



CITY OF
PORTLAND, OREGON

**OFFICIAL
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 12TH DAY OF NOVEMBER, 1998 AT 2:00 P.M.

THOSE PRESENT WERE: Commissioner Kafoury, Presiding; Commissioners Francesconi, Hales and Sten, 4.

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

Agenda No. 1667 was pulled from Consent. On a Y-4 roll call, the balance of the Consent Agenda was adopted as follows:

CONSENT AGENDA - NO DISCUSSION

- 1652** Accept bid of GFA Corporation to furnish a collator for \$76,282 (Purchasing Report - Bid 99037)
- Disposition:** Accepted; prepare contract.
- 1653** Accept bid of Cherokee General Corp. for NE 59th Pl. temporary pump station for \$121,811 (Purchasing Report - Bid 99039)
- Disposition:** Accepted; prepare contract.
- 1654** Reject all bids for Erv Lind Stadium improvements (Purchasing Report - Bid 99047)
- Disposition:** Accepted.
- 1655** Reject all bids to furnish sidewalk improvements to NE Martin Luther King Jr. Blvd. from NE Failing to NE Shaver (Purchasing Report - Bid 99051)
- Disposition:** Accepted.
- 1656** Reject all bids to furnish electrical improvements to NE Martin Luther King Jr. Blvd. from NE Failing to NE Shaver (Purchasing Report - Bid 99052)
- Disposition:** Accepted.
- 1657** Accept bids of Computek, Microtech Systems, Inc. and FEI America, Inc. to furnish desktop computers and services for \$207,985 annually for one year (Purchasing Report - Bid 99070)

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Disposition: Accepted; prepare contract.

- 1658** Accept bid of Pro Landscape, Inc. to furnish NE Martin Luther King Jr. Blvd. urban youth tree planting for \$63,675 (Purchasing Report - Bid 99081)

Disposition: Accepted; prepare contract.

- 1659** Amend the vacation of certain portions of SE Tacoma Street, SE 24th and 25th Avenues, under certain conditions (Ordinance by Order of Council; C-9905)

Disposition: Passed to Second reading November 18, 1998 at 9:30 a.m.

Mayor Vera Katz

- *1660** Accept a modified grant for an additional \$375,000 from Federal Emergency Management Agency through Oregon Emergency Management for the Johnson Creek Floodway Hazard Mitigation Program (Ordinance)

Disposition: Ordinance No. 172848. (Y-4)

- *1661** Create the classification and establish the position of Legal Advisor, Fire, Police, Disability & Retirement in the City Auditor's Office in accordance with the Personnel Rules adopted by the City Council (Ordinance)

Disposition: Ordinance No. 172849. (Y-4)

- *1662** Authorize contract with Ceres Behavioral Healthcare Systems, LLC for payment of employee assistance program services for FY 1998-1999 (Ordinance; amend Contract No. 50371)

Disposition: Ordinance No. 172850. (Y-4)

- *1663** Authorize contractual agreement with Standard Insurance Company for employee life and long term disability insurance to the City of Portland's eligible participants for the period July 1, 1998 through June 30, 2003 (Ordinance)

Disposition: Ordinance No. 172851. (Y-4)

Commissioner Jim Francesconi

- *1664** Grant Specially Attended Transportation permits to Get-U-There Transport, Inc.; Kimberly K. Jackman, dba Cambridge Transportation; Liberty Medical Transportation, Inc.; Safe Transportation, Inc.; Walter Brothers, Inc., dba Handi-Cabs medical Transfer Service; Tesfaye G. Worku, dba Oregon Medical Transportation (Ordinance)

Disposition: Ordinance No. 172852. (Y-4)

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Commissioner Charlie Hales

- *1665** Accept grant of \$400,000 from U. S. Environmental Protection Agency for Portland Livable Communities Brownfield Showcase Project (Ordinance)

Disposition: Ordinance No. 172853. (Y-4)

Commissioner Gretchen Miller Kafoury

- *1666** Intergovernmental agreement with the City of Gresham for periodic mutual assistance (Ordinance)

Disposition: Ordinance No. 172854. (Y-4)

Commissioner Erik Sten

- 1668** Accept completion of the South Shore pump station rehabilitation, Project No. 5690, and authorize final payment to Triad Mechanical, Inc. (Report; Contract No. 30729)

Disposition: Accepted.

