



CITY OF
PORTLAND, OREGON

**OFFICIAL
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 24TH DAY OF FEBRUARY, 1999 AT 9:30 A.M.

THOSE PRESENT WERE: Mayor Katz, Presiding; Commissioners Francesconi, Hales, Saltzman 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. 265 was pulled from Consent. On a Y-5 roll call, the balance of the Consent Agenda was adopted as follows:

CONSENT AGENDA - NO DISCUSSION

- 252** Reject all bids for the Eastmoreland Golf Course golf cart storage facility (Purchasing Report - Bid 99112-SMP)

Disposition: Accepted.

- 253** Accept bid of S-2 Contractors Inc. for Taggart Basin CSO sump unit 4 phase II for \$289,412 (Purchasing Report - Bid 99119)

Disposition: Accepted; prepare contract.

Mayor Vera Katz

- *254** Authorize the settlement of a grievance filed on behalf of Crime Prevention Representatives in the Office of Neighborhood Involvement by AFSCME, Local 189 (Ordinance)

Disposition: Ordinance No. 173116. (Y-5)

- *255** Establish one position of Applications Analyst II, Bureau of Fire, Rescue and Emergency Services, in accordance with the Personnel Rules adopted by the City Council. (Ordinance)

Disposition: Ordinance No. 173117. (Y-5)

FEBRUARY 24, 1999

- *256** Pay claim of Mary Yazzolino-Travis (Ordinance)

Disposition: Ordinance No. 173118. (Y-5)

Commissioner Jim Francesconi

- *257** Authorize Intergovernmental Agreement with Clark County, Washington for lease of public safety radio tower location known as "Prune Hill" (Ordinance)

Disposition: Ordinance No. 173119. (Y-5)

- *258** Increase purchase order with Dan Obrist Excavation for the removal of two underground fuel tanks and removal of contaminated soil at Kelly Butte Park (Ordinance; amend PO No. 1022407)

Disposition: Ordinance No. 173120. (Y-5)

Commissioner Charlie Hales

- 259** Recommend opposition to legislation creating additional oversight and regulation of code enforcement procedures in the Portland metropolitan area, and support for the establishment of intergovernmental agreements when necessary to enhance consistency in building code enforcement services (Resolution)

Disposition: Resolution No. 35772. (Y-5)

- *260** Amend Code for Transportation System Development Charges (Ordinance; amend Code Chapter 17.15)

Disposition: Ordinance No. 173121. (Y-5)

- *261** Revocable permit to Kells Irish Restaurant to close SW Pine Street between 1st and 2nd Avenues on March 12 through March 17, 1999 (Ordinance)

Disposition: Ordinance No. 173122. (Y-5)

Commissioner Dan Saltzman

- *262** Authorize a confidentiality agreement with the Portland Harbor Group to pursue investigation of sediment contamination in the Portland Harbor (Ordinance)

Disposition: Ordinance No. 173123. (Y-5)

- *263** Authorize a contract and provide for payment for the design of Lents Interceptor/Johnson Creek Restoration, Project No. 6500 (Ordinance)

Disposition: Ordinance No. 173124. (Y-5)

FEBRUARY 24, 1999

- *264** Authorize a contract with Carollo Engineers, P.C. for Sullivan, Stark and Holladay Basins predesign, Project No. 6426 (Ordinance)

Disposition: Ordinance No. 173125. (Y-5)

Commissioner Erik Sten

- *266** Agreement with the Coalition of Black Men for \$24,000 to serve as fiscal agent for the Prospective Gents' Club Rites of Passage Program and provide for payment (Ordinance)

Disposition: Ordinance No. 173126. (Y-5)

City Auditor Gary Blackmer

- *267** Assess system development charge contracts and Private Plumbing Loan Program contracts (Ordinance; Z0699, Z0700, T0017, T0018, K0001, K0002, P0040)

Disposition: Ordinance No. 173127. (Y-5)

REGULAR AGENDA

- *265** Authorize a contract and provide payment for the NW 110th and St. Helens Road Combined Sewer Overflow Control project, Project No. 6490 (Previous Agenda 247)

Disposition: Referred to Commissioner of Public Affairs.

