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CITY OF  
**PORTLAND, OREGON**

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**OFFICIAL  
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 5TH DAY OF MARCH, 1997 AT 9:30 A.M.

THOSE PRESENT WERE: Mayor Katz, Presiding; Commissioners Francesconi, Kafoury and Sten, 4.

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

On a Y-4 roll call, the Consent Agenda was adopted as follows:

**CONSENT AGENDA - NO DISCUSSION**

**279** Accept bid of Nutter Underground Utilities Co. for Pier Park improvements for \$1,264,000 (Purchasing Report - Bid 87)

**Disposition:** Accepted; prepare contract.

**280** Accept bid of Andersen Pacific Contractors, Inc. for Columbia Park improvements for \$140,750 (Purchasing Report - Bid 98)

**Disposition:** Accepted; prepare contract.

**281** Accept bid of Diamaco, Inc. for digester rehabilitation at the Tryon Creek Wastewater Treatment Plant for \$446,000 (Purchasing Report - Bid 102)

**Disposition:** Accepted; prepare contract.

**282** Accept bid of Nutter Underground Utilities Co. for Lyman Park sanitary sewer for \$3,694,740 (Purchasing Report - Bid 115)

**Disposition:** Accepted; prepare contract.

**Mayor Vera Katz**

**283** Confirm reappointment of Suzanne Taylor and Dharam Yadav to the Business License Appeals Board (Report)

**Disposition:** Confirmed.

**MARCH 5, 1997**

**\*284** Give final approval for the issuance of two Multi-Family Housing Revenue Bond issues in an amount not to exceed \$6,430,000 (Civic Stadium Housing Project) (Ordinance)

**Disposition:** Ordinance No. 170958. (Y-4)

**\*285** Authorize disbursement of City money in connection with forfeiture of property at 1213 SE Malden St., declare forfeited property to be surplus and authorize its sale and conveyance (Ordinance)

**Disposition:** Ordinance No. 170959. (Y-4)

**\*286** Pay claim of Dan and Leah Carkonen (Ordinance)

**Disposition:** Ordinance No. 170960. (Y-4)

**\*287** Pay claim of U. S. West-Communications (Ordinance)

**Disposition:** Ordinance No. 170961. (Y-4)

**Commissioner Jim Francesconi**

**\*288** Authorize contract for \$59,800 for ADA and safety improvements at Matt Dishman Community Center (Ordinance)

**Disposition:** Ordinance No. 170962. (Y-4)

**Commissioner Charlie Hales**

**\*289** Agreement to reimburse Airport Centers, Inc. for the cost of correcting pavement deficiencies in NE Cornfoot Road adjacent to street improvement project No. 2551 (Ordinance)

**Disposition:** Ordinance No. 170963. (Y-4)

**\*290** Contract with Alfred Staehli for \$25,270 for architectural and engineering services at Pittock Mansion (Ordinance)

**Disposition:** Ordinance No. 170964. (Y-4)

**\*291** Agreement with the Oregon Department of Transportation to undertake the Woodstock Pedestrian Project (Ordinance)

**Disposition:** Ordinance No. 170965. (Y-4)

**\*292** Revocable permit to Jake's Restaurant to close SW Stark Street between 12th and 13th Avenues on March 16 through March 18, 1997 (Ordinance)

**Disposition:** Ordinance No. 170966. (Y-4)

**MARCH 5, 1997**

**\*293** Amend contract with Henderson Young and Company for professional services for Transportation Systems Development Charge programs for the City (Ordinance; amend Agreement No. 30336)

**Disposition:** Ordinance No. 170967. (Y-4)

**294** Revocable permit to PSU Viking Club/Kingston Saloon to close SW Morrison Street between 20th Place and 20th Avenue on March 17, 1997 (Ordinance)

**Disposition:** Ordinance No. 170968. (Y-4)

**\*295** Authorize the Purchasing Agent to receive quotations for cast iron street light poles from prequalified suppliers without advertising for bids (Ordinance)

**Disposition:** Ordinance No. 170969. (Y-4)

**\*296** Accept a grant from the Oregon Department of Transportation in the amount of \$71,200 to implement a European Bikeway Design and Safety Demonstration Project (Ordinance)

**Disposition:** Ordinance No. 170970. (Y-4)

**Commissioner Erik Sten**

**297** Authorize the purchase of fifty-three microcomputers for the Water Bureau through the State of Oregon Price Agreement and provide for payment (Ordinance)