- *1669** Authorize the Director of the Bureau of Environmental Services to enter into an intergovernmental agreement with Multnomah County to fund the removal of abandoned vessels in the Oregon Slough (Ordinance)

Disposition: Ordinance No. 172855. (Y-4)

- 1670** Authorize construction contract for the Columbia Slough consolidation conduit, Construction Segment 3, Interstate 5 to Northeast 13th Avenue (Ordinance)

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

- 1671** Agreement with Otak, Inc., for \$300,000 for design and technical services for water main improvements and other design services as may be required (Ordinance)

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

- 1672** Accept a grant and authorize an Intergovernmental Agreement with the State of Oregon, acting by and through the Department of Environmental Quality and the City of Portland, acting by and through the Bureau of Environmental Services for assistance with the Ecological Business Program for the automotive repair shops in the amount of \$23,022 (Second Reading Agenda 1628)

Disposition: Ordinance No. 172856. (Y-4)

- 1673** Authorize a purchase order and provide for payment to furnish and deliver two new pumps and motors for the SE 112th Avenue pump station (Second Reading Agenda 1629)

Disposition: Ordinance No. 172857. (Y-4)

City Auditor Barbara Clark

- 1674** Transmit Certificate of Completion for street improvements in SE Water Avenue/Caruthers Street Local Improvement District (Report; C-9925)

Disposition: Accepted.

REGULAR

- 1667** Accept completion of the Brookside wetlands and stream enhancement, Project No. 5548, and authorize final payment to Brundidge Construction, Inc. (Report; Contract No. 30898)

Discussion: Cay Kershner, Clerk of the Council, said the Bureau had requested an amendment to correct the amount of retainage by \$10,000. Commissioner Sten so moved; Commissioner Hales seconded and the motion carried. (Y-4)

Disposition: Accepted as amended. (Y-4)

- 1651** **TIME CERTAIN: 2:00 PM** - Appeal of the Mount Tabor Neighborhood Association against Hearings Officer's decision to approve the application of Guy and Eric Bryant for a zone change in compliance with the comprehensive plan from R5 to R2 located at 5841 SE Yamhill off SE 60th (Hearing; 98-00502 ZC)

Discussion: Linda Meng, Senior Deputy City Attorney, outlined the procedures to be followed in this on-the-record hearing. Council members declared they had no ex parte contacts or conflicts of interest.

Sylvia Cate, Bureau of Planning, described the location of the proposed zone change from R5 to R2 in compliance with the comprehensive plan and noted that the R2 designation is adjacent to a commercial node at the intersection of Belmont and 60th. This R2 zoning was intended to encourage more small neighborhood commercial development with additional housing density nearby in order to provide local services within walking distance. Both Planning Staff and the Hearings Officer recommended approval. Zone change requests in compliance with the comprehensive plan have very narrow approval criteria, the key one being adequacy of public services, and evidence in the record supports a finding that the transportation system is adequate to support the proposed zone change. However, the appellant, the Mt. Tabor Neighborhood Association, argues that the transportation system is inadequate and that the traffic impacts have not been adequately analyzed. The appellant also argues that the comprehensive plan itself is out of date and has not been reviewed in a timely manner. However, this objection lies outside the approval criteria. Ms. Cate described the surrounding area which includes a parking lot immediately adjacent to the site and some nearby institutional and commercial uses at 60th and Belmont. Existing houses in the neighborhood are generally large with deep front-yard setbacks. Mature street trees are also typical. She noted that the application was filed 120 days ago.

Paul Leistner, President, Mount Tabor Neighborhood Association, 2350 SE 57th Avenue, said they filed this appeal in response to strong concerns raised about the impact of higher density this zone change would allow. The Neighborhood Association itself has not taken a formal position but has had ongoing discussions with directly-affected neighbors, particularly Neal Van Horn. He noted that a petition signed by 150 residents who opposed the zone change had been filed and there was strong support for having the neighborhood association file an appeal to this so that neighbors could present their concerns directly to Council. The neighborhood association held a special meeting on October 13, attended by 70 residents, and at that time the board voted to file the appeal. Neighbors told the board the Hearings Officer erred in finding that the transportation services were adequate to serve the maximum build-out under the proposed R2 zoning for this property. Regarding traffic, they believe the Hearings Officer's decision does not adequately consider the already heavy traffic on 60th, the poor service levels on SE Yamhill, Belmont and Stark, the increasing cut-through traffic or the impact of the 60-bed dormitory being built at the Christian Center. Mr. Leistner said there have been four fatalities on 60th Avenue in the past five years. The Hearings Officer's conclusion that parking services are adequate was based only on several site visits made during non-peak parking times and did not consider the impact of events at nearby churches and other facilities. Full build-out will bring six or more additional cars to the area and the City only requires one new parking space for each new residential unit. Residents also told the neighborhood association that approval will violate comprehensive plan goals that call for preserving neighborhood stability and that approval will extend R2 zoning quite a distance into the neighborhood, contradicting the goal of a cohesive node. A five-unit development would clash dramatically with the single family homes across the street and to the west on Yamhill and significantly change the character of the neighborhood. Mr. Leistner said the City has not reviewed the zoning in this area for at least 10 years although the comprehensive plan requires that it be done every five years. Neighbors believe the current R2 designation is not up-to-date or appropriate now in a this single-family neighborhood. With discontinuation of the East Portland Community plan there is currently no vehicle to actually look at zoning, which has been in effect since 1981 and may no longer be appropriate. The alternative to broader review, changing zoning site-by-site, is onerous and a barrier to both neighborhoods and developers who wish to achieve the 2040 vision. He said a vehicle to allow such reviews is badly needed. Finally, there is strong concern about incompatible design in new development which damages neighborhood character. Under current regulations, there are no design standards for their, or most other, neighborhoods. The existing Code often actually encourages poor design by forcing those who want to do good design to seek adjustments, which may cost thousands of dollars in added process and delays. The new base zone design standards the Planning Bureau is developing is a step in the right direction but there needs to be a way to get at these design issues in a broader way.

