



CITY OF
PORTLAND, OREGON

**OFFICIAL
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 2ND DAY OF JULY, 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; Harry Auerbach, Deputy City Attorney; and Officer Chuck Bolliger, Sergeant at Arms.

Agenda Nos. 1003, 1010, 1015 and 1032 were pulled from Consent. On a Y-4 roll call, the balance of the Consent Agenda was adopted as follows:

CONSENT AGENDA - NO DISCUSSION

- 1000** Accept bid of Jabros Batteries, Inc. for furnishing 7.5 nickel batteries for a two-year period for an estimated annual amount of \$26,675 (Purchasing Report - Bid 171A)

Disposition: Accepted; prepare contract.

- 1001** Accept bid of Triad Mechanical, Inc. for Shipyard and Ramsey wastewater pump stations for \$335,591 (Purchasing Report - Bid 212)

Disposition: Accepted; prepare contract.

Mayor Vera Katz

- 1002** Confirm reappointment of Robert Deveny to the Portland Historic Landmarks Commission (Report)

Disposition: Confirmed.

- 1004** Confirm reappointment of Wayne Lei to the Sustainable Portland Commission (Report)

Disposition: Confirmed.

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***1005** Appoint City of Portland members to the Consolidation Threshold Task Force (Ordinance)

Disposition: Ordinance No. 171339. (Y-4)

***1006** Settle the claims of William Howard (Ordinance)

Disposition: Ordinance No. 171340. (Y-4)

***1007** Amend contract with Network Behavioral Healthcare, Inc. for the FY 1997-98 plan year (Ordinance; amend Contract No. 50371)

Disposition: Ordinance No. 171341. (Y-4)

***1008** Authorize amendment to the City's Self-Insured Benefit Plan Document for CitySelect and CityBasic (Ordinance)

Disposition: Ordinance No. 171342. (Y-4)

***1009** Agreement between Clackamas County Sheriff's Office to provide access to the Portland Police data system (Ordinance)

Disposition: Ordinance No. 171343. (Y-4)

Commissioner Jim Francesconi

***1011** Increase contract with Boucher Mouchka Larson Architects by \$36,400 for additional services for 4th and Yamhill garage two-floor addition (Ordinance; amend Contract No. 30606)

Disposition: Ordinance No. 171344. (Y-4)

***1012** Authorize appointment of Communications Services Division Manager at a salary above mid-range (Ordinance)

Disposition: Ordinance No. 171345. (Y-4)

***1013** Contract with EnviroCorps and with the East Multnomah Soil and Water Conservation Service and the Educational Service District 112 acting as agents for them to provide youth crews to assist in environmental restoration projects in public landscapes for Portland Parks and Recreation (Ordinance)

Disposition: Ordinance No. 171346. (Y-4)

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- *1014** Accept a grant in the amount of \$48,831 from Bonneville Power Administration for FY 97-98 for summer 1997 Hands-On Science Camps to benefit 4th, 5th and 6th grade Portland low-income youth (Ordinance; rescind Ordinance No. 171258)

Disposition: Ordinance No. 171347. (Y-4)

Commissioner Charlie Hales

- 1016** Accept contract with M. Stearns Construction Company as complete and authorize release of retainage with conditions (Amended Report; Contract No. 30542)

Disposition: Accepted.

- *1017** Contract with CEMS, Inc. for \$104,000 to perform sewer line and pump station construction at Crystal Springs Rhododendron Garden (Ordinance)

Disposition: Ordinance No. 171348. (Y-4)

- *1018** Authorize the Purchasing Agent to sign a Purchase Order as a contract with SynTenniCo to supply and install a synthetic grass soccer field at Mary Rieke School in the estimated amount of \$366,164 without advertising for bids and provide for payment (Ordinance)

Disposition: Ordinance No. 171349. (Y-4)

- *1019** Contract with Reimers & Jolivette, Inc. for \$120,963 to perform pathway modification construction at Crystal Springs Rhododendron Garden (Ordinance)

Disposition: Ordinance No. 171350. (Y-4)

- *1020** Cost sharing agreement with the Multnomah Athletic Club (MAC) to provide for the restoration of SW 20th Avenue adjacent to the MAC (Ordinance)

Disposition: Ordinance No. 171351. (Y-4)

- *1021** Authorize a contract and provide for payment for the NW Cornell Road east of NW Thompson Road slide repair (Ordinance)

Disposition: Ordinance No. 171352. (Y-4)