**Disposition:** Passed to Second Reading March 12, 1997 at 9:30 a.m.

**298** Authorize a contract and provide payment for the installation of underground conduit at the Water Bureau's Operations Yard (Second Reading Agenda 265)

**Disposition:** Ordinance No. 170971. (Y-4)

**City Auditor Barbara Clark**

**299** Appoint Ed Freeman as Bureau Administrative Manager at the top of the pay grade range (Second Reading Agenda 268)

**Disposition:** Ordinance No. 170972. (Y-4)

**REGULAR AGENDA**

**300** Appeal of Bridge Pedal, Inc., requesting single permit for bike/bridge event and denial of permit to Willamette Light Brigade (Hearing on Appeal introduced by Commissioner Francesconi)

**Discussion:** Cay Kershner, Clerk of the Council, noted that the parties have agreed to continue this for two weeks.

**MARCH 5, 1997**

**Disposition:** Continued to March 19, 1997 at 9:30 a.m.

**Commissioner Jim Francesconi**

**301**

Transmit report of Bureau of General Services on current process for vehicle replacement of police patrol sedans (Report)

**Discussion:** David Kish, Director, Bureau of General Services (BGS), said this report responds to Council's earlier request for a review of the Police Bureau's purchase of police cars for this fiscal year. While the policy may call for replacement of sedans every seven years, they could extend that on a car with little wear and tear. Fleet Management has worked hard to adjust replacement cycles every year and many have been extended over the last several years. In some cases, however, the replacement cycle has been reduced in order to keep more vehicles on the street. Right now 96 percent of the vehicles in the fleet are available every day. Extending the replacement cycles would result in an older fleet with fewer vehicles available on any particular work day.

Mayor Katz asked if the time cycle is set by each bureau.

Mr. Kish said Fleet meets with them to make those decisions. Regarding police sedans, there are currently 231 in the Police fleet and the Bureau proposes to increase that by 16. Currently the sedans are being replaced every three years, with an average of about 70,000 miles on each car. Using that cycle, the City would replace 77 vehicles this year and that is the number Council asked staff to review. If the cycle is extended to four years, or 90,000 miles, the number purchased every year would be reduced to 58 with a net savings of \$320,000. However, availability will be reduced five to ten percent. This could mean a reduction of up to 23 cars on the street every day. BGS and the Police Bureau recommend an adjustment in the cycle of between 3.5 and 3.74 years, about 80,000 miles. That will save the Police Bureau between \$160,000 to \$200,000. Their recommendation today is to purchase 25 replacement vehicles and 16 new vehicles for a total of 41. By the third year the number would be 68 police cars rather than 77.

Assistant Police Chief Bruce Prunk said this was an excellent opportunity for the Police to work with Fleet Management to come up with a more flexible way to manage its fleet and develop better criteria for replacement.

Mayor Katz said she hopes these can be plugged into other bureaus.

**Disposition:** Accepted.

**Commissioner Gretchen Miller Kafoury**

**\*302**

Increase Agreement with the Private Industry Council, establish \$137,000 as the new budget for this contract, add reporting requirements and extend the contract through June 30, 1997 (Ordinance; amend Agreement No. 30639)

**Discussion:** Mayor Katz said she does not believe there is anything currently in place that adequately takes care of the growing problem with graffiti.

**MARCH 5, 1997**

Sharon McCormick, Crime Prevention Specialist, said there is concern about increased graffiti in Northeast Portland where some businesses are "bombed" continually. The Private Industry Council (PIC) has provided a steady stream of the employees needed to take care of this problem and good progress has been made, although the situation is not perfect. She noted that the Association for Portland Progress removed 40,000 pieces last year and will pay for a five-person team working every day. The Northeast Coalition/PIC effort had a less ambitious program and used Americorp volunteers to train youth groups. That program was intended to last only through the summer but extended on into December. She said, overall, Portland has done a pretty good job compared to other cities which have spent much more money.

Commissioner Kafoury asked if the graffiti is removed the same day it occurs.

Ms. McCormack said usually within two days. Speed is crucial.

Mayor Katz said the young people hired through Americorp were very effective. Then winter came and the money ran out. She noted that volunteers cannot do the job for the entire City and she wants to see a comprehensive year-round effort.

Elise Anfield, Mayor Katz' assistant, said her survey indicated a wide range in what other cities do -- from giving up to putting many resources into removal. She said a link has been established between the presence of graffiti and where people feel comfortable committing crimes. She also noted the existence of a graffiti subculture which promotes it and stores where one can purchase the paraphernalia. Ms. Anfield said while there is a Task Force the City needs more partners, including paint stores and other businesses, to help curb the problem.

