



CITY OF
PORTLAND, OREGON

**OFFICIAL
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 11TH DAY OF FEBRUARY, 1998 AT 9:30 A.M.

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

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

Agenda No. 138 was pulled from Consent. On a Y-4 roll call, the balance of the Consent Agenda was adopted as follows:

CONSENT AGENDA - NO DISCUSSION

- 132** Accept bid of K & R Plumbing Construction Co., Inc. for NW Ariel Terrace sewer rehabilitation for \$78,438 (Purchasing Report - Bid 98074)

Disposition: Accepted; prepare contract.

- 133** Accept bid of Pacific Utility Equipment Co. for one 36,000 GVW cab and chassis with 65-foot aerial device for \$164,957 (Purchasing Report - Bid 98084)

Disposition: Accepted; prepare contract.

- 134** Accept bid of Pacific Utility Equipment Co. for two 36,000 GVW cab and chassis with 55-foot aerial device for \$301,858 (Purchasing Report - Bid 98085)

Disposition: Accepted; prepare contract.

- 135** Accept bid of Schlumberger Industries, Inc. for furnishing an annual supply of small domestic meters for \$144,340 (Purchasing Report - Bid 98107)

Disposition: Accepted; prepare contract.

- 136** Accept bid of American Building Construction for Peninsula Park restroom remodel for \$78,457 (Purchasing Report - Bid 98109)

Disposition: Accepted; prepare contract.

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- 137** Accept bid of Todd Hess Building Company for high head outfall valve modification for \$93,385 (Purchasing Report - Informal 981193)

Disposition: Accepted; prepare contract.

Mayor Vera Katz

- 139** Confirm reappointment of Steve Abel, Sarah ffitch and Ruth Scott to the Planning Commission (Report)

Disposition: Confirmed.

- 140** Confirm appointment of Dapo Sobomehin to the Police Internal Investigations Auditing Committee (Report)

Disposition: Confirmed.

- *141** Pay claim of Teresa Followell (Ordinance)

Disposition: Ordinance No. 171981. (Y-4)

- *142** Accept agreement between the City of Portland, Bureau of Police, and Campbell Delong Resources for community survey services not to exceed \$31,750 (Ordinance)

Disposition: Ordinance No. 171982. (Y-4)

- *143** Authorize contract with Portland Habilitation Center for \$398,272 per year for two years with a one-year option for janitorial services (Ordinance)

Disposition: Ordinance No. 171983. (Y-4)

Commissioner Jim Francesconi

- *144** Authorize the purchase of furniture for the Water Bureau through an Oregon State Price Agreement for approximately \$115,000 and provide for payment (Ordinance)

Disposition: Ordinance No. 171984. (Y-4)

- *145** Increase agreement with Braun Intertec by \$29,652 for additional services for 4th and Yamhill garage two-floor addition (Ordinance; amend Agreement No. 31126)

Disposition: Ordinance No. 171985. (Y-4)

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- *146** Amend Guaranteed Maximum Price contract with Gerding Investment Company for construction of the East Portland Community Policing facility (Ordinance; amend Contract No. 30354)

Disposition: Ordinance No. 171986. (Y-4)

- *147** Authorize the Director of Portland Parks and Recreation to establish fees for individual and tournament reservations at City golf courses (Ordinance; amend Code Section 20.20.010)

Disposition: Ordinance No. 171987. (Y-4)

Commissioner Charlie Hales

- 148** Accept completion by Pacific Coast Construction, Inc. of Grant, Creston and Sellwood Pool renovations, make final payment and release retainage (Report; Contract No. 30980)

Disposition: Accepted.

- *149** Revocable permit to Kells Irish Restaurant to close SW Pine Street between 1st and 2nd Avenues on March 13 through March 15, 1998 (Ordinance)

Disposition: Ordinance No. 171988. (Y-4)

- *150** Agreement with the Oregon Department of Transportation and the City of Milwaukie to provide for Phase II construction of the SE Johnson Creek Blvd., 32nd to 45th Avenues, project (Ordinance)

Disposition: Ordinance No. 171989. (Y-4)

- 151** Authorize appointment of Amy Schwartz to the position of Program Manager II (Communications Specialty) in the Bureau of Planning at a rate above mid-range (Second Reading Agenda 116)

Disposition: Ordinance No. 171990. (Y-4)

Commissioner Gretchen Miller Kafoury

- 152** Accept contract with Markman Incorporated as complete and make final payment (Report; Contract No. 31453)

Disposition: Accepted.

