



CITY OF
PORTLAND, OREGON

**OFFICIAL
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 6TH DAY OF OCTOBER, 1999 AT 9:30 A.M.

THOSE PRESENT WERE: Mayor Katz, Presiding; Commissioners Francesconi, Hales and Sten, 4.

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

Agenda No. 1411, 1422 and 1423 were pulled from Consent. On a Y-4 roll call, the balance of the Consent Agenda was adopted as follows:

CONSENT AGENDA - NO DISCUSSION

- 1401** Accept bid of AC/DC Electrical Services to furnish the Firehouse Theater electrical renovation for \$58,270 (Purchasing Report - Bid 99312)

Disposition: Accepted; prepare contract.

- 1402** Accept bid of B.J. Cummings Company to furnish HVAC improvements at the Portland Communications Center for \$70,756 (Purchasing Report - Bid 99314)

Disposition: Accepted; prepare contract.

- 1403** Accept bid of Bonstan Construction Co. to furnish NW 110th Avenue Combined Sewer Overflow control project for \$327,134 (Purchasing Report - Bid 99337)

Disposition: Accepted; prepare contract.

- 1404** Accept bid of Nutter Corporation to furnish NE Martin Luther King Jr. Blvd. (NE Russell St. to NE Knott St.) sidewalk improvements for \$193,612 (Purchasing Report - Bid 99406)

Disposition: Accepted; prepare contract.

- 1405** Accept bid of Valley Iron and Steel Co. to furnish ornamental street light poles for \$198,300 (Purchasing Report - Bid 991511)

Disposition: Accepted; prepare contract.

Mayor Vera Katz

- 1406** Accept the Portland Development Commission's annual Urban Renewal Area report for fiscal years 1998-99 and 1999-00 (Report)

Disposition: Accepted.

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- 1407** Confirm appointment of Alice Myton, Grace Gallegos and Randy J. Miller to the Regional Arts and Culture Council as of July 1, 1999 (Report)

Disposition: Confirmed.

- 1408** Confirm reappointment of Doug Macy, Bob Van Brocklin and Carol Lewis to the Regional Arts and Culture Council as of July 1, 1999 (Report)

Disposition: Confirmed.

- 1409** Adopt City of Portland Investment Policy (Resolution)

Disposition: Resolution No. 35828. (Y-4)

- *1410** Authorize Limited Tax Revenue Bonds to finance various public purposes (Ordinance)

Disposition: Ordinance No. 173801. (Y-4)

- *1412** Create two new funds in FY 1999-2000 (Ordinance)

Disposition: Ordinance No. 173802. (Y-4)

- *1413** Authorize contract with Kaiser Foundation Health Plan of the Northwest, Kaiser-On-The-Job for workers' compensation managed health care services (Ordinance)

Disposition: Ordinance No. 173803. (Y-4)

- *1414** Authorize contract with Managed Healthcare Northwest CareMark Comp for workers' compensation managed health care services (Ordinance)

Disposition: Ordinance No. 173804. (Y-4)

- *1415** Pay claims of Tony Pham and Serena Saechao (Ordinance)

Disposition: Ordinance No. 173805. (Y-4)

- *1416** Authorize the Purchasing Agent to sign a Purchase Order as a contract with Digital Biometrics for a modular "Live Scan" device, not to exceed \$67,605, without advertising for bids and provide for payment (Ordinance; waive City Code 5.32)

Disposition: Ordinance No. 173806. (Y-4)

- *1417** Extend legal services agreement with Hoffman, Hart & Wagner LLP (Ordinance; amend Agreement No. 32205)

Disposition: Ordinance No. 173807. (Y-4)

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Commissioner Jim Francesconi

- *1418** Grant specially attended transportation permits to Associate Transport K and Sunset Transport (Ordinance)

Disposition: Ordinance No. 173808. (Y-4)

- *1419** Apply for an \$11,000 grant from the Oregon State Police, Office of Emergency Management, for Portland Fire and Rescue (Ordinance)

Disposition: Ordinance No. 173809. (Y-4)

- *1420** Authorize a contract with B.J. Cummings Co. to install an additional HVAC roof top unit at Portland Communications Center and provide for payment (Ordinance)