Mayor Katz said the City may have to pass an ordinance allowing the City to remove graffiti in cases where the building owner does not and then charge them for it. Overall, she is still not happy with this effort yet.

Ms. McCormick said the Task Force will evaluate the program to see what else can be done.

Commissioner Francesconi said during his election campaign he heard a lot about graffiti's connection with crime and appreciates this work. He noted the high number of calls about graffiti in Southeast and wondered why there were so many and what efforts are being made there.

Ms. McCormick said Southeast has better transit access and people can easily get on and off buses. Volunteers there are using kids, as part of their community service, to help with graffiti removal and an effort is being made to identify "taggers." Some teachers in Southeast are taking this on as a project and the environmental curriculum is being revised to make kids, particularly in middle school, more aware of the problem.

Ms. Anfield said someone from the School District needs to serve on the Task Force. She described the current sanctions and noted that graffiti is currently a misdemeanor and they would like to be able to aggregate the charges so that at some level it becomes a felony. Unless the Police can show major damage -- over \$750 -- those who are caught are charged

**MARCH 5, 1997**

with a misdemeanor with no significant consequences. However, graffiti on Tri-Met stations and post office boxes is classified as a felony.

Commissioner Francesconi said he would like to help, working with the Citizens Crime Commission and businesses, get more support for sanctions.

Ms. McCormick noted that some of the "taggers" have artistic ability and there is some talk of setting aside some places where kids can legally do graffiti or murals.

**Disposition:** Ordinance No. 170973. (Y-4)

**Commissioner Erik Sten**

**\*303**

Authorize an Intergovernmental Agreement with the Multnomah County, Office of Community Action and Development for \$120,000 to provide services for the Block-By-Block Weatherization Program (Ordinance)

**Discussion:** Commissioner Sten said under this program 125 homes a year are weatherized and an additional 400 do-it-yourself kits are distributed. However, there is fear that this program will get lost with electrical utility deregulation and cuts in City funds. He noted that low-income families spend 10 percent of their income on energy and the goal is to get it down to five percent.

David Tooze, Energy Office, said there is a long list of people on the waiting list for weatherization and they estimate it will take 40 years to reach all who need it.

Mayor Katz asked if the utility savings had been documented.

Mr. Tooze said they can document about 15 percent savings in 70 percent of the households. That represents between \$100 to \$150 per year in energy savings. Weatherization also allows people to live more comfortably. Many benefit from the weatherization workshops and self-help kits that allow people to install energy-savings devices themselves. He said the Bureau of Housing and Community Development uses general fund dollars and has a contract with the Community Energy Project, which offers similar workshops and a kit but has little overlap with the Block-by-Block program.

Commissioner Kafoury said it would be useful to see if there were any potential savings from combining the programs or administering them together.

Commissioner Sten said this is obviously the type of program that will be in trouble as the general fund goes way down. He would like to see the City contract with the private utilities in order to continue these kind of programs as it is unclear, with deregulation, who will pay for these.

Commissioner Francesconi asked about revenue from use of the right-of-way.

Commissioner Sten said what the utilities will be required to do will be determined at the state level. The City gets \$26 million out of the franchise fee but he would like to see a

**MARCH 5, 1997**

commitment from the utilities to fund programs like this on top of the fees. The theory around deregulation is that the price goes down but "green power" and low-income programs go out the window so the price, in effect, goes up. The question is who pays for the extras. Right now the government and utilities pay for the cost of conservation and he does not want to see it shifted just to the government or nobody.

Commissioner Francesconi asked if State law prevented local governments from requiring such programs.

Commissioner Sten said the City cannot require anything more than the franchise fee for the right-of-way itself. It collects the money and then chooses how to spend it. As a big energy purchaser, in the future the City could decide to use its purchasing power to get these types of programs funded.

Mr. Tooze said for a long time the utility franchise fees were 3.5 percent of gross and in 1985-86 that was bumped up to five percent. The Council at that time chose to refund the calculated 1.5 percent increase on a typical low-income resident's bill to low-income residents that applied for it, refunding them \$13. It was then decided that the weatherization program would be a better long-term solution than writing \$13 checks.

**Disposition:** Ordinance No. 170974. (Y-4)

At 10:15 a.m., Council recessed.

