



CITY OF
PORTLAND, OREGON

**OFFICIAL
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 5TH DAY OF JULY, 1990 AT 9:30 A.M.

THOSE PRESENT WERE: Mayor Clark, Presiding; Commissioners Blumenauer, Bogle, Koch and Lindberg, 5.

OFFICERS IN ATTENDANCE: Cay Kershner, Clerk of the Council; Kathryn Imperati, Senior Deputy City Attorney; and Officer Sheridan Grippen, Sergeant at Arms.

Agenda Nos. 1175 and 1186 were pulled from Consent. On a Y-5 roll call, the balance of the Consent Agenda was adopted as follows:

CONSENT AGENDA - NO DISCUSSION

1171 Accept bid of Morgan Emultech, Inc. for annual supply of anionic or cationic quick setting mixing grade emulsion for \$77,000 (Purchasing Report - Bid 109-A)

Disposition: Adopted; prepare contract.

1172 Accept bid of Masons Supply for annual supply of concrete repair mixes for \$36,300 (Purchasing Report - Bid 117-A)

Disposition: Adopted; prepare contract.

1173 Accept bid of Russell Construction, Inc. for renovation of Kelly Butte Communications Center for \$95,910 (Purchasing Report - Bid 145)

Disposition: Adopted; prepare contract.

1174 Vacate portions of N Cook Street and N Montana Avenue, under certain conditions (Ordinance by Order of Council; C-9705)

Disposition: Passed to second reading.

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Mayor J. E. Bud Clark

- * 1176 Amend Agreement No. 25663 with Burnside Projects, Inc. by increasing the amount of the contract by \$9,564 (Ordinance)

Disposition: Ordinance No. 163221. (Y-5)

- * 1177 Continue contract with Simon and Company, Inc. for liaison services between City bureaus and the Federal government (Ordinance)

Disposition: Ordinance No. 163222. (Y-5)

- * 1178 Agreement with Metro, not to exceed \$12,500, for enhanced police services for the summer zoo concerts (Ordinance)

Disposition: Ordinance No. 163223. (Y-5)

Commissioner Earl Blumenauer

- 1179 Accept improvement, approve Change Order No. 1 and make final payment for the N. Burgard Bridge Partial Demolition and Railing Construction (Job No. 1150, Ordinance No. 161778) (Report)

Disposition: Adopted

- 1180 Improve SW Coronado Street from the center line of SW 43rd Avenue to the center line of SW 45th Avenue (Resolution; C-9723)

Disposition: Resolution No. 34749. (Y-5)

- 1181 Reconstruct alley in Block 17 of Westover Terraces (Resolution; C-9725)

Disposition: Resolution No. 34750. (Y-5)

- * 1182 Call for bids for the Cathedral Park Outfall Extension Project, authorize a contract and provide for payment (Ordinance)

Disposition: Ordinance No. 163224. (Y-5)

- * 1183 Grant a permit to Elmer and Edith Reho and Moskee Investment Company to continue to operate a retail landscape products and nursery business at 4437 SW Beaverton-Hillsdale Highway, to be leased to Curt Lafferty (Lafferty's Landscape Products), for a period of one year, under certain conditions (Ordinance; 7991R)

Disposition: Ordinance No. 163225. (Y-5)

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- * 1184 Grant revocable permit to Marian Blackford for an existing house encroaching into the right-of-way at 8821 NW Springville Road (Ordinance)

Disposition: Ordinance No. 163226. (Y-5)

Commissioner Mike Lindberg

- * 1185 Accept two earnest money agreements and convey Water Bureau property at 1834 NE Prescott St. and 1835 NE Skidmore St. to the Northeast Community Development Corporation (Ordinance)

Disposition: Ordinance No. 163227. (Y-5)

- * 1187 Grant revocable permit to Oregon Nikkei Endowment to construct a memorial in a portion of Governor Tom McCall Waterfront Park (Ordinance)

Disposition: Ordinance No. 163228. (Y-5)

- * 1188 Authorize an agreement with Rose City Rickshaw to operate a rickshaw concession at Tom McCall Waterfront Park from July 1, 1990 through December 31, 1990 (Ordinance)

Disposition: Ordinance No. 163229. (Y-5)

- 1175 Confirm reappointments of Harry L. Demorest and Carl Talton to the Portland Development Commission (Report)

Discussion: Commissioner Blumenauer said he wanted to acknowledge the outstanding contributions of Mr. Demorest and Mr. Talton to the Commission and the City.

Disposition: Confirmed.

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- * 1186 Authorize an agreement with Portland General Electric to co-sponsor a concert series at Mt. Tabor Park during the month of July through the Park Bureau's City Arts Division (Ordinance)

Discussion: Cay Kershner, Clerk, said a substitute ordinance had been filed correcting the location from Laurelhurst to Mt. Tabor Park.