Mayor Vera Katz

- *268** Accept a \$235,000 grant from Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms for G.R.E.A.T. regional training by the Portland Police Bureau (Ordinance)

Disposition: Ordinance No. 173128. (Y-5)

- *269** Accept a \$400,000 grant from the Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms for the G.R.E.A.T. program by the Portland Police Bureau (Ordinance)

Disposition: Ordinance No. 173129. (Y-5)

Commissioner Charlie Hales

- *270** Authorize application to the Governor's Watershed Enhancement Board for a grant in the amount of \$400,000 for the replacement of a culvert at the intersection of SE Foster Road and SE 162nd Avenue (Ordinance)

Discussion: Commissioner Hales said he is recommending taking a slightly different approach in the application than what was in the Council packet. He said an issue was raised about whether

the City should seek more State funds than originally sought in order to build an arched culvert or to build a bridge. He understands the Metro Green Spaces program is interested in having the City build a bridge in order to provide safe pedestrian passage under Foster Road between two future green spaces. This is a great idea and he has asked the Portland Office of Transportation (PDOT) to amend the application to inform the State of its desire to possibly build a bridge and ask it to allow the City to have the flexibility to apply any grant funds to either a bridge or a culvert. Commissioner Hales cautioned that building a bridge will be far more expensive, possibly \$1.7 million more expensive, than building an arched culvert. There is currently a \$600,000 request for transportation funds in front of Metro and that amount added to the State monies will still fall far short of the \$1.7 million cost of the bridge. He asked the rest of Council to step up and help find funds from the region, the Governor's Watershed Enhancement Board and anywhere else, to get to the preferred result. Some confusion about the alignment has risen but it is clear to him that in order to meet the mandate of the different regulatory agencies, the C-2 alternative needs to be taken, which means that the road will be no wider than the existing culvert. This may add additional cost and probably require the construction of several retaining walls and the removal of more than 100 trees. However, it will be better in terms of the impact on fish. Finally, while both he and PDOT think a bridge would be great, it will require that the Council step up and find additional funds. Leaving this in its current condition is unacceptable but building the project everyone prefers is going to cost a lot more. He said he appreciates Commissioner Sten's willingness to work on this.

Commissioner Sten said this has been a very tough project for Transportation for a very long time and is really the first case that falls under that category under the Endangered Species Act (ESA) of a change the City needs to make that is going to cost a fair amount of money. The City's biologists think Kelly Creek is the best possible spawning ground for fish in the City and targeting resources here has the most chance of almost any of restoring fish. But it will cost about \$1,000,000 more to do the design this way, money Transportation clearly does not have. Trying to find some help from the State and Metro is very important and these projects are the kinds of things Council will have to think through during future budget processes. He noted recent publicity about the Council's desire to think through the CSO strategy and said any implication that this means the City will back off on the sewers is untrue. The argument is over whether some of the budgets should be adjusted to spend the savings in other places. This project would be an absolutely perfect example of a complementary project and it would be nice to have the flexibility to do so. As people talk about trying to have one budget throughout the City to link the fish and clean water issues with infrastructure issues, here is an example of a case where it will cost \$1,000,000 to do better fish treatment of this culvert but it will gain a lot more than other expenditures.

Greg Jones, PDOT, said PDOT has submitted an application to the Governor's Watershed Enhancement Board for \$400,000 for an arched culvert for Kelly Creek and this ordinance supports that application. Currently Kelly Creek is blocked for fish passage by a box culvert and the arched culvert will provide for fish passage and open the upper reaches of Kelly Creek. PDOT strongly supports efforts to restore fish passage and recognizes that the old standards of modifying existing culverts with baffles is insufficient. The new standard of natural bottom culverts is a much better solution. PDOT supports the amendment to specify the C-2 alignment with the arched culvert or bridge with a minor modification to reduce some of the impact to the trees. Mr. Jones noted that

FEBRUARY 24, 1999

there is no need to amend the ordinance itself, only the grant application. They plan to return to Council after they get the permit to do the final selection of the preferred alternative.

Commissioner Hales said the ordinance is fine but what they would like to do is get the sense of the Council.

Mayor Katz asked how much other money they believe is needed and if there is a plan for getting the money.