**MARCH 5, 1997**

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 5TH DAY OF MARCH, 1997 AT 2:00 P.M.

THOSE PRESENT WERE: Mayor Katz, Presiding; Commissioners Francesconi, Kafoury and Sten, 4.

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

**Commissioner Charlie Hales**

306

Tentatively grant appeal of Multnomah County, applicant, against Hearings Officer's decision to deny application for a conditional use permit and adjustment to expand the existing Inverness County Jail at 11540 NE Inverness Drive (Findings; Previous Agenda 277; 96-00756 CU AD)

**Discussion:** Kathryn Beaumont, Senior Deputy City Attorney, said Council has before it findings prepared by Sandra Duffy of Multnomah County. Ms. Beaumont said both she and Planning staff have reviewed them and propose one amendment, adding a condition to the findings that requires compliance with the mediation agreement. All parties agree that the agreement should be referenced.

Ms. Beaumont said she just received a letter from Alice Blatt's attorney, indicating a fundamental disagreement with the findings. However, Ms. Beaumont believes the findings are legally sufficient and that Council can go forward and adopt them.

Mayor Katz asked what her fundamental disagreement was.

Ms. Beaumont said it is with the fact that Council is reversing the Hearings Officer's interpretation regarding the location of the p zone and acknowledging the existence of the zoning map error.

Commissioner Kafoury said her issue was whether that would set a precedent.

Ms. Beaumont said she does not believe it does for two reasons. First, Ms. Duffy has tried to make very clear in the findings that this is a unique circumstance, not one intended to set a precedent for the future. Also, at the last hearing the Council was quite clear in directing the Planning Bureau to proceed with some Code amendments that would ensure that this kind of situation does not arise again. That is not to say that in the interim there could not be an odd case that might come through before the Code amendment is enacted, but the chances of that happening are extremely low.

Commissioner Kafoury noted that Council does not reference the Code amendment.

Ms. Beaumont said no because that is really a separate policy issue arising out of this



**MARCH 5, 1997**

particular appeal and Council gave a very clear direction at the last hearing.

Commissioner Kafoury said maybe the key is to get on that right away. She said she has a lot of respect for Ms. Blatt's diligence in this area and would be less squeamish about this if Council could get some assurance from the Planning Bureau that it will move ahead quickly.

Marguerite Feuersanger, Planning Bureau, said as she understands it right now a Comprehensive Plan review is going on for the Columbia South Shore p and c zones. As Ms. Blatt alluded at the last hearing, there probably are a lot more errors there and the Planning Bureau has assigned someone to look through all those zones to determine where they are. To prevent this kind of confusion about the environmental lines from happening again, the Bureau's proposed solution is to place the intent -- 50 feet from the edge of the pavement -- directly on the zoning map. They do that right now in Fanno Creek, giving specifics about the c and p zones. As far as a Code amendment, there is nothing in the works. Instead they are relooking at the maps, which will probably take six months.

Commissioner Francesconi asked if there is any interim solution. Could a Code amendment stating the intent be done sooner.

Ms. Beaumont said any Code amendment has to go through the legislative process which involves preparing the language, having it reviewed by the Planning Commission and then sending it to Council.

Commissioner Francesconi asked if these projects can be flagged in the preconference phase during the six-month interim.

Ms. Feuersanger said certainly they can be more diligent in identifying any errors in the zoning map at preapp level. She said if they change the zoning maps, the change has to come through Council in the end.

Commissioner Francesconi said he would like the Bureau to communicate to Ms. Blatt three things: 1) this does not establish precedent; 2) the Planning Bureau will take steps to flag these situations during the preapp conference; and 3) a permanent solution will be enacted. Then he will be satisfied.

Mayor Katz asked if there was anything in the findings stating that this does not set precedent.

Ms. Beaumont said yes, there is language that tries to make it clear that this really is a unique circumstance and that the Council is not going to be in the business of trying to negotiate environmental zone boundaries in the future.

Mayor Katz said Commissioner Francesconi's suggestion that Planning staff be diligent in flagging those at preconferences is the immediate solution. Staff should move first on those geographic areas where it knows there are going to be requests for some kind of activity.

Commissioner Kafoury moved to adopt the amendment (requiring compliance with the mediated agreement) described by Ms. Beaumont. Commissioner Francesconi seconded and, hearing no objections, the Mayor so ordered.

**MARCH 5, 1997**

Commissioner Francesconi moved to adopt the findings as amended.

