



CITY OF
PORTLAND, OREGON

**OFFICIAL
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 20TH DAY OF AUGUST, 1997 AT 9:30 A.M.

THOSE PRESENT WERE: Mayor Katz, Presiding; Commissioners Francesconi, Hales, Kafoury and Sten, 5.

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

On a Y-5 roll call, the Consent Agenda was adopted as follows:

CONSENT AGENDA - NO DISCUSSION

- 1270** Accept bid of Mike Pfeiffer Trucking to furnish sawdust for the Columbia Boulevard Wastewater Treatment Plant for \$560,000 (Purchasing Report - Bid 98018)

Disposition: Accepted; prepare contract.

Mayor Vera Katz

- *1271** Contract with Ball, Janik LLP for representation in Washington, D.C. on matters pertaining to the relationship between the City of Portland, Oregon and the federal government (Ordinance)

Disposition: Ordinance No. 171501. (Y-5)

- *1272** Establish one Police Clerical Assistant position in the Bureau of Police and two Sr. Engineering Associates-Civil positions in the Bureau of Environmental Services in accordance with the Personnel Rules adopted by the City Council (Ordinance)

Disposition: Ordinance No. 171502. (Y-5)

- *1273** Pay claim of Eugene Feltz (Ordinance)

Disposition: Ordinance No. 171503. (Y-5)

- *1274** Pay claim of Mark Hamilton (Ordinance)

Disposition: Ordinance No. 171504. (Y-5)

- *1275** Authorize the Purchasing Agent to sign contract with SAS Institute, Inc. for annual software maintenance in the amount of \$65,270, without advertising for bids (Ordinance)

Disposition: Ordinance No. 171505. (Y-5)

Commissioner Jim Francesconi

- *1276** Authorize the Purchasing Agent to sign an amendment to the original contract with Otis Elevator Co. to extend the term for maintenance/repair service on the Portland Building elevators without advertising for bids (Ordinance; amend Contract No. 50138)

Disposition: Ordinance No. 171506. (Y-5)

Commissioner Charlie Hales

- 1277** Set hearing date, 9:30 a.m., Wednesday, September 17, 1997, to vacate a portion of SW Jefferson Street west of SW 18th Avenue (Report; C-9930)

Disposition: Adopted.

- 1278** Set hearing date, 9:30 a.m., Wednesday, September 17, 1997, to vacate a certain portion of an alleyway in Block 35, Irvington Park Addition (Report; C-9936; C-9938)

Disposition: Adopted.

- 1279** Accept contract with CEMS, Inc. for the SW Multnomah Blvd. slide repair/East Project as complete, approve Change Orders No. 1 and No. 2 and release retainage (Report; Contract No. 31072)

Disposition: Accepted.

- 1280** Accept completion of Sellwood Park renovation by Cedar Landscape, Inc., make final payment and release retainage (Report; Contract No. 30500)

Disposition: Accepted.

- 1281** Accept completion of Oregon Park renovation by Brant Construction, Inc., make final payment and release retainage (Report; Contract No. 30701)

Disposition: Accepted.

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- *1282** Agreement with P.C. Development, Inc., dba Raintree Development Company, for intersection improvements at SE Foster Road and SE Jenne Road (Ordinance)

Disposition: Ordinance No. 171507. (Y-5)

- *1283** Revocable permit to Artists Center Deli / Art in the Pearl to close NW Flanders and NW Davis between Park and 8th Avenues and NW 8th between Glisan and Flanders, from August 29 through September 1, 1997 (Ordinance)

Disposition: Ordinance No. 171508. (Y-5)

- *1284** Authorize modified continuing control agreement for the Westside Light Rail project with the Tri-County Metropolitan Transportation District of Oregon (Ordinance)

Disposition: Ordinance No. 171509. (Y-5)

- 1285** Vacate a certain portion of NW Macleay Boulevard west of NW Warrenton Terrace, under certain conditions (Second Reading Agenda 1215; C-9933)

Disposition: Ordinance No. 171510. (Y-5)

Commissioner Gretchen Miller Kafoury

- *1286** Contract with Unlimited Choices, Inc. for \$52,000 to support the Adapt-A-Home program and provide for payment (Ordinance)

Disposition: Ordinance No. 171511. (Y-5)

- *1287** Contract with Outside In for \$20,889 towards the Needle Exchange Service and provide for payment (Ordinance)

