



CITY OF
PORTLAND, OREGON

**OFFICIAL
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 11TH DAY OF SEPTEMBER, 1996 AT 9:30 A.M.

THOSE PRESENT WERE: Mayor Katz, Presiding; Commissioners Kafoury and Lindberg, 3.

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

REGULAR AGENDA

- 1465** Accept bid of Brant Construction, Inc. for Clinton Park improvements for \$167,300 (Purchasing Report - Bid 14)

Disposition: Accepted; prepare contract.

- 1466** Accept bid of Ben-Ko Matic for one 3-wheeled front dump hydraulically driven broom street sweeper for \$94,326 (Purchasing Report - Bid 133)

Disposition: Accepted; prepare contract.

- 1467** Accept bid of Clyde West for three additional 33,000 gvw cab and chassis with diesel powered 4.5 cy high dump municipal sweepers for \$386,802 (Purchasing Report - Bid 195)

Disposition: Accepted; prepare contract.

Mayor Vera Katz

- 1468** Confirm appointment of Richard Lucetti and Ken Turner to the Private Industry Council (Report)

Disposition: Confirmed.

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Commissioner Charlie Hales

- 1469** Accept completion of the NE Multnomah Street lighting project, authorize final payment and release retainage to Copenhagen Utilities and Construction (Report; Contract No. 29730)

Disposition: Accepted.

Commissioner Mike Lindberg

- 1470** Accept completion of the Northeast Portland sewer extension No. 1 and authorize final payment to Copenhagen Utilities & Construction, Inc. (Report; Contract No. 30490)

Disposition: Accepted.

- 1471** Accept completion of the North Willis Boulevard sewer reconstruction and authorize final payment to East Wind Construction Company (Report; Contract No. 30628)

Disposition: Accepted.

Don Loving, representing American Federation of State, County and Municipal Employees (AFSCME), said the union has now reached a tentative agreement with the City but wishes to inform Council of their disappointment with the process. He said union leaders have seen a definite change in tone and a lack of respect. They would like to return to a better working relationship.

Commissioner Kafoury said everyone is frustrated by the new rules imposed by Senate Bill 750 regarding contacts with the unions.

Mayor Katz noted that Council has not had a chance to review the agreement so it is not proper to comment now. However, Council could review the issues that are troublesome.

Mr. Loving said some of the issues involved a change of attitude.

At 9:45 a.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 11TH DAY OF SEPTEMBER, 1996 AT 2:00 P.M.

THOSE PRESENT WERE: Mayor Katz, Presiding; Commissioners Kafoury and Lindberg, 3.

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

Mayor Katz asked Council to declare that an emergency existed that justified use of telecommunications to allow Commissioner Hales to participate.

Commissioner Charlie Hales

***1473** Amend the Comprehensive Plan Map and change the zone of property at 16501 SE Division Street from CG (Commercial) to R1 (Residential) for one portion of the site; and from R2a (Residential) to CG (Commercial) for another portion of the site (Ordinance; LUR 96-00135 CP ZC)

Discussion: Because Mayor Katz needs to leave by 4:30 p.m., this was reset to October 3.

Disposition: Rescheduled to October 3, 1996 at 2:00 p.m.

1472 **TIME CERTAIN: 2:00 PM** - Consider report from the Planning Director on the Sign Code Follow-Up Project (Report introduced by Commissioner Hales)

Discussion: David Knowles, Director, Bureau of Planning, reviewed the status of the sign regulations, noting that billboards have been regulated pursuant to a Stipulated Agreement entered into 10 years ago by the City and billboard companies. The agreement expired June 17, 1996 and, in anticipation, the Planning Bureau prepared some modest Zoning Code changes which provide for fewer and smaller signs and implement the legal precedent set 10 years ago that all signs be subject to the same set of regulations. In June, Council adopted those amendments but delayed the effective date to allow a Task Force to examine the impact. The Task Force was asked to focus on three questions: 1) should both on- and off-premise signs be treated differently; 2) should some signs, such as painted wall signs, be permitted to exceed those limits; and 3) should existing billboards in excess of the new Code standards be subject to a different set of rules than other nonconforming signs, particularly regarding relocation and replacement.

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Mr. Knowles described the makeup and work of the Task Force. He described the points of agreement, which were relatively few, reached by Task Force members. One was that the Council had given clear direction that the City should move towards smaller and fewer signs. Two, over the last 18 months, only 15 signs, or 1.2 percent of 1,200 sign permits issued, exceeded the new standard of 200 square feet. The ability to continue to obtain larger signs, when appropriate, exists through the adjustment process. Third, the City may not distinguish between signs based on content but may regulate based on structure, size, height, etc. Fourth, reducing sign sizes will impact the billboard companies in particular because they would not be able to continue using traditional, standard size artwork for their signs.