Disposition: Ordinance No. 173810. (Y-4)

- *1421** Authorize a contract and provide for payment to furnish certain FY 1999-2000 City vehicle requirements (Ordinance)

Disposition: Ordinance No. 173811. (Y-4)

Commissioner Charlie Hales

- *1424** Amend contract with Stacy and Witbeck, Inc. to carry out the installation of street light conduit and junction boxes on SW 10th and 11th Avenues from W Burnside to SW Jefferson Street (Ordinance; amend Contract No. 31987)

Disposition: Ordinance No. 173812. (Y-4)

Commissioner Dan Saltzman

- 1425** Accept completion of the Alder Basin reconstruction Phase 2, Unit 3, Project No. 6266, and authorize final payment to James W. Fowler Co. (Report; Contract No. 31674)

Disposition: Accepted.

- *1426** Authorize a contract and provide additional funding for the construction of NW St. Helens Road and NW Saltzman Road sanitary sewer extension project, Project No. 6179 (Ordinance)

Disposition: Ordinance No. 173813. (Y-4)

Commissioner Erik Sten

- *1427** Authorize a proposal to Pacific Power and Light to market PPL's weatherization program and assist multifamily property owners with weatherization projects (Ordinance)

Disposition: Ordinance No. 173814. (Y-4)

- *1428** Agreement with SE Works for \$23,870 to assist young people in Outer SE Portland in acquiring unsubsidized employment and to provide for payment (Ordinance)

Disposition: Ordinance No. 173815. (Y-4)

- *1429** Contract with worksystems, inc. for \$50,000 to create and manage a technical assistance fund for organizations operating employment and training programs to high risk youth and provide for payment (Ordinance)

Disposition: Ordinance No. 173816. (Y-4)

City Auditor Gary Blackmer

- *1430** Assess system development charge contracts and Private Plumbing Loan Program contracts (Ordinance; Z0713, Z0714, K0013, T0027, K0012, T0029, P0046)

Disposition: Ordinance No. 173817. (Y-4)

REGULAR AGENDA

- *1411** Authorize Limited Tax Pension Obligation Revenue Bonds (Ordinance)

Discussion: Ken Rust, Director, Bureau of Financial Management, explained why staff chose to cover the unfunded actuarial accrued PERS liability through the issuance of bonds rather than by borrowing money from PERS. He noted that last year the City was informed that its contribution rate was going to be increased about 66 percent and that its unfunded liability totaled \$268 million. He said having the City issue the bonds will be far less expensive than allowing PERS to carry the liability as the City can borrow the money more cheaply even though the credit markets have been rising recently. He said they hope that the PERS system will make the corrections needed to put it on a strong, stable and equitable financial footing for both employers and employees. If it does not get fixed, the City may face increased liabilities.

Mayor Katz asked how much of this was due to decisions made by the PERS Board and the Legislature's inability to deal with the liability issue.

Mr. Rust said the liability has three components. One piece is the cost associated with the taxation of public retiree benefits, which was passed onto the PERS system and accounts for approximately \$60 million of the City's unfunded liability. About \$40 million stems from the City's annexation of mid-Multnomah County areas and taking over all Fire District 10 employees. While the City has all the employees, it does not have all the assessed value and believes that PERS has inappropriately allocated too much of the cost to the City. The City is contesting that and hopes to reduce that assessment to between \$15 and \$20 million. The remaining liability represents errors by the PERS Board in not matching up employee distributions with the employer's account. The City tried, but failed, to fix PERS' inaccurate and long-standing interest-crediting practices legislatively and is now trying to change them administratively. If those changes do not occur there is no way for employers to match employee returns in the money match program. Approximately \$160 million of

the \$268 million liability is directly attributable to a series of past practices by the PERS Board which could have been prevented.

Eric Johanson, City Debt Manager, explained the City's efforts to finance the bonds. Currently, staff anticipates selling \$300 million in bonds, approximately half in the variable rate mode and half at a fixed rate.

Mr. Rust said he does not believe the risk of higher interest rates is substantial as the City has a natural ability to hedge because of the financial assets it already has. If interest rates drop, the City will remove the variable rate risk.

