grant of \$50,000 from Metro for the support of the Broadway/Weidler corridor study (Ordinance)

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Disposition: Ordinance No. 169789. (Y-4)

- *231** Contract with Tri-Met for implementation of transit transfer site improvements, Unit 4.5 (Ordinance)

Disposition: Ordinance No. 169790. (Y-4)

- *232** Agreement with Oregon Department of Transportation to provide for the SW Barbur Blvd., Hamilton Street to Miles Street project (Ordinance)

Disposition: Ordinance No. 169791. (Y-4)

- *233** Accept a grant from the Oregon Department of Transportation in the amount of \$20,000 to develop specific tools for evaluating the potential of pedestrian projects for increasing walking (Ordinance)

Disposition: Ordinance No. 169792. (Y-4)

- *234** Authorize a contract and provide for payment for the NE/SE 122nd Avenue sidewalk and curb ramp construction project (Ordinance)

Disposition: Ordinance No. 169793. (Y-4)

Commissioner Charlie Hales

- *235** Delay scheduled increases in golf fees for one year (Ordinance; amend Code Section 20.20.010 (a), (d) and (m))

Disposition: Ordinance No. 169794. (Y-4)

- *236** Authorize a contract and provide for payment for Brooklyn Park improvements (Ordinance)

Disposition: Ordinance No. 169795. (Y-4)

- 237** Agreement with AGI Technologies for remediation design of environmental cleanup for the Fire Bureau at a cost of \$39,320 (Second Reading Agenda 195; waive Code Section 5.68)

Disposition: Ordinance No. 169796. (Y-4)

Commissioner Gretchen Kafoury

- 238** Accept completion of the installation of primary underground power and furnishing of ancillary equipment at the Transmitter Building, Council Crest Park, and authorize final payment to McCoy Electric Company, Inc. (Report; Contract No. 30233)

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Disposition: Accepted.

Commissioner Mike Lindberg

- 240** Accept completion of odor control installation at the Columbia Boulevard Wastewater Treatment Plant and authorize final payment to HSE Mechanical, Inc. (Report; Contract No. 29940)

Disposition: Accepted.

- 241** Accept completion of Unit 2 of the Sellwood Basin CSO sump project and authorize final payment to Brundidge Construction, Inc. (Report; Contract No. 30069)

Disposition: Accepted.

- *242** Contract with Benge Construction to construct paving for the Brentwood water main project for the Water Bureau (Ordinance)

Disposition: Ordinance No. 169797. (Y-4)

REGULAR AGENDA

- *239** Enter into a sublease for space at 1211 SW 5th (Ordinance)

Discussion: Cay Kershner, Clerk of the Council, said there was a request that this be referred back to Commissioner Kafoury's office.

Disposition: Referred to the Commissioner of Public Affairs.

- *243** Readopt the Central City Transportation Management Plan (CCTMP) and amend the Zoning Code and Comprehensive Plan to implement the CCTMP (Ordinance introduced by Commissioners Blumenauer and Hales; amend Code Chapters 33.510 and 33.808)

Discussion: Commissioner Blumenauer said this responds to a request to remove a portion of the Plan which is being appealed so that the rest of the CCTMP can move forward.

Disposition: Ordinance No. 169798. (Y-4)

- S-*244** Adopt procedure for processing applications for parking under the Central City Transportation Management Plan (CCTMP) and Zoning Code (Ordinance introduced by Commissioners Blumenauer and Hales)

Discussion: Commissioner Blumenauer moved the substitute ordinance which had been distributed. Commissioner Hales seconded and, hearing

no objections, the Mayor so ordered.

Michael Holstun, Senior Deputy City Attorney, submitted a memorandum for the record. He said Robert Shoemaker, attorney for the Downtown Community Association, has no objections to readopting the CCTMP with the exclusion of the provisions outlined in this ordinance which are being appealed to LUBA.

Commissioner Blumenauer said there were some unintended consequences in some portions of the Plan. He said this sets clear ground rules and does not disadvantage anyone.

Mayor Katz said three large applications for parking spaces are currently pending and asked if this will eat up all of them.

Commissioner Blumenauer said the City hoped to get 750 spaces for Preservation Parking. They anticipate that they will have these by the end of the year.

Mayor Katz said she was concerned that those three projects would not leave anything for other geographic areas downtown.

Disposition: Substitute Ordinance No. 169799. (Y-4)

Commissioner Earl Blumenauer

245 Consider vacating a three-foot right-of-way lying north of SE Powell Boulevard at the request of Cammy Goetz (Hearing; Report; C-9887)

Disposition: Approved; City Engineer prepare ordinance. (Y-4)

Commissioner Mike Lindberg

246 Revise City Code provisions for illegal dumping, the transporting of carcasses and refuse, and operation of City disposal sites (Ordinance; amend Code Chapters 17.102 and 8.36)

Discussion: Commissioner Lindberg said this moves illegal dumping from a criminal to a civil offense.