Commissioner Francesconi asked if the neighborhood would have appealed if base zone design standards were in place.

Mr. Leistner said some people dislike the idea of higher density development and having more cars in the area. Others fear what the neighborhood will look like if there are a bunch of garages and curb cuts on the street. People are fearful and unsure about the base zone design standards because they do not guarantee compatibility with the neighborhood.

Neal Van Horn, 5732 SE Yamhill, outlined the elements of the comprehensive plan he believes this zone change request violates. He said it will place multiple dwellings within two blocks of a neighborhood area and will have a substantially higher impact than single residences would on the character of the neighborhood, traffic and parking. The lack of comprehensive plan review has eliminated community input and if that review had occurred, the R2 comprehensive plan designation might have been removed. In essence, this proposal violates eight of the comprehensive plan goals and considers only Goal 10.8 which states that the change will be approved if adequate City water, fire and police protection are provided. He asked that approval of the zone change be denied or at least delayed.

Guy Bryant, applicant, said this small development proposal is in compliance with the comprehensive plan and meets Metro 2040 goals. He said he is an in-fill developer and makes great efforts to avoid the typical row house look so many people find objectionable. He described his plans to build two separate structures, with two row houses each, on this property and said it has been designed so that the buildings will appear to be two separate family houses. Regarding the approval criteria, before he bought the property he checked with staff in City bureaus to ensure that the services are adequate. All agreed the services were adequate and did not even recommend a traffic study because the impact would be so small. However, after concerns were raised about traffic, he commissioned a traffic study which found that four row houses, compared to single residences, would add no additional cars. They also did a service analysis at 60th and Belmont and found that was performing adequately, even assuming growth over the next few years. Even if more cars were generated, there would be no additional impact on the intersection 60th and Belmont. Mr. Bryant said he believes the anger directed on this proposal is not really about this project but about the impact of additional commuters to close-in neighborhoods.

In rebuttal, Mr. Van Horn said the impact of such development in a single-family residential neighborhood is significant. It is not traffic that troubles residents as much as it is the violation of the neighborhood continuity. He said row houses are simply inappropriate in here, in a neighborhood where currently there are none. There have been 160 requests from neighbors to consider a comprehensive plan change and approximately 200 nearby residents are opposed to this application. Only one person was found who supports it. Council is the only avenue the neighborhood has to prevent this inappropriate action.

Commissioner Hales moved to deny the appeal. Commissioner Sten seconded.

Commissioner Hales said one of the weaknesses of the two-map comprehensive plan approach adopted by the City in 1980 is that it gives neighborhoods false hopes that the City did not mean it when they designated sites such as this R2. It also set an easy-to-meet standard, whether services are adequate, for determining when the zone change is in compliance with the comprehensive plan. Council's only option is to follow the criteria and approve it, if the services are adequate. Mr. Van Horn raises a very good question about getting around to every part of the City in the long-range planning process and Council should discuss this further. However, any hope the City would down-zone large areas of the City from what was approved in 1980 is unlikely as the expectation is that room is needed for more people, not less, in the neighborhoods.

Commissioner Francesconi said the application meets the legal requirements about adequacy of service and that is what Council is limited to considering here. In this case the neighborhood is fortunate in having a good developer. However, there is no process now for Council to review base zone design standards across the City.

Commissioner Sten said the application meets the criteria and he does not think four units is unreasonable, especially as family sizes have been decreasing.