Mr. Jones said they have requested \$400,000 for the arched culvert and if the C-2 alternative is selected, the cost is estimated at \$3.6 million. The C-2 alternative keeps the roadway in the same alignment as the existing roadway, minimizing the impact to the environmental zone on both sides. It does that by cutting into the hillside both east and west of the 162nd intersection. Right now Transportation has amassed \$2.2 million in resources. They are requesting \$400,000 from Governor's Watershed Enhancement Board will try to cover the shortfall either through the Metro process or other funding sources. If the bridge alternative is selected there will be an even larger shortfall. Mr. Jones said the last issue is the bridge itself. Metro has been trying to acquire green spaces along Kelly Creek and has submitted an application to support a bridge with pedestrian access underneath along the Creek to the green space area. The bridge alternative would cost an additional \$2.2 million.

Mayor Katz asked if they had estimated any outcomes in terms of fish restoration.

Mr. Jones said this is PDOT's first effort to address a fish passage issue in one of its projects. Right now Kelly Creek is blocked so that no fish passage for steelhead is possible. This would open up two areas above the culvert to offer spawning grounds for the fish.

Mayor Katz said as the City begins spending large amounts of money for endangered species, it ought to start making a conservative estimate as to what outcomes might result so people can see if those expenditures are wisely focused.

Mr. Jones said PDOT does not know yet what the outcomes will be. This is their first effort and they do not yet have a good idea about how much funding might be needed to provide for fish passage. As they learn through this process, they will be better able to set future benchmarks.

Commissioner Sten said the City does need specific goals and there are a lot of infrastructure projects around town that could potentially be tricky. However, there are a finite number of streams in Portland that have fish and where there would be this kind of impact. While this is the first time the City has had a significant, unexpected fiscal impact from trying to respond, they should be able to predict most of them better in the future.

Commissioner Saltzman said he thinks the City should start inventorying projects like this where it has to go over and above what it would normally do in order to be fish friendly.

Mr. Jones said that is PDOT's intent. They participate in the ESA committee effort and will try to identify those improvements they would have to make. They have found that what previously was

FEBRUARY 24, 1999

thought of as the low-cost solution is no longer acceptable, i.e. placing baffles in existing culverts.

Commissioner Sten said what you cannot always predict is what a third party will allege the City should do. Within a year they hope to have a proposal that can be costed out. This project has come up during the interim.

Commissioner Hales noted that the City also has not had a chance to adjust budgets to deal with it.

Mr. Jones said they were not sure what the regulatory agencies were going to require through the permit process. This provides a test case for that effort.

Mayor Katz said if the City can begin to look at outcomes then it can talk to agencies about possibly diverting some resources from other projects.

Bob Roth, Watershed Coordinator, Johnson Creek Watershed Council, said the Watershed Council was unable to support the original PDOT proposal because of the negative effect it believed the alignment option would have on the riparian areas upstream from Foster Road. With the change in the alignment option, the Council can support this. He said the entire Kelly Creek drainage has basically been cut off upstream from Foster Road for decades since the culvert was installed. Once it is replaced with the arched culvert, fish should have access to the Kelly Creek drainage basin, a 1,500 acre area where the targeted Urban Growth Boundary extension is slated to put roughly 15,000 to 16,000 people. It will be a real challenge to do this and at the same time try to restore and enhance habitat.

Linda Bauer, 6232 SE 158th Avenue, 97236, thanked everyone who has been involved. She said she testified before Metro on the grant application and Commissioner Washington said he was impressed.

Commissioner Francesconi asked at what point Council will be looking at reallocating some of these resources.

Commissioner Saltzman said nothing is a done deal yet. Talks are ongoing with the regulatory agencies who indicate they are willing to consider making investments in watershed restoration that would otherwise go into pipes. A public process will begin within several months.

Commissioner Francesconi asked how long it would take to determine how much resources would be needed.

Commissioner Saltzman said he could provide that information but before the City does anything, the Department of Environmental Quality and Environmental Protection Agency will need to sign off.

Commissioner Sten said to do anything significant there will have to be some agreements in place by the end of this year or the City will not meet the 2011 deadline. The City has already spent over \$200 million on Combined Sewer Overflow (CSO) projects and by the end of year there will be

no CSOs at all into the Columbia Slough. The Willamette River work will begin the end of this year and the City will need to know by then what it is doing.

Commissioner Francesconi said this is very good work but there is a need to rate the top areas which can make a difference and prioritize these projects. Some resources will need to be redirected, especially if it turns out that this stream work will benefit the fish more than other approaches. The fact that the bureaus are cooperating so effectively leads him to believe the City can meet the response without a federal mandate.