Susan Keil, Bureau of Environmental Services (BES), said this does not remove the opportunity to prosecute someone under the criminal code but is a good way to expedite the process. The change means violations will be heard by the Code Hearings officer and the ordinance provides for fines up to \$2,000 and rewards of up to \$500.

Ms. Keil said BES has allocated \$362,000 out of \$1.2 million in residential

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franchise revenue to illegal dumping abatement and cleanup. She described the expenditures for various categories.

Regarding cleanup efforts, Ms. Keil noted that the Bureau of Buildings cleaned up 159 sites during the first half of the budget year. Notifications have been sent to about 85 percent of landlords informing them of the requirement to subscribe to garbage service and that has resulted in about 1,500 new customers, mostly single-family rentals. In addition, the bureau is involved in the neighborhood cleanups held in conjunction with the neighborhood associations and holds 35 to 40 annually. The neighborhoods have also helped clean up illegal dump sites, conduct litter patrols and assist seniors in getting materials to disposal sites. The bureau hopes to expand that program this year to areas of the City that have not yet responded. It also hopes to decrease response time in tracing illegal dumpers regionwide and is working with Metro on this.

Commissioner Lindberg thanked the businesses which agreed to serve as depositories for waste resulting from flood damage.

Disposition: Passed to Second Reading February 21, 1996 at 9:30 a.m.

S-247

Contract with Brown and Caldwell Consultants for professional engineering services and provide for payment (Previous Agenda 210)

Discussion: Commissioner Lindberg moved the Substitute. Hearing no objections, the Mayor so ordered.

Dean Marriott, Director, BES, said the original ordinance was for a \$3 million contract for 30 months. Because of Commissioner Hales questions, it was held over until today and two changes have now been made, as shown in the substitute. The first eliminates the contingency, reducing the total amount to \$2.56 million; the second reduces the change order authority from 20 to 10 percent. He said the contract will accomplish three major goals: 1) update the public facilities plan; 2) refine the CSO control strategy for the Willamette River; and 3) provide for watershed work in the Fanno, Johnson and Tryon Creek basins. He said the City has a sizable infrastructure that must be maintained and upgraded, noting that the average age of about 800 miles of the system is 80 years. While there is a public facilities plan, a great many changes have occurred since it was done, including the CSO and stormwater initiatives plus a 25 percent increase in the collection system due to annexation. A billion dollars in capital infrastructure investments is planned over the next 20 years. A good planning effort is essential to make sure that money is wisely spent and to chart the way for improved wastewater and drainage facilities to the year 2040 and beyond. This contract will analyze each of the sub-basins and the hydraulic and carrying capacity of the sewer and drainage system. It will also guide future capital investment and take the

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CSO control strategy plan for the Willamette from the conceptual to the predesign stage to ensure that it is not over-built and that ratepayers get full value for their money. Mr. Marriott detailed the watershed work that is planned in the three creek basins. He said two firms competed for this contract and Brown and Caldwell was selected because it is familiar with the City's sewer system and there would be no learning curve for them. He responded to Commissioner Hales' earlier question about why this work could not be done in house. Mr. Marriott said they do not have staff available for this work and he did not want to hire permanent staff for complicated modeling work that is only expected to take 30 months. He said they believe the bureau will save money over the long run. The change order authority has been reduced from 20 to 10 percent. The 20 percent was chosen initially because of the flexibility it provides in responding to what is found during the field work and to make additional assignments. Also the Bureau of Purchases uses 20 percent as a model in its handbook on PTE contracting. The original contract had \$430,000 in contingency, again to provide flexibility because of the length and nature of the work. However, both he and Commissioner Lindberg believe it is a good idea to take that out. He said he believes this is a sound contract that will provide vital information for the Bureau.

Amanda Fritz, 4106 SW Vacuna Ave., supported the contract, particularly the updating of the resource management portions of the facilities plan. This is needed to prevent negative development impacts on the streams and to prevent floods.

Paulette Rossi, Public Utilities Review Board member, said it is commendable that Council has taken some time to study this as BES does have flexibility in determining how to achieve its mandated goals. Contracting out is one of the most difficult methods a public organization can choose because writing and monitoring projects require so much skill. Many governments act as if the job is done once they sign a contract and too often private contractors fail to deliver what they promised or commit fraud. BES must have a good understanding of when it can do a project in-house and how much it costs. The CORE process revealed that BES has poor internal bureau communications, making it difficult to make informed decisions. She said the emphasis should be on output, not input, with accountability for the details.

Mayor Katz asked how many more of these contracts are on the horizon before Council considers the BES budget.

Mr. Marriott said BES will update Council on the CSO in March and will brief it then on what might be expected over the next six months.