Mr. Knowles said the Task Force considered a number of options for regulating billboards. He said the key factor for him in judging those options was whether the public would be better off than if the City just continued to enact the June Code amendments. He said the most Ackerley would agree to was the removal of seven faces on seven structures out of an inventory of 612 structures and 822 faces. In exchange, Ackerley wanted to be able to maintain the rest of its inventory in perpetuity and within certain areas of the City, although it was willing to try to focus the movement of those billboards to certain districts but not give up the right to move them to the Central City.

Regarding painted wall signs, all Task Force members believe they do differ from billboards, primarily because they are on existing structures and tend to add to urban vitality. Mr. Knowles said he wanted to give them more flexibility but found no way to objectively distinguish a good from a bad painted wall sign. Also, the law requires that all signage be regulated without regard to content and since Ackerley has indicated that the City's inability to reach agreement with it will result in litigation, neither the City Attorney or he felt they could recommend a separate set of regulations for painted wall signs. He said the Code amendments will not require painted wall signs to be removed but simply limit new ones to 200 square feet. Billboards will continue to exist. There is no ban on existing billboards and he expects Ackerley and its customers to continue using their existing inventory for some time to come. He said the Bureau is not recommending amortization at this time; rather, billboard signs will become non-conforming which means they can continue in place until moved for some reason. At no time did the Task Force feel it had any legal basis for distinguishing between billboards and other kinds of signs so the City was put in the position of allowing new billboards to be up to 672 square feet. While not all Task Force members agree with his recommendations, Mr. Knowles said it was a constructive process and Ackerley was always a positive participant although their starting point and that of the citizens is so different that it is not possible to reconcile.

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Becky Miller, Task Force member, 6049 SW Pendleton Court, 97221, said assertions that she sold out to Ackerley are untrue as she has not changed her position that billboards serve a legitimate and necessary purpose, have not been regulated enough and that cooperation between the citizens and industry could result in successful regulation. She said while she does not agree with the City Club's position that billboards should not be a part of the City, she feels that the amendments meet neither the City Club's goals or the City's. She said as density increases, huge areas are being rezoned to be more pedestrian and bicycle friendly and allowable sign sizes are automatically reduced. This in itself will have a tremendous impact in reducing the number and size of signs. She believes Ackerley's proposal for billboard regulations is legal and fair and will benefit the public more than the proposed amendments. She said she believes the Task Force's majority report reflects a balanced approach that would satisfy the goals of all parties. The Planning Bureau's belief that allowing relocation is poor public policy is too narrow a point of view. She said under the Stipulated Agreement that allowed limited relocation, 200 billboards were removed and the billboard companies ended up with a huge bank of unused billboards which they are walking away from. The Task Force majority report would enable relocation of 10 billboards a year away from neighborhoods where they are no longer appropriate. Ackerley has promised to immediately take down seven very large ones. Such improvements cannot happen under the proposed amendments and her neighbors are very unhappy about the prospect of grandfathering in all billboards and restricting the industry in this manner. This is unrealistic idealism and will have many negative results. She urged Council rejection of the amendments.

Mark Bennett, Task Force member, said the standards are arbitrary as very few signs exceed the 200-foot limitation. The limit singles out one company in town in order to prevent billboard relocation. He said it is unrealistic to assume that automobiles are going away and that a switch to an all-pedestrian, bicycle-friendly environment will happen soon. He said the majority of people do not dislike billboards.

Alex Pierce, Task Force member, said good taste cannot be legislated and for that reason all signs must be treated alike as anything else would be unfair. He also read a letter from the Oregon Roadside Council about the need to have an early mandatory program for reducing the number of illegal and non-conforming signs.

Bob Frederickson, 2806 SE 75th, 97206, called for some amortization, arguing that some signs were erected illegally even before the 10-year-old Stipulated Agreement went into effect. He said people can get along with a lot fewer and smaller billboards in the City. Regarding the Sign Code, he said it does not adequately deal with temporary signs as there are no time limits and the

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language regarding prohibited signs needs to be strengthened.

Dorothea Lensch, 2866 NE Alameda, 97212, said she is appalled by the number of billboards that have been erected on the east side of town since June and charged that today the arterial roads are the playthings of the billboard industry.