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***1022** Authorize execution of a lease agreement with McClaskey's Wine Distributor for a certain area of NW Lovejoy Street, underneath the Lovejoy ramp, lying between NW 13th and 14th Avenues (Ordinance)

Disposition: Ordinance No. 171353. (Y-4)

Commissioner Gretchen Miller Kafoury

1023 Accept the Housing and Community Development Commission By-Laws revision (Resolution)

Disposition: Resolution No. 35626. (Y-4)

***1024** Amend contract with Central City Concern for Public Facilities Emergency Repair and Maintenance Program by increasing the amount of compensation by \$20,145 and provide for payment (Ordinance; amend Contract No. 30758)

Disposition: Ordinance No. 171354. (Y-4)

***1025** Intergovernment agreement between the City of Gresham and the City of Portland for the cooperation of units of local government for the development of the Consolidated Plan to meet affordable housing goals (Ordinance)

Disposition: Ordinance No. 171355. (Y-4)

***1026** Agreement with The Private Industry Council for \$150,000 to operate the Comprehensive Graffiti Abatement Program and to provide for payment (Ordinance)

Disposition: Ordinance No. 171356. (Y-4)

***1027** Contract with Community Energy Project, Inc. for \$105,227 for the Weatherization Workshop and Senior Weatherization Programs and provide for payment (Ordinance)

Disposition: Ordinance No. 171357. (Y-4)

***1028** Agreement with Vancouver Housing Authority for \$50,000 to provide permanent housing services for people with AIDS and provide for payment (Ordinance)

Disposition: Ordinance No. 171358. (Y-4)

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***1029** Contract with Ecumenical Ministries of Oregon for \$39,294 for the Shared Housing Program and provide for payment (Ordinance)

Disposition: Ordinance No. 171359. (Y-4)

***1030** Amend agreement with Alice Lasher for revenue generating efforts for the Fire Bureau, to extend the scope of work, increase the amount by \$15,000 and extend the completion date (Ordinance; amend Contract No. 30905)

Disposition: Ordinance No. 171360. (Y-4)

Commissioner Erik Sten

1031 Accept contract with Alliance Corp. for the Sacajawea sanitary sewer project as complete, approve change orders and provide for final payment (Report; Contract No. 30371)

Disposition: Accepted.

***1033** Authorize the continuance of negotiations for the purchase of a permanent sewer easement required for construction of the Eastmont sanitary sewer project, authorize the City Attorney to commence condemnation proceedings and authorize the City Attorney to obtain early possession (Ordinance)

Disposition: Ordinance No. 171361. (Y-4)

1034 Authorize acquisition of an easement for water facilities on the property of The Holland, Inc. at no cost (Second Reading Agenda 981)

Disposition: Ordinance No. 171362. (Y-4)

REGULAR AGENDA

1003 Confirm appointment of Laura Culberson and Jonathan Mills to the Portland Utilities Review Board (Report)

Discussion: Commissioner Sten said the City is very fortunate in getting both these two people to agree to serve.

Mayor Katz said people do not realize the kind of commitment appointees make.

Disposition: Confirmed.

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***1010** Authorize an agreement with Multnomah County to manage custodial services for City-owned facilities (Ordinance)

Discussion: Commissioner Francesconi said health care benefits are being added to this agreement.

David Kish, Director, Bureau of General Services (BGS), said this is an example of enhanced City/County cooperation in managing the City's janitorial contracts. This agreement is \$5,000 to \$10,000 less than the current agreement and yet should provide equal if not better service. The County has a slightly different fair wage policy than the City's, giving extra points to employers who provide health benefits. BGS believes the County's is slightly superior to the City's and has asked Risk Management to review the two systems. However, with this particular contract a waiver to the City's fair wage policy is needed.

Commissioner Francesconi said several organizations have contacted him about requiring both health care benefits and a higher floor of wages and he would like to have further discussions about doing both. But since this is better than the City's current policy, he believes it is okay to go ahead with this one now.

Commissioner Kafoury said a lot of work on this policy occurred when the City raised the minimum wage. The County still has a huge issue because the health care benefits requirement applies only to internal, not external contractors.

Disposition: Ordinance No. 171363. (Y-4)

***1015** Assign McCalls Waterfront Restaurant lease to HMN Investment, Inc. (Ordinance)

Discussion: Commissioner Francesconi said another group competed for this assignment but did not receive it.