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Commissioner Erik Sten

153 Accept completion of the North Portland sewer extension Project No. 3, Project No. 5909, and authorize final payment to S-2 Contractors, Inc. (Report; Contract No. 31316)

Disposition: Accepted.

154 Authorize an Intergovernmental Agreement with the State of Oregon Department of Environmental Quality for a waste composition study in the amount of \$26,640 (Ordinance)

Disposition: Passed to Second Reading February 18, 1998 at 9:30 a.m.

*155 Provide additional funds for completion of the Sullivan Gulch sewer repair project, Project No. 6227 (Ordinance; amend Purchase Order No. 1021006)

Disposition: Ordinance No. 171991. (Y-4)

*156 Authorize contract to the lowest responsible bidder for construction of the high head outfall valve modifications (Ordinance)

Disposition: Ordinance No. 171992. (Y-4)

REGULAR AGENDA

138 Confirm appointment of Hubert Chan, Douglas Marker, Douglas Morgan and Paulette Rossi to the Portland Utilities Review Board (Report)

Discussion: Commissioner Sten moved to amend the report. Commissioner Kafoury seconded and, hearing no objections, the Mayor so ordered.

Disposition: Confirmed as amended. (Y-4)

128 **TIME CERTAIN: 9:30 AM** - Approve the permanent naming of the Newmark Theatre, formerly the Intermediate Theatre, in the New Theatre Building of the Portland Center for the Performing Arts (Resolution introduced by Commission Kafoury)

Discussion: Commissioner Kafoury noted the major contribution made by Herb and Judy Newmark to the Performing Arts Center.

Harriett Sherbourne, Portland Center for the Performing Arts Director, stressed the importance of healthy arts organizations in the promotion of cultural tourism. She described the policy for naming the theatres that had been

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adopted, and later updated, by the Metropolitan Exposition Recreation Center. Thanks to the generosity of the donors, the naming policy has helped provide a stabilized funding source for the theatres.

Herb Newmark said it was an honor to be associated with this particular theatre.

Disposition: Resolution No. 35674. (Y-5)

- 129** **TIME CERTAIN: 10:00 AM** - Authorize additional enforcement of Portland City Code Chapter 23.01, Portland's Civil Rights Ordinance through Interim Mediation Program and enhanced EEO compliance monitoring (Ordinance; amend Code Section 3.100.005; introduced by Mayor Katz and Commissioner Sten)

Discussion: Mayor Katz said the City will appeal a lower court decision overturning the inclusion of gays and lesbians in the City's civil rights ordinance. In addition, Chief Deputy City Attorney Madelyn Wessel has prepared an RFP for mediation services which, while not truly the answer, is an important interim measure.

Commissioner Sten said the other major component of this ordinance is the requirement that any business contracting with the City write an anti-discrimination clause into its contract. He said it is important for the City to use its purchasing power to let contractors know they need to follow the law if they want to do business with the City.

Mayor Katz clarified that the City still has a law forbidding discrimination against gays and lesbians. What is being challenged in court is taking away the right of private action.

Madelyn Wessel, Chief Deputy City Attorney, said the City's ordinance suffered a significant blow when the means for enforcing it was severely impaired by the court's decision. Mediation was recommended as an interim option until the matter is resolved in an estimated one to two years. She said the draft RFP will solicit input from the community and seek authority to return to Council with a potential contractor. The cost is not known yet. She, too, noted that this is an interim measure and if private right of action is not restored, the City will go on from there.

Commissioner Francesconi asked what the City would use as a stick to encourage mediation.

Ms. Wessel said the Bureau of Labor and Industries (BOLI) investigation continues even if mediation is refused. She said most cases do not get very far and that mediation usually involves a confidential settlement. The Code has

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been amended to bring it into full compliance with the new method of monitoring contracts, which will be implemented by Purchasing.

Sue Klobertanz, Manager, Contractor Compliance Division, Bureau of Purchasing, said their Equal Employment Opportunity (EEO) program has been expanded to include the actions described today. She discussed the educational tools they will explore and noted that additional staffing will be needed to do the statistical analyses and compliance reviews that will enable the Bureau to meet its five-day goal for contractor certification.

Individuals testifying in support of the ordinance included:

George Eighmey, State Representative, District 14
Bruce Samson, past president, Portland Chamber of Commerce and founder of the Fair Work Force Project
Retired Major Frank Dixon, Northwest Portland resident
Halon Gores, Portland Business Association
Barry Pack, Right to Pride

Supporters commended Council for this action, which is badly needed even though it is not a perfect solution. Several stressed the need for a Statewide anti-discrimination law on the basis of sexual orientation.