Mayor Katz said because of the controversy over this contract, BES needs to show how any more of these huge contracts tie into the CSO project.

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Commissioner Hales explained why he will vote no on this contract. Although he sees nothing improper here, the pattern and practice this contract embodies raise policy questions. He said he believes the capacity of the bureau should be built up to allow it to do work of this sort, rather than continuing to rely on contractors. He believes 11 of the 14 tasks listed here are management or technical work that could reasonably be done within the bureau. He said he is also concerned about the sheer number and volume of contracts, noting that in the last two years the Bureau has authorized 167 contracts, \$42 million worth of work or \$80,000 per working day. Some of these could be managed in-house, i.e. the \$156,000 for public facilities plan documentation. For \$169,000 the Water Bureau staff is doing its entire public facilities plan update. Before more money is spent the bureau should reconsider the balance of what gets contracted out and what is done in-house. Then there is the question of whether all this work has to be done at the cost and scale being proposed. He said he cannot support the combination of the number, volume and mixture of management and tasks in this contract.

Commissioner Blumenauer moved to remove the emergency clause. Commissioner Lindberg seconded and, hearing no objections, the Mayor so ordered.

Commissioner Blumenauer said there is a fundamental philosophical issue here which he looked into for two years. He defended what the bureau did in this case, noting the enormous pressure it is under on rates and the massive set of responsibilities it has undertaken. He said there is ample evidence that if an easier or cheaper way to do it existed, the Bureau would have done so. The regulatory framework does not give a lot of latitude and there has already been a tremendous increase in staff to do the massive amount of work. He agreed that this issue should be revisited during the budget process. While private contracting work often looks more expensive in the short term, it is also costly to hire, train and find space for additional staff. He questioned ramping up major capital programs with permanent staff, particularly in the face of federal and state deadlines. This is also fundamentally different from the Water Bureau update as it is a total process that is being managed, not just an individual increment. He said he feels comfortable with the way this has been done and Council needs to make its position clear very soon as this involves a fundamental shift.

Commissioner Hales said the work described in the contract does not reflect a fundamental shift as the public facilities plan must be maintained and updated every five years. Mr. Marriott stated that the thing that is so great about Brown and Caldwell is that they know our City system. However, that knowledge should be resident in the bureau because public facilities plans always need updating and there are always surprises. The capacity to deal with these needs to be developed in the

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bureau and the habit of contracting out, at considerable cost, is crippling this bureau's ability both to do the ongoing work and be prepared for changes like the CSO.

Mayor Katz said the real philosophical issue is what is appropriate to contract out and how much capacity should be built within the bureau. She said she tends to agree with Commissioner Blumenauer about not adding employees to do short-term work. It is also hard to judge current capacity to do the real foundation of the bureau's work. The best time to have that discussion is during the budget process.

Mr. Marriott said his only disagreement with Commissioner Hales is whether this contract should go forward, not about the need for this kind of discussion. He said BES has been operating on the assumption that it is better not to add staff.

Commissioner Lindberg said this kind of debate is healthy but he favors proceeding because the work is essential to prepare for growth and try to find less costly ways to provide the required infrastructure and a modernized system. A presentation to Council is planned in the future to provide a more detailed scenario about the internal staff buildup. Because of the complexity of what BES is doing, comparing it to the Water Bureau is like comparing apples, not to oranges, but to a supermarket. The Bureau really does try to squeeze down its costs and this year cut its budget midyear to avoid a rate increase. He said \$42 million in contracts over 18 months is a lot of money although 83 percent of them are either for pure engineering design or for limited-term projects. The other 17 percent for technical engineering services cause more debate about whether they should be done internally or externally. He lauded BES for its innovative work, noting the high bond rating recently issued, the cost cutting measures that have been taken to reduce the cost of the CSO project, and the mid-County project, the largest sewer project in the United States to sewer an urban area. It has very successful residential and commercial recycling programs and has been recognized for its leadership in environmental education, watershed stewardship and other innovative programs.

Mayor Katz said comments by a few employees made during the CORE process, which is designed to recognize both a bureau's strengths and weaknesses, should not be blown out of proportion. People should not be bashed for being honest.

Commissioner Blumenauer said this discussion reflects differences in philosophy and judgment, which is understandable, but there is no evidence of a lack of capacity in BES regarding ongoing operations.

Commissioner Hales said his question concerned the capacity of the

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bureau to manage 167 contracts. There also appears to be too much overlap in the public involvement area, resulting in patched together management.

Commissioner Lindberg said Mr. Marriott believed when he first took the job that he had received a direction from Council to limit staff.

Mr. Marriott said the BES budget was crafted on the built-in assumption that the number of new permanent employees should be minimized. He would be happy to accept a different direction from Council.