Susan Hathaway-Marxer, Parks and Recreation, said this is a request by the Parks Bureau to assign the lease at McCall's Waterfront Restaurant to HMN Investment, Inc.

Harry Auerbach, Deputy City Attorney, said the lease originally was held by Goforth & Rice who assigned their interest to another party who then defaulted. They now wish to assign this to another operator.

Dan Yates, President, American Waterways, operator of two dinner boats on the Willamette, said they also made a proposal to operate the restaurant as it seems a potentially very successful location, despite the lack of success

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to date. Although they were not selected as the operator, they have high hopes that the new managers will return this to operating as a family restaurant.

Gorham Nicol, HMN Investment, Inc. said they hope to turn this natural attractor into an excellent family restaurant. They also look forward to cooperating with Mr. Yates in promoting each other's businesses.

Disposition: Ordinance No. 171364. (Y-4)

***1032** Authorize negotiations for the purchase of a permanent sewer easement and a temporary construction easement required for construction of the Southeast Portland sanitary sewer extension project #1, authorize the City Attorney to commence condemnation proceedings and authorize the City Attorney to obtain early possession (Ordinance)

Discussion: Cay Kershner, Clerk of the Council, said this should be continued an additional week.

Disposition: Continued to July 9, 1997 at 9:30 a.m.

S-999 **TIME CERTAIN: 9:30 AM** - Amend downtown business property management license fee to adjust rates, include management of new development and extend to management of certain residential properties (Previous Agenda 843; amend City Code Chapter 6.06)

Discussion: The Clerk noted that a Substitute Ordinance had been filed. Commissioner Kafoury moved its acceptance; Commissioner Sten seconded and the Mayor, hearing no objections, ordered that the Substitute be brought to Council.

Tammy Hickel, Immediate Past Chair, Association for Portland Progress Board and Vice President, Nordstrom, noted that when this came to Council several weeks ago representatives of some of the residential properties protested their inclusion in the district. Council then asked APP, managers of the Clean and Safe District, and the residential representatives, to work together to come up with a fee arrangement. Ms. Hickel outlined why more than 70 percent of downtown property owners asked Council to approve renewal and why residential properties should be included. She said APP has operated the Clean and Safe District for the past nine years on behalf of the funders and this area is a better and safer place today thanks to the clean sidewalks, active streets, graffiti-free buildings and the presence of Clean and Safe guides and patrol officers. After careful consideration, APP is proposing that market-rate residential properties should participate in

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their funding the district for the following reasons: 1) fairness (all downtown properties benefit); 2) responsibility for consistent cleaning and security services; and 3) protection of property values.

Phil Kalberer, Treasurer, Downtown Clean and Safe Advisory Committee and downtown resident/business owner, summarized what APP has done since the last Council hearing. Over the last three weeks two group meetings were held with market-rate apartment and condominium representatives plus several additional meetings with each group. A mediator was used to help facilitate the group meetings. Over 12 issues were raised by residential property representatives and these were addressed by the Clean and Safe Advisory Committee. The Committee seriously explored the following: 1) revising the square footage formula; 2) addressing the tax deductibility of the fee for owner-occupied residences; 3) placing a minimum and maximum cap on the fee per unit; and 4) including residential representation on the Clean and Safe Advisory Committee. He outlined the proposal the Committee now endorses. First, market-rate apartments agreed to join the new District with the following conditions: 1) revision of the square footage fee downward from \$13.80 per \$725 square fee to \$5.52, resulting in an average monthly fee of \$3.83 per unit; and 2) appointment of a residential representative to the Advisory Committee. On the condominium side, there was a lack of consensus concerning their level of participation. They asked for exemption from the mandatory district for approximately one year during which time they would like to establish a regular meeting schedule with the Clean and Safe Advisory Committee to determine equitable continuation in future years. For this year they offered to make voluntary contributions for district services and requested one condominium representative on the Advisory Committee. The Committee recommends accepting the proposal to make voluntary contributions for one year. However, it supports the idea of voluntary contributions for condominiums based on their paying their fair share. Voluntary contributions will be tax-deductible. The Committee also accepts the addition of a condominium representative but not as a voting member since the contributions are voluntary.

Mr. Kalberer said this proposal is not what they had hoped for but they believe it is the best they can do at this time. The Advisory Committee believes it has made every effort to find a fair solution to the concerns raised. He asked for Council's support of the recommendations to include market-rate properties in the Clean and Safe District and accept voluntary contributions from condominium owners for a year.