Disposition: Ordinance No. 171512. (Y-5)

- *1288** Agreement with Open Meadow Learning Center for \$100,950 for the Corps Restoring the Urban Environment program and provide for payment (Ordinance)

Disposition: Ordinance No. 171513. (Y-5)

Commissioner Erik Sten

- 1289** Confirm re-appointment of Bud Farm and Jim Dietz to the Mid County Citizens Sewer Advisory Board (Report)

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Disposition: Confirmed. (Y-5)

- *1290** Authorize a contract and provide for payment for the NW Davis and Everett Street sewer reconstruction project, Project No. 6041 (Ordinance)

Disposition: Ordinance No. 171514. (Y-5)

- *1291** Designate sewer easements within Bureau of Environmental Services and Portland Parks and Recreation property for the Columbia Slough consolidation conduit project (Ordinance)

Disposition: Ordinance No. 171515. (Y-5)

- 1292** Authorize contract for the chlorination facility improvements at the Columbia Boulevard Wastewater Treatment Plant (Ordinance)

Disposition: Passed to Second Reading August 27, 1997 at 9:30 a.m.

- *1293** Revoke a permit previously provided to Union Pacific Railroad Company to install and maintain a private 4-inch sanitary pressure sewer line across and under N. Columbia Boulevard, west of N. Swift Court, and accept this line as a public sewer (Ordinance; amend Ordinance No. 137824)

Disposition: Ordinance No. 171517. (Y-5)

- *1294** Authorize agreement with Wescorp not to exceed \$42,697, to perform a probable maximum precipitation evaluation, probable maximum flood analysis of the Bull Run watershed, dam break analysis of dams 1 and 2 and provide for payment (Ordinance)

Disposition: Ordinance No. 171518. (Y-5)

City Auditor Barbara Clark

- 1295** Accept completion for street improvements in the SE Ankeny Street from SE 119th to SE 122nd Avenues Local Improvement District and release retainage to Parker Northwest Paving (Report; C-9907)

Disposition: Accepted.

REGULAR AGENDA

- 1267** **TIME CERTAIN: 9:30 AM -** Fair Contracting and Employment Strategy (Report introduced by Mayor Katz)

Discussion: Sue Klobertanz, Manager, Contractor Development Division,

Bureau of Purchasing, reviewed the City's compliance to date with the strategy items. Regarding Item 8, expansion of the mentorship program with the Port of Portland, she said the Port's counsel is now drafting an intergovernmental agreement to put this in place which they hope to return to Council for approval within 60 days. Item 9, regarding good faith efforts, has been delayed while some issues between the City and Multnomah County are being resolved.

In voting aye, Commissioner Francesconi said the City needs to provide economic opportunities for all its citizens and one of the best ways to do that is through economic development which teaches ownership practices but also increases competition from broader segments of the population. If people are excluded from the economic center they are relegated to the margins and the social costs for the City are even higher.

Mayor Katz said this is a helping hand, not a handout. She said the process has not been easy and the City is taking some risks here.

Disposition: Accepted. (Y-5)

1268 Authorize implementation of Direct Services Pilot Program (Resolution introduced by Mayor Katz)

Discussion: Ms. Klobertanz said this program increases opportunities for subcontractors and includes use of an informal bidding process for them. The pilot project will last seven months.

Madelyn Wessel, Senior Deputy City Attorney, said this is a far more controversial program because the City picks the subs, which could to some extent jeopardize the prime contractor's ability to self manage a project. Such intervention creates practical, legal and economic concerns. BES has taken the lead in this but projects from every bureau are needed.

Disposition: Resolution No. 35638. (Y-5)

***1269** Adopt Sheltered Market Program and establish exemption for Sheltered Market contracts (Ordinance introduced by Mayor Katz)

Discussion: Ms. Klobertanz said they estimate that this program will apply to half of all City contracts and will add four to five percent to the total cost. She said they are working with the County on a joint program.

Madelyn Wessel, Chief Deputy City Attorney, said they are requesting an exemption from ORS regulations requiring awards to the lowest bidders. One concern is possible monopolization of the program by just a few already fairly successful firms. This program is meant to provide a jump start for new and existing struggling firms and they do not expect that every firm will find

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success over the three-year length of the program. The plan is to target intense support to a firm for a specified time and then gradually reduce it. This also provides another opportunity to work jointly with the County and streamline access into the community.