Commissioner Francesconi said given the enormity of the problem, the City must take some small risks.

Disposition: Ordinance No. 173818. (Y-4)

S - *1422 Lease for warehouse space at 1610 NW Couch Street (Ordinance)

Discussion: Diana Lee Holuka, Property Manager, Bureau of General Services, said the Substitute involves a minor change, allowing the Bureau of Environmental Services to handle the lease payments rather than BGS.

Commissioner Sten moved the Substitute. Commissioner Francesconi seconded and, hearing no objections, the Mayor so ordered.

Disposition: Substitute Ordinance No. 173819. (Y-4)

***1423** Approve agreement with Vintage Trolley, Inc. to provide \$150,000 in funding support for 1999 operations during FY 1999-2000 (Ordinance)

Discussion: Cay Kershner, Clerk of the Council, said staff had asked that this be continued.

Disposition: Continued to October 20, 1999 at 9:30 a.m.

***1400** **TIME CERTAIN: 9:30 AM** – Create a local improvement district to construct street improvements in the NW Naito Parkway/Steel Bridge to NW 9th Avenue Local Improvement District (Hearing; Ordinance introduced by Auditor Blackmer; C-9970)

Discussion: Vic Rhodes, Director, Portland Office of Transportation (PDOT), said this project grew out of the River District Strategic Investment Plan and is about transforming NW Naito Parkway from an urban freeway into a neighborhood collector street with bicycle lanes, wide sidewalks, street trees and ornamental lights. He said 100 percent of the affected property owners support creation of this Local Improvement District (LID). He said the original private sector cost was estimated at \$700,000 but, by applying the \$1.5 million in General Fund money originally set aside for this project and reducing some of the cost factors on the north end, the cost of the LID has been lowered to \$530,000.

Commissioner Francesconi asked if freight transport into the industrial sanctuary is a concern.

Mr. Rhodes said Naito Parkway currently carries 12,000 vehicles, no different than streets like Woodstock Boulevard, Division and Belmont Streets. There are high traffic peaks when employees at major companies get off work but there are viable alternative routes and his office does not anticipate a major problem. Advance warning signs will be put up to advise motorists of train blockages at the Steel Bridge which is the one anomaly that exists here.

Commissioner Francesconi said there seems to be some concern about traffic at peak hours because some of the intersections are already at an "F" service level.

Mr. Rhodes said those projections are based on what might happen in 2010 and 2020. At some time in the future PDOT may need to work with some of the major companies, such as Gunderson and Wacker, to break up shift times. Once the project is built, staff will review what might need to be done about peaking factors from the major employers.

Commissioner Francesconi asked whether the City is relying on the Kittelson traffic report done in 1994 and whether any other traffic reports of this area have been done.

Mr. Rhodes said he is relying on the judgment on his staff, who believe traffic will not be a big problem.

Commissioner Hales said this project is not intended to fix a deficient transportation facility but instead is intended to create a livable River District neighborhood. Traffic management is a problem that has to be solved when changes are made but it is not the design objective, which is to create a good streetscape and a good neighborhood.

Mayor Katz said the City knew it would have to do an LID at some point as it did not have the resources to get this done entirely through the General Fund.

Disposition: Ordinance No. 173820. (Y-4)

Mayor Vera Katz

- 1431** Affirm City's continued collaboration with Multnomah County in establishing coordinated vehicle forfeiture scheme for intoxicated drivers and intent to enact complementary City code provisions during Fall, 1999 (Resolution)

Discussion: Mayor Katz said the legislature passed a technically-flawed forfeiture bill just when the County was poised to make a very important decision, with the City as a collaborating partner, about how it wanted to enforce the DUII vehicle forfeiture program. That decision has been delayed in light of concerns about pre-emption and other issues. However, this resolution sends a message that this will be enacted before the end of the year.

Madelyn Wessel, Chief Deputy City Attorney, said a State statute was enacted which was specifically intended to allow local governments to enact tough forfeiture schemes for DUII offenses. However, the wording of the statute has created more problems than if it had never been passed. Nevertheless, the Portland Police and the County are working hard to move ahead with an effective and aggressive program. The legislative glitch is in language

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which appears to restrict a municipal forfeiture scheme to repeat offenders who have been cited for drunken driving three times within three years. The City and County's intent was to authorize vehicle forfeiture for first-time offenders. The legislative glitch, however, does not prevent them from putting together a program using impoundment, civil fees and other tools to deal with first-time offenders.