Commissioner Kafoury asked if his reference to fair share means the approximately \$16.00 per month.

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Ruth Scott, Association for Portland Progress, said the fair share is based on having the same revised formula apply both to apartments and condos. She said the volunteers involved in Clean and Safe have spent hundreds of hours putting this district back together for Council's consideration. They started last summer by reviewing every single service to make sure the funds were being used efficiently and properly.

Chris Thomas, legal counsel for APP, said the ordinance itself does not specify an appropriate or fair level of voluntary contribution. It indicates that management of the condominiums would be encouraged to participate in support of the district on a voluntary basis while further consideration is underway.

Cynthia McBurney, 860 SW Broadway, a small downtown business owner, stressed the importance of the Clean and Safe program and said she believes it is burden that has to be carried by all those who benefit. She said having more employers who live downtown is a real plus. The compromises that have been made in this agreement are a real positive first step.

William G. Savard, Board Chair, Portland Plaza Owners Association, said they do support the idea of the Clean and Safe District. Their only concern is the fairness of the assigned burden as they do not believe that their share should be more than that borne by similar rental property.

Commissioner Francesconi asked if they were concerned about the fact that, unlike apartment owners, they cannot deduct the fees.

Mr. Savard said that is one issue. (The fee is deductible only if voluntary.)

Commissioner Francesconi asked if they would be willing to be required to pay a lesser amount than the apartment folks, based on the amount that cannot be deducted.

Mr. Savard said Portland Plaza would be willing to do so.

George Reinmiller, Board member, Portland Plaza Owners Association, supported Mr. Savard's testimony. He said in the past few weeks they have learned a lot about the services of Clean and Safe and hope to bring the rest of the owners up to speed about their value. Their concern is the equity issue as they see quality apartment units that would pay approximately 50 percent of what a Portland Plaza unit would pay, due not only to the tax deductibility but the fact that assessed values on commercial and rental properties have not gone up at the same rate as owner-occupied properties.

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That puts them up in the stratosphere and they also receive higher assessments based on the elevator factor APP uses as one of three factors on which to base the fees.

Mr. Thomas said there are two questions regarding taxes. First, if the fee is mandatory, does the fee qualify as a tax that can be deducted by condominium owners? He said they have agreed to discuss this with the Oregon Department of Revenue over the coming year. If the contributions are voluntary, Portland Downtown Services, Inc., the provider of the services, is a 501 C-3 corporation so they believe the contributions are tax deductible if structured properly.

Mr. Savard said they question whether or not contributions to a 501 C-3 are deductible because the Clean and Safe District would be providing services.

Mayor Katz said she believes Mr. Thomas is right about the deductibility of the contributions but on the matter of the voluntary versus the mandatory fees there may be a need to change the State law.

Annette Keller, board member, Fountain Plaza Condominiums, said they have not had a chance to tell all their owners about this program and what services are provided. Therefore, currently they oppose an assessment and would definitely favor the voluntary contribution as they do not want to feel as if they have a gun at their heads.

Darcey Vincent, Property Manager, Portland Center Apartments, said they are happy with the adjustments that have been made on the market-rate side. She asked Council to put a one-year gun to the head of the condominium owners to set some standards under which they are expected to participate. At the end of the year, their contributions should be made mandatory and their assessment should be no less than that of the market-rate apartment community.

Mayor Katz said she believes Council's intent is to first identify the equity issue Commissioner Kafoury raised. At that point Council will look at making the condominium owners' contributions mandatory.

Mike Hashem, Skidmore Management Corporation, said if voluntary contributions are allowed for one category (residential properties) that raises a constitutionality question about the selectivity of certain properties. If the City is going to have a Clean and Safe program, it should be for all properties -- profits, non-profits, government buildings, residential and commercial alike. He also suggested that the program be reviewed by an independent consultant every three years and have it conduct the survey, not APP. He said people paying into the program should probably have a chance to vote for it.

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Commissioner Kafoury said the only remaining debate is whether the expectation of APP is that the condo owners pay the \$16. adjusted rate or, during next year's voluntary phase, they pay a fee capped at \$10. That was the proposal of the three condominium associations.

Commissioner Kafoury said, as owner of a condominium, this has been an uncomfortable situation for her. She said legitimate concerns revolve around the fact that residential properties have seen tax increases that place a greater burden on them than businesses and corporations. APP cannot be faulted on the issue of notification as they sent information to the building managers and did not realize that individual condominium owners had not seen the materials. This compromise is fine for one year, although she heard no objections to making it mandatory at the lower, \$10 cap. Hopefully by next year a fair formula can be found that is more in line with the rental units.