Disposition: Appeal denied. (Y-4)

Mayor Vera Katz

- *1675 Accept a \$352,659 grant from the Department of State Police, Criminal Justice Services Division for the Police Corps Program (Ordinance)

Disposition: Ordinance No. 172858. (Y-5)

Commissioner Charlie Hales

- 1676 Appeal of Jess Knowland against Hearings Officer's decision to approve with conditions the application of Mike and Deborah Smith for a four-lot subdivision with adjustments at 12441 SE Market Street (Previous Agenda 1647; 98-000387 SU AD)

Discussion: Ms. Meng outlined the procedures to be followed in this on-the-record hearing.

Bob Haley, Planning Bureau, summarized this proposal for a four-lot subdivision on SE Market where an existing home which will be retained. Transportation staff found that it was impractical to provide a street connection because the lot is so narrow. He said one of the appellant's issues is that temporary turnarounds are not provided. However, temporary turnarounds are only required when a street is stubbed out for future extension. In this case, the turnaround is permanent, not temporary, and so that issue is not applicable. The second basis of appeal is that the Hearings Officer approved a half street without the usual circles. Again, it is not a half street so this approval criteria is not applicable. Third, the appellant believes the proposal detracts from the desired character of the neighborhood. He said all development standards, except for two small adjustments, can be met. Staff recommended approval with conditions and the Hearings Officer upheld that recommendation.

The appellant, Mr. Knowland, was not present to testify as to his opposition and no other supporters of the appeal were identified.

Commissioner Kafoury noted that the neighborhood association had not approved the appeal and asked why the appeal fee was waived.

Mr. Haley said the neighborhood association did not oppose the proposal although it did not write in support of it. They knew this type of development was anticipated. He said the fee was waived because the appellant qualified for the low-income fee waiver.

Commissioner Kafoury said an appellant ought to have some support from the neighborhood if a low-income fee waiver is granted. She said she has never seen a case where a single person had the right of appeal.

Mr. Haley said the Planning Bureau has since changed its policy to state that low-income waivers are intended to apply only to applicants whose requests have been denied.

Commissioner Francesconi moved to deny the appeal. Commissioner Sten seconded.

Disposition: Appeal denied. (Y-4)

1677 Revise Street Vacation Fees (Second Reading Agenda 1640; amend City Code Title 17)

Disposition: Ordinance No. 172859. (Y-4)

Commissioner Gretchen Miller Kafoury

*1678 Contract with Multnomah County for \$1,292,693 to administer homeless, public safety, youth employment and empowerment, and housing programs and provide for payment (Ordinance)

Discussion: Commissioner Kafoury said this involves retroactive payments for July 1 until December 31, 1998.

Commissioner Francesconi said the \$125,000 under public safety on Page 2/Table A is the youth violence reduction package funded from one-time money Council has already approved. The Ocha Listos program worked very well this summer and Bridge Builders is an African-American mentorship program, primarily at Jefferson, which has also shown a lot of success. He said the House of Umoja has changed leadership and does not want to go ahead with their program at this time.

Disposition: Ordinance No. 172861. (Y-4)

*1679 Accept a grant from the Oregon Dispute Resolution Commission in the amount of \$33,000 for FY 1998-1999 to support community enhancement programs of the Neighborhood Mediation Center (Ordinance)

Discussion: Commissioner Kafoury said part of the agreement made when the City took back mediation services was that staff would seek additional resources. This grant reflects their efforts.

Disposition: Ordinance No. 172861. (Y-4)

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Commissioner Erik Sten

- *1680** Authorize application to the Environmental Protection Agency for a grant in the amount of \$170,000 for an environmental education program focusing on Willamette River Issues (Ordinance)

Discussion: Commissioner Sten said he is convinced that by educating the younger generation, the community will be able to solve the problems on the Willamette. This grant asks for some money to do that.

Discussion: Ordinance No. 172862. (Y-4)

- 1681** Grant a franchise to FTV Communications, LC for a period of ten years (Second Reading Agenda 1644)

Disposition: Ordinance No. 172863. (Y-4)

- 1682** Grant a franchise to Pacific Fiber Link, LLC for a period of ten years (Second Reading Agenda 1645)

Disposition: Ordinance No. 172864. (Y-4)

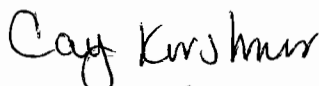
City Auditor Barbara Clark

- 1683** Assess property for sidewalk repair by the Bureau of Maintenance for billing processed through October 2, 1998 (Second Reading Agenda 1646; Y1030)

Disposition: Ordinance No. 172865. (Y-4)

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

BARBARA CLARK
Auditor of the City of Portland


By Cay Kershner
Clerk of the Council