Margaret O'Hartigan, no address stated, said this measure does not go far enough in providing full funding for the enforcement of the civil rights law. She said Portland is the only City on the west coast that does not have its own enforcement agency.

Louise Weidlich, no address stated, opposed the measure, contending that businesses should be concerned with work quality, not sexual orientation.

Commissioner Francesconi said he supports this because it uses the City's economic power to end discrimination. Mediation and a better educational process will also help and call attention to the understaffing at BOLI.

Commissioner Sten said the whole Council has been united from the very beginning on this.

Mayor Katz said ensuring equal rights for everyone represents 25 years of unfinished business for Commissioner Kafoury and herself.

Disposition: Ordinance No. 171993. (Y-5)

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***130** **TIME CERTAIN: 10:30 AM** - Adopt findings, approve an alternative contracting process and create an exemption to the competitive bidding of ORS Chapter 279 for Central City Streetcar project general construction and streetcar vehicle procurement (Ordinance introduced by Commissioner Hales)

Discussion: John Magnuson, Chair, Portland Streetcar Inc. (PSI), said the streetcar project is ahead of schedule and under budget. He said they plan to pay for it through an LID process and bonds.

Peggy Fowler, sought Council support for an alternative contracting process, one used frequently by private businesses.

Other individuals speaking in support of the project and/or alternative contracting process included:

John Carroll, Chair, Portland Streetcar Citizens Advisory Committee
Michael Powell, Advisory Committee member
Art Lewellan, Buckman resident

Commissioner Francesconi asked about the makeup of PSI membership, who is negotiating the general contract and about the respective roles of the Office of Finance and Administration (OFA), the Portland Development Commission and the general public.

Mr. Magnuson said while PSI is a broad-based board composed of business owners, it is not opposed to adding other members. He said they have met often with Tri-Met and are trying to get a Tri-Met Board member to serve on the board. He said while they believe "too many cooks spoil the broth" they would be willing to add PDC and OFA members, too.

Commissioner Hales said Council could add members as it sees fit.

Mayor Katz said Commissioner Francesconi's point about the need for broader participation is valid as the project could become a major public/private partnership and a link with OFA should be considered.

Mr. Magnuson said no money will be spent until PSI returns to Council in June and in the meantime they can make their contacts with OFA more formal.

Commissioner Sten asked about the project's timing.

Mr. Magnuson said the goal is to have the streetcar running by July 4, 2000. To do that they need to order the cars soon and plan to return to Council in June with both an operational and capital budget.

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Mayor Katz said Council needs to know how PSI plans to finish funding this leg and then move ahead.

Disposition: Ordinance No. 171994. (Y-5)

- *131 Amend Agreement with Portland Streetcar, Inc. (PSI) providing for PSI to act on behalf of the City to carry out impartial alternate selection processes to negotiate general construction and streetcar vehicle procurement contracts and to submit recommendations to City Council for its approval (Ordinance; amend Agreement No. 31428; introduced by Commissioner Hales)

Disposition: Ordinance No. 171995. (Y-5)

- *157 Execute an agreement with the Oregon Community Foundation for future conveyance of property described as Park Block 5, Lots 1-4, for development and use as a public park subject to the provisions outlined in the agreement (Ordinance introduced by Mayor Katz and Commissioner Francesconi)

Discussion: John Hampton, Vice Chair, Oregon Community Foundation (OCF), said a \$5 million gift from Tom Moyer has enabled the Foundation to purchase a highly-prized piece of property owned by the Goodman family.

Greg Challet, Chair, Oregon Community Foundation, said this is a wonderful expression of civic responsibility. He said the OCF will acquire the property within two to five years and then deed it to the City, with the understanding that the City will commit sufficient resources to convert the current parking lot into a park and then maintain it.

Ruth Scott, Association for Portland Progress (APP), said APP would like to be an active partner with the Parks Bureau and PDC to make this a very special place.

Commissioner Francesconi said Parks is currently thinking of including some retail activity so that it does not become like O'Bryant Square.

Irwin Mandel, 1511 SW Park, said he rejoices that this property will not become a parking garage.

Charles Jordan, Director, Bureau of Parks and Recreation, said this is a tremendous opportunity for the City.

Commissioner Francesconi thanked the OCF, Tom Moyer and Doug Goodman. He said this adds a critical vertebrae to the Parks Blocks and will allow residents to enjoy the best of urban life.