Commissioner Hales said he is happy PDOT was able to find a good design solution to both fish passage and transportation concerns in this location. Now they will have to work at least as hard to find the funds.

Commissioner Sten thanked the parties involved, particularly the Watershed Council which was very helpful in helping the City come up with a good design.

Mayor Katz said Council needs to refocus its attention on benchmarks and outcomes for everything it does.

Disposition: Ordinance No. 173130. (Y-5)

***271** Amend Title 33, Planning and Zoning to establish the Cascade Station/ Portland International Center plan district (Previous Agenda 251)

Discussion: Mayor Katz said last week Council discussed the need to find some new language for the agreement regarding stormwater treatment. Language has now been prepared which gives the parties involved some flexibility to amend the projects.

Bob Alexander, Portland Development Commission, said PDC and Bureau of Environmental Services (BES) staff met and have drafted language dealing with preferential treatment for surface water treatment of rooftop drains. They hope it will be acceptable to everyone. It states a clear preference for the method of treatment but does provide an alternative if there are site or other constraints. BES came up with some criteria that can be used and that should serve fairly well. The agencies will look at these on a site-by-site basis but it basically will apply to four sites. This is not, however, a long-term solution that could be included in the stormwater manual.

Mayor Katz asked if the language will put any unusual constraints on the development of those sites.

Mr. Alexander said no.

Linda Dobson, BES, said this shows a clear preference for the kind of systems Council talked about last week and yet provides flexibility, allowing PDC and BES to review the projects together in order to balance the needs.

Commissioner Saltzman said the amendments adopted last week adopted basically required

landscaped swales for parking lots in subparcel B of the Cascade Station, Portland International Center. What is before Council now is proposed language that would be in the agreement between PDC and the Port of Portland, expressing the City's clear preference for water quality surface landscaping systems. On page 2 of Mr. Alexander's memo is language that would be inserted into the CC&Rs for any tenant, indicating the City's preference for landscaped approaches but recognizing that may not always work. Both PDC and BES would be involved in making a finding that the landscape approach is impractical.

Ms. Dobson said she is glad that the Port has been involved.

Mr. Alexander said this work was a relatively easy task compared to the hundreds of hours that went into the overall plan.

Mayor Katz said if this kind of environmental treatment is critical, then BES needs to be involved at the very beginning so these concerns are resolved by the time these proposals get to the Planning Commission.

Ms. Dobson agreed.

Commissioner Francesconi said this is a terrific project. It extends light rail, enhances the Port and is a producer of quality jobs. He said he would also like to see similar efforts made for existing businesses, especially small ones.

Mayor Katz said a variety of people have worked very hard to make this project happen. There is more to come in terms of the final project and they expect to be able to come back very shortly and say this is a "go."

Disposition: Ordinance No. 173131. (Y-5)

Commissioner Dan Saltzman

272 Adopt industrial wastewater batch discharge service fees (Ordinance)

Discussion: Commissioner Saltzman noted that while this establishes a \$50 administrative fee, the dischargers also pay a volume charge as well. The \$50 simply covers the cost of granting the permit.

Sue Keil, Bureau of Environmental Services (BES), said generally this applies to people who have clean-ups on their sites of something that has been treated and then needs to be discharged. This is an administrative processing fee which BES recommended adding quite some time ago. It will only generate about \$12,500 per year.

Disposition: Passed to Second Reading March 3, 1999 at 9:30 a.m.

Communications

- 273 Request of Ashley Sinclair to address Council regarding legal protection from discrimination for transsexuals and transgender people (Previous Agenda 250)

Discussion: Ashley Sinclair, no address stated, asked Council to follow the lead of Benton County, Seattle and other Northwest jurisdictions and strengthen the current ordinance protecting transsexuals and transgenders from discrimination. She said Council needs a more effective ordinance than one the Council adopted on December 23, 1998, which uses mushy, vague language copied from the one passed by West Hollywood.

Disposition: Placed on File.

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

GARY BLACKMER
Auditor of the City of Portland



By Cay Kershner
Clerk of the Council

FEBRUARY 24, 1999

WEDNESDAY, 2:00 PM

DUE TO THE LACK OF AN AGENDA

THERE WAS NO MEETING