Jim Ferraris, Police Bureau, said the number of DUII crashes has escalated over the last few years and fatality rates have more than tripled between 1995 and 1998. The ultimate goal is to remove from people who drive while intoxicated the instrumentality of their crime.

Commissioner Hales asked if the legislative restriction was a result of bad drafting or a desire to wait until someone has been arrested several times.

Ms. Wessel said she believes it was a drafting error, due to hastily enacted legislation. There clearly was a lobby to limit State forfeiture to repeat offenders but a strong effort was also made by local governments to ensure they would have stronger tools available.

Commissioner Francesconi asked if the public knows that forfeiture is the consequence of drunk driving.

Sergeant Ferraris said the ultimate goal is to reduce the number of deaths through public education but to have this hammer available too. He said a concerted public education effort will be undertaken if this enacted.

Mayor Katz asked what will happen to those communities which already have more aggressive ordinances in place.

Ms. Wessel said, if she were advising them, she would not be inclined to have them back down.

Commissioner Hales asked why the City and County should not go ahead and enact such a statute until barred from doing so by the Attorney General or someone else.

Ms. Wessel said that could present serious potential liability since it involves seizure of property and is likely to generate litigation as to whether the underlying scheme was authorized. She said there is an interesting tension between legislative intent and plain wording and the Oregon Supreme Court has generally favored the wording analysis, not any legislative intent. The wording is pretty clear to her and while it limits strict forfeiture, it does not limit everything. She is also not certain that the counties affected by this will go forward with their existing ordinances.

Mayor Katz stressed the importance of working with the County to develop a three-level scheme to get the desired results.

Lisa Naito, Multnomah County Commissioner, said a lot of progress has been made in the last 20 years, both through education treatment programs and increased sanctions, to recognize the devastation drunk driving causes. However, there is still a group of repeat offenders that continue to put the community at risk. The County has been working with the City and many other parties to develop more tools for law enforcement, including taking

away cars from those who repeatedly drive under the influence of alcohol. The ordinance the County has crafted would allow vehicle forfeiture for those arrested a second time. There has been concern about forfeiture in general but this is narrowly targeted to the instrumentality of crime, which is the car. Ms. Naito said concern has also been raised about the elevated number of Hispanic arrests for second time DUII offenders but she believes the census figures relied upon are somewhat outdated and may also not include undocumented workers. She said studies of blood alcohol levels also indicate that the levels for Hispanics who are cited are just as high as for others. Therefore, it does not look as if there is any lowering of the standards for arrests of Hispanics. The Police accident rate records show that the number of Hispanics involved in accidents is 12 percent, an elevated number. She believes more educational efforts may be needed to address language and cultural barriers. Ms. Naito said this resolution provides for the most aggressive response allowed under the law and she is committed to moving forward.

Judge Dorothy Baker, operator of the repeat DUII offenders program, thanked the County for funding programs to supervise third-time and above offenders. She said one thing she is doing now is requiring that people who go on probation sell their motor vehicles, which is a great help in reducing recidivism. She acknowledged the existence of some cultural and ethnic problems, particularly among non-native Hispanics and immigrants from former Communist bloc countries, who have different ways of dealing with the criminal justice system. More resources are needed as currently she has more than 200 people in the program, some of whom have 12 DUII charges. About seventy percent also have a drug problem. Judge Baker said she is happy to see better communication with the court system from the County and Police and said it would be a great help to have more public education efforts.

Mayor Katz said there are a lot of things the City would love to sit down and discuss with the judicial branch.

Judge Baker said everyone needs to work together on this as it affects everyone.

Tiana Tozier, a drunk-driving crash victim who has had 34 surgeries, stressed that drunk driving is not a victimless crime. She said forfeiting a vehicle on the second offense would have prevented her accident as she was hit by a third-time offender. She said alcohol kills and maims more people than one can count and destroys families and lives. Drunk driving should not be excused because alcoholism is considered a disease and this is not issue about race or poverty but about saving lives.