Peter Fry, 722 SW 2nd, #330, 97204, said the zoning code can regulate different things differently and distinguish between freestanding signs and others. That is why it is two volumes thick. He said treating all signs alike is unfair to small business owners. Also, there is no link between having smaller and fewer signs and a bicycle-, pedestrian-friendly City. He showed photographs of Portland in the 1920s and 1930s when there were few cars but many signs and noted Hong Kong and San Francisco as places where signs add to the vitality of city life.

Bernie Conklin, PO Box 40157, Eugene, OR, said the fact that permits for only 15 signs over 200 feet were issued in the past year indicates that staff has exaggerated their proliferation.

Jeff Keeney, 1600 Pioneer Tower, 888 SW 5th, 97204, representing OB Media Corporation corrected his letter to read "site."

John Zukin, Meadow Outdoor Advertising, 602 Penn, La Grande, OR, said very few citizens are interested in sign issues. This is a staff-driven situation and a perfect example of wasting money on a minimal problem. He said Council should not remove the billboard cap. He said the City Club report is an example of citizens playing "taste police."

Arnold Cogan, representing the City Club, 10 NW 10th Ave., 97209, said this is an historic opportunity for Council to improve the visual environment and the Club unanimously favors placing billboards under the same regulations imposed on other signs. It also supports the prohibition of any new signs or relocated signs that do not meet Code standards, with limits on exceptions. The City Club goes beyond the Bureau's recommendations, however, in calling for an amortization program to be established within six months. Its research indicates such programs work.

B.J. Seymour, 1405 SW Park Ave., #34, 97201, said some of the City's proposals are too lenient, citing regulations allowing signs 100 feet from residential zones as an example. She said amortization is reasonable and is appalled that the Planning Commission recommended against it. Ackerley should not require incentives to remove signs, as most are still standing after all these years.

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Daniel Kearns, 4226 SE Pine, 97215, said the City has to consider an amortization schedule in order to achieve its stated policy and the burden should be placed on the companies to comply. Regarding painted wall signs, he said regulating them comes dangerously close to content regulation and he does not see that there is any problem with them now. Wall signs are not inconsistent with a pedestrian-, bicycle-friendly streetscape.

Len Bergstein, 621 SW Morrison, 97205, speaking for Ackerley Outdoor Advertising, urged Council to take a little more time with this as the company and the City are within an ant's eyelash of an agreement here. He said they agree about the need for one Code and for fewer signs. But they believe this is the worst Code if the desired outcome is fewer signs or better placement as this will result in more 200-foot signs. He said there is no evidence the City will get the desired results and no economic evidence has been presented about the effect on those who rely on standardized signs.

Kurt Wehbring, 3333 NE 18th, 97212, a member of the City Club Sign Committee, recommended amortization. He said this has been shown to work in other cities in the country and in Oregon. He said when jurisdictions regulate for size and not content, they are on firm legal ground.

Peter Heuser, 8735 NW Hazeltine, 97229, a member of the City Club Board of Governors, said the Club's review was objective and resulted in an almost unanimous report for the Committee's recommendations. He said Becky Miller's characterization of the recommendations for a billboard-free City as unrealistic is an inaccurate evaluation. Nor will these regulations wipe out an entire industry. He said the cost to the public in terms of the degradation of the environment must be considered and amortization is the only way to achieve a meaningful reduction, as occurred in the 1960s and 1970s when over 130 signs were removed through this method. The billboard industry must recognize that the public interest comes first.

Remedios Rappoport, 4402 SE 76th, 97206, said the negative impacts of these amendments on the visual quality of the City have been overlooked. She sees many new billboards going up around the City, perhaps a last gasp effort to grab territory before it is gone. That is not the best public policy. She asked for more time to allow the City to deal with different signage appropriately. She disagreed with Mr. Knowles' assumption that legally the City cannot differentiate between different kinds of signs. As an independent sign painter, she has nothing to do with the billboard industry and resents that the City's concerns about controlling it has spilled over and affected her business. She said if a business has 300 feet of usable wall space it should be able to use it without having to go through a costly adjustment process. She asked that Council add a rider to the amendments to exclude painted wall signs in order to retain the

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current 2.5 per linear foot of frontage ratio, with freestanding signs at 200 square feet and wall signs up to 300 square feet.

Commissioner Kafoury said there are two issues she cannot reconcile. First, the City has been told that legally it cannot restrict content.

Ms. Rappoport said this has nothing to do with content. It has to do with the type of structure and size.