Mayor Katz said this issue may lead Council to look at budgets in other ways in order to understand the internal capacity of bureaus to do such things as public outreach and education.

Disposition: Substitute Passed to Second Reading February 21, 1996 at 9:30 a.m. as amended.

City Auditor Barbara Clark

248 Assess property for sewer connection contracts processed through the Private Plumbing Loan Program for the period ending February 6, 1996 (Hearing; Ordinance; P0016)

Discussion: Dan Vizzini, Auditor's Office, said about 12 loans were processed during this period and no written remonstrances were received.

Disposition: Passed to Second Reading February 21, 1996 at 9:30 a.m.

249 Assess property for sewer system development contracts of the Mid-County sewer project for the period ending January 17, 1996 and non Mid-County for the period ending January 17, 1996 (Hearing; Ordinance; Z0627, Z0628)

Discussion: Mr. Vizzini said this involved 34 properties and \$321,000 in loans, all for sewer connections in the Mid-County project, which is rapidly coming to a close.

Disposition: Passed to Second Reading February 21, 1996 at 9:30 a.m.

250 Assess benefitted property for the costs of the improvement of SE Valentine Drive from 92nd Avenue to the I-205 East right-of-way line and construction of storm sewer (Hearing; Previous Agenda 135; C-9836)

Discussion: Mr. Vizzini said the initial Council hearing was held January 16 and then continued at the request of Transportation Engineering to allow revised assessments to be prepared. The

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assessments were recalculated, resulting in a nine to 10 percent reduction, and property owners were notified. He noted that one remonstrance was received and requested that it be overruled.

Commissioner Lindberg moved to overrule the remonstrance. Commissioner Hales seconded and, hearing no objections, the Mayor so ordered.

Disposition: Remonstrance overruled; passed to Second Reading February 21, 1996 at 9:30 a.m.

251 **TIME CERTAIN: 2:00 PM** - Adopt special design guidelines for the design zone of the River District of the Central City Plan and direct the Portland Design Commission to use the guidelines (Ordinance introduced by Commissioner Hales)

Discussion: Leo Williams, Planning Bureau, described the process for developing these guidelines for the River District, which has a residential emphasis. The process involved public workshops with the neighborhood and then with the Design Commission and is supported by both.

John Spencer, Chair, Design Commission, said it was a challenge to create clear guidelines for mixed-use residential, high-density neighborhoods. They found that a number of the guidelines that have surfaced as these special districts are addressed ought to be included in the fundamentals as well. In the future, they expect to come to Council with recommendations for consolidating the design guidelines.

Carol Smith-Larson, Pearl/River District Neighborhood Association, said it is very important to have these strong design guidelines in place as they review all the development applications.

Jerry Powell, Goose Hollow Foothills League, stated the League's support for these guidelines.

Disposition: Passed to Second Reading February 21, 1996 at 2:00 p.m.

252 Adopt design guidelines for the NW 13th Avenue Historic District (Ordinance introduced by Commissioner Hales)

Discussion: Mr. Williams said this is a very old district which completed its guidelines in 1990 but never passed them onto the Landmarks Commission or Council for approval. It was then included as part of the River District guidelines process and the guidelines were adopted by the Landmarks Commission last summer.

Dorothy Gruenfield, Landmarks Commission member, urged Council

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adoption, calling this a good tool for future development.

Disposition: Passed to Second Reading February 21, 1996 at 2:00 p.m.

REGULAR AGENDA

Commissioner Charlie Hales

253 Adopt special design guidelines for the design zone of the Goose Hollow District of the Central City Plan and direct the Portland Design Commission to use the guidelines (Ordinance)

Discussion: Jim Claypool, Planning Bureau, said the Goose Hollow District guidelines were community based, with input from Metro and Tri-Met as well. In Goose Hollow a focal point for light rail is being built at the Civic Stadium and Collins Circle area. In addition, 18th Avenue, SW Burnside and Jefferson have been identified as boulevard streets with enhanced pedestrian and transit service amenities. Other amenities recognize the Tanner Creek daylighting project. With added density, a prime guideline has been the attempt to site pocket parks with public\private investments in the community. He urged adoption.

Jerry Powell, Goose Hollow Foothills League, said these guidelines were developed as part of a design environment for the Central City that all needs to fit together. Much of the language for both the River and Goose Hollow Districts is consistent but this very easily could not have been the case. He said staff did an excellent job of writing clear guidelines which reflect the neighborhood's hopes for future development in the area.

Commissioner Hales said these guidelines succeed in being directive and making clear what is wanted. He said this is great work and has resulted in a quality product.

Disposition: Passed to Second Reading February 21, 1996 at 2:00 p.m.

At 4:00 p.m., Council adjourned.

BARBARA CLARK
Auditor of the City of Portland

Cay Kershner
By Cay Kershner
Clerk of the Council