Ms. Wessel cited Exhibit B of the disparity study which shows that only a few minority/women business enterprises are used as prime contractors although they do substantial subcontracting. She said they have also seen a decline in the number of companies bidding on City prime contracts, which lessens competition and results in higher costs.

Commissioner Sten said he thought the three-week enrollment period was too short.

Ms. Wessel said they really debated that point but want to force the window so they can coordinate available contractors with applicants. She said they can change the time line if need be.

Commissioner Sten said he fears the City will hear the age-old retort: "I never knew about it." He asked how the City will judge the success of the program over the three years and what ideally will be accomplished.

Ms. Wessel said success depends on adequate monitoring which they believe they can provide with the compliance program that has been set up. A technical consultant will report on every participant. She said it is hard to define success in a vacuum but if the only work is that which has been generated by this program, then it will not be a success.

Commissioner Francesconi said his concern is that large minority firms will dominate the program. If there are more than three bidders in 70 percent of the cases then the City ends up paying less than estimated. This is true for contracts both above and below the \$200,000 mark.

Ms. Wessel said the concern here is with those contracts under \$200,000.

Commissioner Francesconi said he hopes that some companies will grow enough to bid on the larger contracts.

Ms. Klobertanz said the aim is to grow businesses.

Commissioner Francesconi said he would like more information on what appears to be a lack of competitive bidding.

Ms. Wessell said 40 percent of contracts at \$200,000 and above had three or fewer bids.

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Commissioner Francesconi asked if special marketing efforts were being made to reach struggling businesses in Northeast and Outer Southeast.

Ms. Klobertanz said yes. She said four training meetings on implementation are planned with the City's approximately 200 program managers.

Commissioner Sten said the Bureau of Environmental Services is trying to break up contracts into more biddable pieces before they come to Purchasing.

Ms. Klobertanz said peer review, primarily led by her staff, will be pivotal to making the whole thing work.

Disposition: Ordinance No. 171519. (Y-5)

Mayor Vera Katz

- *1296** Accept two grants from Federal Emergency Management Agency through Oregon Emergency Management totaling \$750,000 to mitigate flood and landslide hazards (Ordinance)

Disposition: Ordinance No. 171520. (Y-5)

Commissioner Charlie Hales

- 1297** Consider vacating a portion of NW 111th Avenue east of NW St. Helens Road at the request of Wally Mahmood (Hearing; Report; C-9927)

Discussion: Commissioner Hales said this was initially opposed by the Linnton Neighborhood Association which is now in support.

Disposition: Approved. City Engineer prepare ordinance.

- 1298** Encourage Multnomah County to submit a ballot measure to the voters establishing a County vehicle registration fee (Resolution)

Discussion: Commissioner Hales said since the State legislative package did not pass, this increase in vehicle registration fees is a "band aid" solution that will keep the City from falling ever further behind on its much needed road repairs. Since the State failed to take action, a regional increase was proposed but Metro decided not to put it on the ballot. He noted that vehicle registration fees in both California and Washington state are many times higher than Oregon's.

Mayor Katz said the federal government and now the State have walked away from yet another issue. She said this should be viewed as a regional problem but she will reluctantly support this as the only choice available now.

Disposition: Resolution No. 35639. (Y-5)

- *1299** Authorize a contract and provide for payment for the SW Terwilliger Boulevard slide repair project (Ordinance)

Disposition: Ordinance No. 171521. (Y-5)

Commissioner Erik Sten

- 1300** Declare City Council support for a coordinated approach for solutions to reduce flood damage from Crystal Springs Creek (Resolution)

Discussion: Commissioner Sten updated Council on what BES has learned about the flood situation on Crystal Springs Creek. He said there is still no certainty as to the cause but there is some evidence that it has resulted from the filling of an aquifer because of heavy earlier rains in the Spring. He said in that case there is nothing the Bureau can do. He said he fears this will happen more often as the area grows more dense and there are more parking surfaces.

Linda Dartsch, BES, said the Creek feeds from a huge aquifer which is putting much more water into the creek than previously.

Commissioner Hales said the creek is not affected by run-off from storms and the problem is not impervious surfaces. There is just too much water going into the aquifer.

Commissioner Sten said most people would argue that more impervious surface changes the flow of water but the Water Bureau does not know that this is happening. Some people think it is due to the variety of grass.