Commissioner Kafoury said she also struggles with the fact that the City cannot legislate good taste. People can paint ugly stuff on walls as well as good stuff.

Ms. Rappoport said that would not be a good business decision for them as the signs need to show quality and have to be well planned. She agreed that business owners who paint their own signs can be a problem.

Commissioner Kafoury said the point is the City has no ability to control that.

Ms. Rappoport said 90 percent could be controlled and then one would have to live with the 10 percent that is uncontrollable.

Commissioner Lindberg asked Ms. Rappoport if passage of this Code means that she would have to comply with the size regulations and could not do one on the whole side of a building.

Ms. Rappoport said they are already limited to 300 feet and this will affect only new signs, which will now be limited to only 200 square feet unless a business wishes to go through design review or an adjustment process. This results in time delays and extra expense.

Commissioner Lindberg asked how much it would cost to go through the adjustment or design review process.

Jessica Richman, Planning Bureau staff, said about \$800.00.

Jim Worthington, 3232 SE 153rd, 97236, said signs should be separated from billboards as these are two different things. The regulations should be fixed so that signs allow visitors to find what they are looking for. When the billboards were taken down, they were replaced by road signs, which are more help to travellers than the billboards were.

Mayor Katz said she remembers hearing, in the Legislature, about how awful it would be to take those billboards down from the highways.

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Charlie Davis, 4295 SW Melville, 97219, a member of the City Club's Study Committee, supported its report as well as the Club's earlier 1971 report which recommended that the sign industry be fiscally responsible for administration of the Sign Code. He said he does not understand why the economic calculations needed to justify amortization seem to be so difficult. Amortization is very important in order to get billboards removed in the future.

Paul Leistner, 2350 SE 57th Ave., said citizens may not be as organized as Ackerley but most support fewer billboards and more regulations. He strongly supported amortization, which has been used successfully all over the country. Perhaps a more targeted program would be appropriate. He suggested that Council look at rooftop billboard signs, billboards in abandoned lots, excessively large billboards and those in pedestrian areas. He said Council should get back on track and go in the direction it was going prior to the Stipulated Agreement.

Wesley Risher, 1627 SW Troy, 97219, supported the Sign Code amendments but said Council should also consider an amortization policy which includes contracting with neighborhood and business associations to do the non-conforming inventory. Council needs to show that it cares about the pedestrian orientation of the neighborhoods and that this visual blight will be removed as density increases.

Linda Peplinski, Columbia Neon, 1820 E. Burnside, opposed the proposed Code revisions. She said in June the Council said it supported these changes as a "club" to be used in negotiating with Ackerley. Billboards are the only thing being addressed and Mr. Knowles has consistently ignored the objections from other segments of the sign industry. He has focused instead on the 200-square-foot sign limitation. She said the proposed Code contains several inequities that will limit comparable businesses, based on their location in the City. Also, the Transportation Code this is linked to will not be completed until December, 1997. This would leave a 16-month gap in being able to determine whether a street is an "arterial" and whether a sign is allowed. She also criticized the rushed time line, the lack of input from the parties involved and the lack of comparison with other cities' standards. She asked why, if Vancouver is able to distinguish between billboards and other signs in the Code, Portland is unable to.

Margaret Moreland, Kerns Neighborhood Association, 2605 E Burnside, #1, 97214, said the board voted unanimously to support the Code amendments and to go one step further and amortize non-conforming billboards in five years, subject to constitutional restrictions. Waiting for redevelopment to replace them would take too long.

Speaking for herself, Ms. Moreland noted that there are five billboards near her business on E. Burnside, three with rooftop signs, on four historic buildings on E.

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Burnside. She said because of their historic status, redevelopment will not occur without an amortization program. Only one rooftop billboard sign has been removed from E. Burnside in 22 years and that resulted after street trees were planted, blocking the line of sight. She said perhaps that is one way to go. She said planned street improvements for Martin Luther King, Jr. Boulevard, Grand Avenue and Sandy Boulevard, will be overwhelmed by the many large billboards in those locations.

Commissioner Kafoury noted a painted wall sign with "nudie" dancers near Ms. Moreland's business.

Jay Mower, 777 SW Chestnut, 97219, supported the new regulations but also called for an amortization standard. He said he opposes all oversized billboards, not just the one he marched against in the Hillsdale neighborhood. Most people he talks to are against all billboards and he believes smaller and fewer signs will be appropriate for the kind of city Portland wants to be.