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Mayor Katz said even though Council favored having a park here, it felt it had no other legal recourse when it approved the land use application for the parking lot. She said this should be a "signature" park and noted there are many options, including retail and underground parking, to be considered.

Disposition: Ordinance No. 171996. (Y-5)

Mayor Vera Katz

- *158 Accept a grant from the Oregon Department of Transportation and the Department of Land Conservation and Development Transportation and Growth Management Program in the amount of \$169,500 for the City of Portland 2040 Growth Fiscal/Service analysis project (Ordinance)

Discussion: Mayor Katz said this grant is critical in helping the City reach its Metro 2040 goals.

Disposition: Ordinance No. 171997. (Y-5)

At 11:55 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 FEBRUARY, 1998 AT 2:00 P.M.

THOSE PRESENT WERE: Mayor Katz, Presiding; 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.

- 159** **TIME CERTAIN: 2:00 PM** - Adopt Community and Neighborhood Plan Mapping and Title 33, Planning and Zoning, corrections (Ordinance; amend Title 33; introduced Commissioner Hales)

Discussion: Colleen Acres, Planning Bureau, described the 16 corrections that are being proposed today. She said this project responds to Code errors identified by property owners, staff and the Hearings Officer.

Disposition: Passed to Second Reading February 18, 1998 at 2:00 p.m.

Commissioner Jim Francesconi

- 160** Liquor license application for 6000 Glisan, Inc. dba Putter's Bar & Grill, 6040 SE Division Street, Dispenser Class A liquor license (new outlet); Favorable recommendation (Report)

Discussion: Judy Ritt, License Bureau, said the Bureau found no grounds to make an unfavorable recommendation as these operators are experienced and have a good record of compliance. Neighbors, however, have raised concerns about noise, litter, parking and traffic as well as the bar's proximity to a school and retirement home. The South Tabor Neighborhood Association entered into a good neighbor agreement but then voted not to support the favorable recommendation. She said the Bureau believes that even though this business will affect the neighborhood there is no basis to deny the application, especially as the operators are willing to work with the neighbors on any problems that arise.

Perry Christianson, Police Bureau Drug and Vice Division, said Goforths, the operator of Putter's, has been very cooperative in the past in dealing with such problems.

Peter Goforth, applicant, described Putter's operational plan and stressed that

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its customer base is expected to be neighborhood residents. While they recognize the need to respect neighborhood wishes they believe the area around 60th and Division is not now adequately served with operations of the type they propose. He outlined the terms of the good neighbor agreement.

Individuals testifying against a favorable recommendation included:

Kathi Fisher, 2420 SE 61st, 97206
Jeff Rutten, 2420 SE 61st, 97206
Roger Davis, 2743 SE 61st, 97206
Jack Lundgren, 10435 SE Home Ave., Milwaukie, OR 97222
Amy Osaki, 6005 SE Ivon, 97206
Patrick Murphy, 2819 SE 61st, 97206
Edith Gillis, 5309 SE 70th, 97206
Wes Rogers, 405 SE 80th, 97215
Don Bober, 2521 SE 58th, 97206
Patty Hayashi, 6105 SE Ivon, 97206
Michael Woolfolk, owner of tri-plex at 2415-2427 SE 60th, 972566
Sandy Springer, 2637 SE 60th, 97206
Debbie Kolibaba, 5905 SE Ivon, 97206
Colleen Loprinzi, 2724 SE 61st, 97206
Katherine Anderson, Crime Prevention Specialist, SE Uplift

Opponents said Putter's will have a negative effect on the livability of this very quiet neighborhood. They objected to the added traffic it is expected to generate and to its proximity to a school and to a senior care and day care facilities.

Mr. Goforth responded to the objections and to questions from Council. He said off-street parking will be provided for 20 cars and they do not believe residential streets will be negatively affected. He stressed their desire not to see patrons leave the bar in an intoxicated condition and that their emphasis will be on the restaurant, not the bar operation. He said a small neighborhood bar and grill will offer people in the neighborhood a place to walk to so they will not have to drive. He said the drinking environment in Portland has changed, with more emphasis on smaller, neighborhood places.

Commissioner Francesconi moved to accept a favorable recommendation based on the applicant's past track record. Commissioner Hales seconded.

Disposition: Favorably recommended. (Y-5)

At 3:20 p.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD AT MARSHALL HIGH SCHOOL, 3905 SE 91st AVENUE, THIS 11TH DAY OF FEBRUARY, 1998 AT 7:00 P.M.