Commissioner Francesconi said he appreciates this comprehensive approach as passing an ordinance that violates the language of the law is probably not a good idea. In addition to enforcement, there should be more drug and alcohol treatment options, especially for youth. The legislature has some responsibility to give the County more tools to provide those options.

Commissioner Hales said the legislative action is frustrating but this is a good start. He noted Council's long-standing philosophy that operating a motor vehicle on a public street is a privilege, not a right.

Mayor Katz said this is about taking responsibility, not making excuses. She said the most successful treatment program is AA, which does not cost a penny, and is there for the community to tap into.

Disposition: Resolution No. 35829. (Y-4)

Commissioner Dan Saltzman

- *1432** Amend contracts with the five neighborhood coalition offices to assist with Year 2000 community preparedness activities (Ordinance; amend Contracts 32391, 32392, 32393, 32394, 32395)

Discussion: Mayor Katz said Council agreed earlier to use existing networks to begin educating the community about Y2K and emergency preparedness. This contract allows neighborhood coalition offices to do more and strengthens their ability to interact with the community. It is also a financial benefit for the neighborhood associations.

Celia Heron, Year 2000 Council, said the Year 2000 Council has been in the forefront in getting information out about Y2K and emergency preparedness. It also wanted to use existing networks to build on resources already in the community and this contract accomplishes that.

Sylvia Bogart, Southwest Neighborhood Coalition, thanked Council for using the neighborhood associations and the neighborhood emergency teams to educate the public about Y2K.

Ms. Heron said one priority is to focus on those vulnerable citizens who might be more impacted by service disruptions. She said her office has gotten positive feedback about the mailing on preparedness recently sent to everyone in the City and she believes it has calmed people's fears and yet given them the information they need.

Disposition: Ordinance No. 173821. (Y-4)

Communications

- 1433** Request of Tom O'Keefe, United Community Action Network, to address Council regarding use of the gas tax for stormwater runoff from roads (Communication)

Discussion: The Mayor noted that Mr. O'Keefe was not present.

Disposition: Placed on File.

Commissioner Francesconi moved acceptance of the Four-Fifths Agenda item. Commissioner Hales seconded and, hearing no objections, the Mayor so ordered.

FOUR-FIFTHS AGENDA

- 1433-1** Accept contract with Andersen Pacific Contractors, Inc. for John Luby Park improvements as substantially complete and authorize final payment and release retainage (Report; Contract No. 32115)

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Discussion: Mayor Katz said she agreed to put this on the Four-Fifths Agenda because she was caught at a weak moment and because Commissioner Francesconi is not going to be in town the following week.

Disposition: Accepted. (Y-4)

At 10:35 a.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 6TH DAY OF OCTOBER, 1999 AT 2:00 P.M.

THOSE PRESENT WERE: Mayor Katz, Presiding; Commissioners Francesconi and Sten, 3.

OFFICERS IN ATTENDANCE: Cay Kershner, Clerk of the Council, and Officer Chuck Bolliger, Sergeant at Arms.

1434 TIME CERTAIN: 2:00 PM – Present Safety Recognition awards (Presentation by Mayor Katz)

Discussion: Mayor Katz said the actions City employees take to promote safety in the workplace are very important.


The Mayor and Commissioners Francesconi and Sten presented awards to bureau safety committees and individual employees for their efforts to increase safety and loss prevention, promote ergonomic improvement and implement creative solutions to improve safety and health in the workplace. Bureaus winning awards included the Fire Bureau, Bureau of Environmental Services, Bureau of Emergency Communications, Parks Bureau and the Portland Office of Transportation, Bureau of Maintenance and Parking Enforcement.

Commissioner Sten, in Commissioner Hales' absence, noted that Sam Irving of the Bureau of Maintenance had been recognized as Safety Professional of Year by the Oregon Governor's Health and Safety Commission. Loss Prevention Manager Dave Baker was also recognized.

Disposition: Placed on File.

At 3:15 p.m., Council Adjourned.

GARY BLACKMER
Auditor of the City of Portland


By Cay Kershner
Clerk of the Council