Paddy Tillett, 1317 NW 24th, 97210, a member of the City Club study committee, supported the amendments but also supported quick action on amortization.

Without that, there is real danger of proliferation.

Commissioner Lindberg asked how the Planning Bureau decided there would be no proliferation of signs with these amendments. Is there an evaluation mechanism to determine the results?

Mr. Knowles said staff does not believe that will be the result as the maximum size will be limited to 200-square feet under the new standards. How much signage a business is entitled to will depend on the amount of street frontage so the maximum is 200 square feet, even if the street frontage is longer than that. However, most of the street frontages for businesses are not anywhere near that amount and that is one reason why there have not been many sign permits issued in excess of 200 square feet. Second, the Code limits a site to one freestanding sign so business owners have to choose between selling their sign rights or using them themselves.

Commissioner Lindberg asked if existing businesses will use this as an opportunity to put up smaller billboards.

Mr. Knowles said they do not see that happening. Ackerley told them privately that, in order to retain some ability to advertise, it would actually buy property. It can do that, if development occurs there. These amendments do not provide an iron-clad guarantee that there will not be additional signage. As the City grows, there will be more signage but it will be more in character than the signage currently existing on billboards.

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Commissioner Lindberg asked about the evaluation mechanism and whether staff would report back to Council on the results.

Mr. Knowles said the results will speak for themselves. If staff sees an undesired result, they will return to Council. This is the best shot at a very simple, modest change in the regulations which they believe will primarily prevent new, large signs in excess of 200 square feet.

Mayor Katz agreed that the potential horror stories described are not going to happen but there will be some consequences to any action which the City needs to monitor. This solution is not so extreme that Ackerley or any other company is going to buy a lot of property just so they can put signs up. She asked whether Mr. Bergstein's statement that Ackerley and the City were close to a solution was accurate.

Mr. Knowles said there is a gap. Fundamental to Ackerley's position is the "cap and replace" system, allowing it to maintain and replace a certain number of billboards in perpetuity. Ackerley indicated it would accept some reduction but wants to lock in some number. He said the City, however, believes that whatever the reduction that has been talked about, there has not been a substantial reduction in the total inventory. You have them forever. The ability to replace those signs also means that new signs can be constructed in neighborhoods all across the City and that is what has happened in the last three months. In his neighborhood at 33rd and Broadway, for instance, a new 672 square foot sign is being constructed in a commercial zone but 100 feet from a residential street. Even with their offer to move signs away from pedestrian zones, there is an impact on the neighborhoods. In effect, the sign in Becky Miller's neighborhood has been moved to his and this is the fatal flaw as far as he is concerned.

Mayor Katz said she would like the issues of wall signs and amortization to be explored further.

Commissioner Kafoury said Council is kidding itself if it does not recognize the deep philosophical split here about which direction to go. She said putting things off indefinitely is not helpful. She agrees to support these changes with the understanding that this is an initial step. She would like to aggressively look at the amortization issue and is still not convinced there is not some way to enforce a Code with different kinds of signs and requirements. She said work has not yet been completed on A-boards and some other kinds of signs and the Bureau of Buildings expects to have a proposal about those soon. Council needs to look at all these signs more comprehensively. No financial analysis has been done yet about the impacts internally if there are non-conforming uses and enforcement actions are needed. Nor have fines been discussed. She supports these amendments with the caveat that more work is needed.

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Mayor Katz said she agrees.

Commissioner Kafoury said rather than voting, Council would prefer to just receive the report. The Code amendments are already in place.

Commissioner Hales said that was fine. He thanked the Task Force members and staff for their work on this difficult issue. He said this is not the most aggressive approach that some cities have taken but it will make a difference. He gave three reasons for doing it this way. First, it is better to have consistent rules in the Code that govern everyone and not do special deals with anyone, including the billboard companies. Second, under the Oregon constitution, the City is limited legally in how it can regulate signs. Third, the Code can be changed if adjustments are needed. He is open to looking at amortization, enforcement and fee issues but Council should look at how these amendments work first.

Commissioner Kafoury noted that the Code goes into effect on September 17.

Commissioner Lindberg said he supports having the amendments go into effect.

Commissioner Kafoury, as presiding officer in Mayor Katz' absence, placed this item on file and suggested scheduling an informal soon to outline some of the other options. She said she is not comfortable letting them drag on indefinitely.

Disposition: Placed on File.

At 3:55 p.m., Council adjourned.

BARBARA CLARK
Auditor of the City of Portland

Cay Kershner
By Cay Kershner
Clerk of the Council