Commissioner Francesconi said he does not agree although a debate about that does not seem relevant at this point. He said condominium owners need to pay a higher rate.

Commissioner Sten said the issues need to be argued out more as he does not have enough information yet to determine the numbers. Condominium owners make money when property values increase and have equity; apartment renters do not. Deductibility is a big issue for him.

Ms. Scott said the fees are based on 1993-94 tax data so are not based on current residential property taxes. The inequity between the commercial and residential is not as great as it would be if based on 1996-97 data.

Commissioner Kafoury said Mr. Kalberer indicated that APP will collect the amount at the full level as indicated on the hand-out (purple sheet).

Commissioner Francesconi said if the issue for condominium owners is the amount and the deduction that is fine. But the issue of whether it is voluntary or not is a whole different can of worms. He said if people cannot work this out in a year, he is prepared to include condominium owners mandatorily at the same rate as apartment owners so there is a flat rate for residential, with the exception that it can be lowered if it is not deductible.

Mayor Katz said while one Council member has expressed hope that a lower rate will be considered, Council as a whole is not prepared to recommend that.

Commissioner Francesconi said he has discovered how fragile the heart of the City is as shown by the fact that there is a 40 percent increase in graffiti and a 47 percent increase in trash plus an increase in homelessness. He

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said the City does not have the resources to cope with these problems without the volunteer leadership of APP in stepping up. It is fair that the rate for residential owners was lowered from \$13.80 to \$5.50 as businesses benefit more. However, businesses are paying 95 percent of this District now. Condominium owners need to step up and pay for something they say they support.

Commissioner Kafoury said one goal is to increase confidence in government and make it clear what people are paying for. This unfortunately hit condominium owners like a lead balloon and was not clearly explained. Some progress has been made and she hopes an equitable rate can be found and they can get 100 percent participation this year and go into a mandatory arrangement next year. She said some equity issues still remain, however, noting that the condominium buildings do their own grounds cleaning, graffiti removal and security.

Commissioner Sten said this is a good step forward. Deductibility is a big issue and he would like to see the condominium owners join but can understand why they would not be ready to after three weeks. He said he hopes the condominium owners will pay the fees voluntarily. Because of the difference in the size of the condominiums, it does not seem fair to him to give all three the same cap. Condos that are twice as big should not be capped at the same rate as the smaller ones. Any cap should be on a square footage basis.

Disposition: Substitute Ordinance No. 171365. (Y-4)

Mayor Katz said a new President of Council needs to be elected and following the usual rotation it is Commissioner Francesconi's turn.

City Auditor Barbara Clark

1035 Assess benefitted property for the costs of street and other improvements in the NE Mason Street Local Improvement District (Ordinance; C-9879)

Discussion: Dan Vizzini, Auditor's Office, said this closes the books on a single-owner LID on Airport Way.

Disposition: Passed to Second Reading July 9, 1997 at 9:30 a.m.

Communication

1036 Request from Wendy Loren to address Council regarding personal safety concerns (Communication)

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Discussion: The Clerk indicated that Ms. Loren asked to reschedule this at a later date.

Disposition: Placed on File.

At 10:35 Council recessed.

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

THOSE PRESENT WERE: Commissioner Kafoury, Presiding; Commissioners Francesconi and Sten, 3.

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

Commissioner Charlie Hales

1037 Tentatively deny appeal of Buckman Neighborhood Association against Hearings Officer's decision to approve application of the Housing Authority of Portland for a zoning map amendment in compliance with Comprehensive Plan map in order to construct the east side men's homeless shelter at 1403-1415 and 1427 SE Martin Luther King Blvd. at Hawthorne (Findings; Previous Agenda 888; 96-00131 ZC)

Discussion: Commissioner Kafoury moved to deny the appeal and adopt the findings. Commissioner Sten seconded.

Kathryn Beaumont, Senior Deputy City Attorney, said she has reviewed the findings and found that they accurately reflect Council's direction.

Commissioner Francesconi said he appreciates hearing that the neighborhood does not plan to appeal this.

Commissioner Kafoury said she is pleased at being able to implement these shelters at last.

Disposition: Findings Adopted. (Y-3)

At 2:05 p.m., Council adjourned.

BARBARA CLARK
Auditor of the City of Portland

Cay Kershner
By Cay Kershner
Clerk of the Council