Mayor Katz asked how the City can find out where the water is coming from.

Ms. Dartsch said they are working closely with the United States Geological Service and have been able to slow the water north of Tacoma where it flows onto properties and homes. She said they cleaned up the culverts but that did not result in much change. They are now diverting water into the sewer system and treatment plant and are working with the Fish and Wildlife Department regarding fish survival and habitat.

Dean Marriott, Director, BES, said Southern Pacific got a permit from the Department of Environmental Quality to put 30,000 yards of oil- contaminated soil in the flood plain without a City permit. He said they believe this is a likely suspect for increased sedimentation.

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Ms. Dartsch said Clyde Brummell, an affected property owner, shoveled out 18 inches of silt from the creek by his house and after that the water level dropped significantly.

Mr. Marriott said a team of people will be identifying areas of vegetation to see what can be removed. He said the more they learn about the problem the more complicated it becomes, involving the DEQ, OFWD, Corps of Engineers and environmental zones. One constraint is that no work can be done in the creek after the end of August. He said they have gotten strong cooperation from the Sellwood-Moreland Improvement League (SMILE) and Parks volunteers. He said the key is to keep the Watershed Council and the Neighborhood Association working with the regulatory agencies. He said the City does not want to "own" this problem and also does not want to destroy habitat.

Commissioner Sten said this has been a perplexing situation and it is untrue that BES can solve such problems immediately. He said a way needs to be figured to prevent fill permits like the Southern Pacific one in the future. The Planning Bureau signed off on this one but from now on the City will require an after-the-fact permit although it is probably loath to do so.

Mr. Marriott said there is no question that additional silt lies on the bottom of the creek. Additional sedimentation and silt encourage aquatic vegetation.

Commissioner Hales said even if the fill did not cause the flooding, it is still not right.

Mr. Marriott said he hopes Buildings would require mitigation by Southern Pacific.

Commissioner Hales asked if the City's own crews can get out there and deal with the dirt.

Mr. Marriott said as recently as a few days ago the railroad had people moving dirt.

Commissioner Hales said if there is an emergency situation and possible fill violation, BES might consider aggressive intervention.

Commissioner Sten said the Bureau will look into that.

Ms. Dartsch said the damage has already been done by the railroad. Another contribution to the additional silt has been the erosion of the channels.

Mayor Katz asked what the benchmark is for the amount of tolerable silt.

Ms. Dartsch said it is typically at zero for a creek that is clear. She said BES

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cannot protect and restore waterways by itself. She said it is a tough issue for them as they are not in control of everything that goes into the waterways.

Mayor Katz said Council needs mechanisms to pull teams together quickly and move forward as an institution in such cases.

Disposition: Resolution No. 35640. (Y-5)

At 11:00 a.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 20TH DAY OF AUGUST, 1997 AT 2:00 P.M.

THOSE PRESENT WERE: Mayor Katz, Commissioners Francesconi, Hales, Kafoury and Sten, 5.

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

Commissioner Charlie Hales

- 1303** Tentatively grant request, with conditions, to amend the Comprehensive Plan Map and change the zone of property located at NW 14th to 17th, Thurman and Savier, from Industrial Sanctuary (IG1) to Central Employment (EXd) (Findings; Previous Agenda 1195; LUR 97-00158 CP ZC)

Disposition: Continued to August 27, 1997 at 9:30 a.m.

- 1301** **TIME CERTAIN: 2:00 PM** - Liquor license application for Single Sox Deli, Inc., 6812 NE Broadway, Restaurant liquor license (new outlet); Unfavorable recommendation (Report introduced by Commissioner Francesconi)

Discussion: Mike Sanderson, Bureau of Licenses, said State law requires that this laundromat acquire a liquor license in order to offer video poker games. He noted that Council earlier had voted to forward an unfavorable recommendation to the OLCC on a similar license for Laundry Land but the OLCC issued the license despite that recommendation. The City has now petitioned OLCC to review its rules on such licenses and a hearing is planned in the future. He said forwarding an unfavorable recommendation for this application is consistent with current City policy.

Michaelene Lyski, applicant, said she plans to offer a full service deli, not just a snack bar, and has submitted a petition in support signed by many residents of the adjacent Binford apartments who favor the sale of beer and wine here. Only a very few object to granting this license. She said the laundry is a separate business and is not applying for a liquor license. Ms. Lyski described the efforts she has made to improve the building, which is owned by her mother. One end is leased to a hair salon and the deli is separately incorporated in her name. Her mother owns 90 percent of the building and all of the laundromat; she owns five percent. She said she sees no reason why beer or wine would be in the laundromat.