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

OFFICERS IN ATTENDANCE: Barbara Clark, City Auditor; Linda Meng, Chief Deputy City Attorney; and Officer Chuck Bolliger, Sergeant at Arms.

- 161** **TIME CERTAIN: 7:00 PM** - Accept the background report for Floodplain Management in the Johnson Creek Watershed (Previous Agenda 70)

Disposition: Continued to April 9, 1998 at 7: p.m.

- *162** Adopt flood management amendments to the Johnson Creek Basin Plan District in Title 33 (Previous Agenda 71; amend Title 33)

Disposition: Continued to April 9, 1998 at 7 p.m.

- *163** Amend City Code to establish special provisions for the Johnson Creek Flood Zones (Previous Agenda 72; amend Code Section 24.50.060)

Discussion: Commissioner Sten said the Bureau of Environmental Services (BES), has put together a three-point management plan: 1) creation of park-like areas to accept floodwater; 2) City-use of FEMA funds to purchase and remove buildings in the flood area; and 3) work with other jurisdictions, especially those upstream, on flood management.

Becky Craig, BES, showed a video of flooding on Johnson Creek. She said while Johnson Creek has always flooded, increased development is making the situation worse every year.

Ivy Frances, BES, presented a map outlining the floodplain areas and noted that not every property designated in the flood risk area will flood in every event.

Tom McGuire, Planning Bureau, outlined the zoning changes being considered.

Kermit Robinson, Bureau of Buildings, said the existing regulations already require that the living area of any new structure be at least two feet above ground. The Bureau is now proposing a balanced cut-and-fill program as well.

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Citizens testifying on the proposed plan included:

Rick Herman, 9720 SE Knight, 97266
Glenn Taylor, Chair, Powell-Gilbert Neighborhood Association
Bob Roth, 8300 SE McLoughlin Blvd., 97202
Jon Repp, 3026 SE 85th, 97266
Bob Archer, 8609 SE Lambert, 97266
Vern Stockwell, 6457 SE 106th, 97266
Amy Cortese, 4803 SE Madison, 97215
Mike Spencer, 12434 SE Steele, 97236
Gary Sargent, 10207 SE Foster Rd., 97266
Robert Prosser, 11405 SE Harold, 97266
Don Schonert, 6336 SE 107th Ave., 97266
David Nonneman, 10815 SE Foster Rd., 97266
Ray Koistinen, 10355 SE Foster Rd., 97266
Richard Jacobson, 4154 SE 103rd Ave., 97266
Debby Black, 10815 SE Foster Rd.,
Patty Rueter, Portland Fire Bureau Office of Emergency
Management
Sher Malik, 11328 SE Harold, 97266
Joyce Beedle, 6622 SE 108th, 97266
Wes Wolff, 6622 SE 108th, 97266
John Vacarin, 10715 SE Foster Rd., 97266
Suzanne Bader, 5515 SE Knight, 97206
Linda Bauer, Pleasant Valley Neighborhood Association

Among the issues raised was the lack of proper public notice about tonight's meeting. Many of those testifying complained about the use of out-of-date and inaccurate data to designate properties within the floodplain area. Others complained about the increased flooding resulting from new development upstream and said area businesses and residents are being unfairly penalized because of the water coming from upstream. Several objected to limiting improvements to existing homes to 50 percent of assessed value and criticized the City's failure to maintain its own property properly. The legality of a berm on freeway land was questioned. Concerns was also raised about the willing seller program, the imposition of untested regulations on people's property and reduced property values.

In response to questions about remapping of the flood plain boundaries, Ms. Frances and Mr. Kermit outlined the schedule the City will follow to meet Federal Emergency Management Agency (FEMA) requirements for remapping. The final application would be made to FEMA in June 2000.

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Mayor Katz asked BES to see if there was a way to make this happen sooner.

Staff addressed the issues raised during the testimony and this was followed by a question and answer period. Many of the questions concerned specific properties whose owners disputed their current designations, i.e. in the flood risk or flood plain areas.

Commissioner Sten noted that timeliness is important here as many fill permits are being processed while these regulations are being considered. He said postponing a decision has its costs. He said he would ask Council to adopt a policy everywhere in the City that will allow no development that increases run-off.

Council agreed that another hearing is needed because of the lack of proper notification about tonight's meeting.

Disposition: Continued to April 9, 1998 at 7:00 p.m. at Marshall High School.

At 10:00 p.m., Council adjourned.

BARBARA CLARK
Auditor of the City of Portland

Cay Kershner

By Cay Kershner
Clerk of the Council