Commissioner Kafoury said she wants the record to be clear that Council is not setting a precedent with the mapping error here and they appreciate Ms. Blatt's testimony. With the assurances of the County and City Attorneys, she believes it is all right for Council to move along and get the jail going. (She did not vote, however, because she was not present at the initial hearing.)

**Disposition:** Findings Adopted as Amended. (Y-3; Hales absent; Kafoury abstained)

**304**

**TIME CERTAIN: 2:00 PM** - Accept 4th Quarter 1996 Police Internal Investigations Auditing Committee Monitoring Report per City Code 3.21.050 (Report introduced by Mayor Katz)

**Discussion:** Bob Ueland, Monitoring Committee Chair, Police Internal Investigations Auditing Committee (PIIAC), said timeliness in dealing with complaints still appears to be a problem because of the continual changes in Police Bureau personnel. Some progress has been made regarding declination of the use of force. All use of force complaints are investigated but a question has arisen as to what constitutes an investigation and the Committee is working with Captain Jensen on that. Regarding mediation, they are still waiting for the 10th mediation to be completed before issuing the results but the problem does seem to lie with mediation staff, not the Police Bureau.

Mayor Katz asked if any trends were spotted regarding how precincts were handling investigations.

Lisa Botsko, PIIAC staffperson, said they have seen improvement across the board in all precincts. She said a Command Review audit will also be conducted to see if there are any subsequent complaints.

Commissioner Francesconi said if information on the face of a complaint indicates use of force was justified, putting it in an officer's record is not helpful.

Mr. Ueland said what will be in the record is that an officer ended up in a conflict situation. If that happens often enough there is a problem.

Ms. Botsko said lack of courtesy, failure to follow procedures and performance can indicate a need for review.

Commissioner Francesconi said a disservice is done to officers when there is no dispute about the correctness of the procedures followed.

Commissioner Sten if someone feels the need to complain, it needs to be taken note of.

Commissioner Francesconi said taking note of something is different than adding it to one's record.

Ms. Botsko said a good investigation may bring this out although some end up in a gray area.

**MARCH 5, 1997**

Mayor Katz said they are looking for a possible pattern in order to avoid an exacerbated situation in the future.

Mr. Ueland noted that command review is not a punitive step.

Ms. Botsko said an "unfounded" finding is not entered on the record.

C. W. Jensen, Internal Affairs Division, said declinations are either assigned as complaints by IAD or declined. He said he has declined about six use-of-force complaints in the last six months.

Ms. Botsko noted that the use-of-force category is currently very broad and perhaps PIIAC can come up with some better criteria.

Dan Handelman, Portland Cop Watch, said IAD needs to conduct an investigation because citizens want to know that has been done. He repeated his prior request that PIIAC include case numbers in its reports so people can follow them. He also said three years is too long to wait for a report on the results of mediation.

Ms. Botsko said PIIAC is constrained by its by-laws not to refer to specific names or case numbers. The Monitoring Committee is supposed to identify trends, not cases.

Mayor Katz said they may wish to change that.

**Disposition:** Accepted. (Y-4)

305

Hear appeal of Rey Cabral (PIIAC #97-02) per City Code 3.21.085 (4) (d) (Report introduced by Mayor Katz)

**Discussion:** Lisa Botsko, PIIAC staff person, said in this case the Police were asked to check on the complainant's wife. The complainant charges that Police did not identify themselves and wore uniforms too similar to those worn by Taco Bell security. He asked for a search warrant, which the Police did not have. The Police then interviewed the wife, determined that she was okay and left. Ms. Botsko said she reviewed the complaint and established that there was just cause for the Police behavior. No search warrant was required in this case. The Citizen Advisors said this case raised some cultural sensitivity issues but overall felt the declination was justified.

Rey Cabral, appellant, described the incident and contended that Police had escalated rather than defused the situation. He said there was no need for Police to force themselves into his house and that 17 officers responding to the call was excessive. He said the cultural issues were never addressed at the Citizen Advisors meeting and he wants to see a change in procedures and to have Commander Jensen apologize for his handling of this complaint.

Captain Jensen said both he and the PIIAC Advisors reviewed this case which, because it was a domestic violence call, was taken very seriously. He said the Police had an ethical duty to take the actions they did and he believes there was no misconduct.

**MARCH 5, 1997**

**Disposition:** Appeal denied. (Y-4)

At 3:05 p.m., Council adjourned.

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



By **Cay Kershner**  
Clerk of the Council