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Commissioner Francesconi asked if she wants the liquor license in order to get the video poker machines.

Hariette Fleming, co-applicant, said they are not sure they will apply for lottery equipment; it depends on the number of hoops they must go through.

Mayor Katz suggested building a wall between the deli and the laundromat so that people would not drink there. She said one issue for her is the lack of physical separation between the deli and the laundromat so it would not be illegal to buy a drink and go sit in the laundromat.

Frank Craddock, Chair, Binford Condominium Association Board, said it is not necessary for this establishment to have a liquor license as it distracts from the livability of the neighborhood which has had gang problems in the past. He said the deli is also only 500 feet from a school bus stop.

Commissioner Hales outlined the criteria for a Council recommendation and said it does not sound like the Board would object to an Italian restaurant in this location which served beer and wine.

Mark Popma, owner/manager, Binford Apartments, said the deli has very minimum cooking facilities and is more like a lunch break room than a restaurant. Once a gaming license is secured, that will be the primary focus.

Mr. Sanderson said the OLCC's review of granting liquor licenses to non-traditional businesses is at least six months from a ruling.

Commissioner Kafoury noted that the legislature has not seen fit to change the rules regarding requiring video poker outlets to have liquor licenses and the issue is that the City has no criteria to make an unfavorable recommendation on this basis.

Commissioner Francesconi said he does not think the City wants laundromats across the City having liquor licenses and that the City can argue that any alcohol in a laundromat is too much. He said the issue here is whether this is really a laundromat or a separate business. He noted this is a close call as there is a common walkway, common customers and the same owners.

Mayor Katz said the separation between the deli and the laundromat is critical to her.

Commissioner Sten asked what is the difference between having video poker in a bar or a laundromat.

Commissioner Francesconi said the staff recommends turning this down based on the video poker. However, the application is to serve alcohol in the deli.

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Gary McGrew, License Bureau, said in October Council told them that neighborhoods were saturated by liquor licenses. They see no difference between this and Laundry Land. Actually, in this case there is less separation between the two operations even though they are under the same ownership.

Commissioner Hales asked what the difference is between drinking a beer and watching baseball and drinking a beer and watching laundry go around.

Commissioner Sten said he has seen no evidence presented that this is not a restaurant.

Doris Pinyon, 6750 NE Hancock, asked what would prevent the owners from removing all the washers and dryers once they get the liquor license and video poker machines.

Mayor Katz said nothing. The deli would have a perfect right to expand, although the video poker machines are limited to five.

Commissioner Kafoury asked if the neighborhood is saturated with liquor outlets.

Mr. McGrew said no.

Commissioner Kafoury moved to overturn the staff recommendation. She said she would be very happy to have staff return with a condition to make clear that there must be a separation between the laundromat and the deli.

Commissioner Hales said he would like the applicant to explore a good neighbor agreement. Commissioner Francesconi agreed.

Ms. Lyski agreed to work with the Bureau on these items.

Disposition: Referred to Bureau of Licenses.

1302 TIME CERTAIN: 2:30 PM - Hear Police Internal Investigation Auditing Committee Appeal #97-10, Carlan Caravity, per City Code 3.21.085(4)(d) (Report introduced by Mayor Katz)

Discussion: Lisa Botsko, PIIAC staff person, said the police investigator tried to solve this problem informally and contacted the officer involved when he should not have. The Citizen Advisors felt there was no actual harassment by the officer.

Mayor Katz noted that the appellant was not present.

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Commissioner Kafoury moved to uphold the Citizen Advisors and take no further action.

Disposition: Appeal Denied. (Y-5)


1304 Amend the Zoning Code, Willamette Greenway Plan and Special Design Guidelines for the North Macadam District of the Central City Plan to implement the accepted North Macadam District Street Plan (Second Reading Agenda 1265; amend Code Title 33)

Discussion: Commissioner Hales recommended going ahead with this despite some work that still needs to be done on the greenway issue.

Disposition: Ordinance No. 171522. (Y-5)

At 3:10 p.m., Council adjourned.

BARBARA CLARK
Auditor of the City of Portland


By Cay Kershner
Clerk of the Council