Commissioner Koch moved to accept the substitute. On a second by Commissioner Bogle, the motion carried. (Y-5)

Disposition: Substitute Ordinance No. 163230. (Y-5)

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Mayor J. E. Bud Clark

- 1189 Recommend Approval of Oregon Business Development Loan Fund for Micro One, Inc. (Resolution)

Disposition: Resolution No. 34751. (Y-5)

- 1190 Authorize an intergovernmental agreement with the Oregon Department of Environmental Quality for financing of sewers in Mid-Multnomah County (Second Reading Agenda 1162)

Disposition: Ordinance No. 163231. (Y-5)

- * 1191 Contract with Catholic Community Services for \$16,000 to provide the Asian Youth Outreach Project and provide for payment (Ordinance)

Disposition: Ordinance No. 163232. (Y-5)

- * 1192 Contract with the Private Industry Council for the Comprehensive Youth Employment Program and provide for payment (Ordinance)

Discussion: Commissioner Blumenauer asked if this was was bridge funding to fill the gap.

Commissioner Bogle said no, this was the annual contract.

Commissioner Blumenauer said he was concerned with the amount of the General Fund appropriation but would vote for it as he understood this would not necessarily be done on a continued basis.

Mayor Clark said at this point this is the long term solution. He said we are still asking the private sector to donate also.

Disposition: Ordinance No. 163233. (Y-5)

Commissioner Earl Blumenauer

- 1193 Report of the City Planning Commission recommending approval of a ten-year property tax exemption to Cornerstone Columbia Development Company for new multiple-unit housing at SW Montgomery Circle and the future SW River Drive (Report)

Disposition: Adopted. Placed on file.

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1194 Grant a ten-year property tax exemption to Cornerstone Columbia Development Company for new multiple-unit housing at SW Montgomery Circle and the future SW River Drive (Ordinance)

Discussion: Commissioner Blumenauer said this is part of a continuing effort to provide housing within the Central City boundaries.

Disposition: Passed to second reading.

* 1195 Amend Agreement No. 23963 with Vintage Trolley, Inc., (VTI) to provide financial assistance for purchase of a third Vintage Trolley vehicle (Ordinance)

Discussion: Commissioner Blumenauer said this provides \$242,000 of the total cost for a third trolley with the rest to come from other sources. He said this amendment is being made now so that the trolley can be built in time for the delivery date.

Disposition: Ordinance No. 163234. (Y-5)

* 1196 Authorize an agreement with CH2M Hill for development of a transportation financial modeling system for the Portland Office of Transportation, not to exceed 44,500 (Ordinance)

Disposition: Ordinance No. 163235. (Y-5)

* 1197 Add a new section to the City Code to require water quality control facilities within designated areas, to provide for their future operation and maintenance and the enforcement of new regulations (Ordinance; add Chapter 17.38 to Title 17)

Discussion: Cay Kershner, Clerk, said a substitute had been filed. Commissioner Blumenauer moved the substitution and on a second by Commissioner Bogle, the motion carried. (Y-5)

Commissioner Blumenauer said this telescopes it down to just the Tualatin River basin and takes out the E-zone applications.

Disposition: Substitute Ordinance No. 163236. (Y-5)

Commissioner Dick Bogle

* 1198 Exempt water quality control facilities from the requirements of Title 24, and require erosion control within designated areas (Ordinance; Amend Code Sections 24.10.030 and 24.70.110)

Disposition: Ordinance No. 163237. (Y-5)

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Commissioner Bob Koch

- * 1199 Call for bids to furnish some of the 1990-91 replacement City vehicles, authorize a contract and provide for payment (Ordinance)

Disposition: Ordinance No. 163238. (Y-5)

Discussion: Commissioner Koch said for the first time we will actually get out in front of our known annual replacement purchases. He said this furthers standardization of the fleet and puts us in a much better situation.

Commissioner Mike Lindberg

- 1200 Authorize Superintendent of Parks to issue permit for removal of trees within an easement in Forest Park. (Second Reading Agenda 1139)

Discussion: Commissioner Lindberg said this will permit clearing of some trees on an existing pipeline easement to allow for better aerial surveillance.

Disposition: Ordinance No. 163239. (Y-5)

At 9:55 a.m., Council recessed.

JULY 5, 1990

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 5TH DAY OF JULY, 1990 AT 2:00 P.M.

THOSE PRESENT WERE: Commissioner Koch, Presiding; Commissioners Blumenauer, Bogle and Lindberg, 4.

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

REGULAR AGENDA

1201 Deny appeal of John C., Bess I., and John Bartels and approve the application of Kelly and Brabara Bruun for a 40-lot PUD and subdivision, with variances in an R10 zone located at SW Humphrey Blvd., near SW Humphrey Court (Findings; CU 121-89/s 47-89)

Disposition: Cay Kershner, Clerk, said there had been a request for a delay by the applicant, Mr. Bruun.

Kathryn Imperati, City Attorney, recommended that the request be granted to allow Mr. Bruun's attorney time to prepare the findings.

Disposition: Continued to July 18, 1990.

Commissioner Dick Bogle

1202 Deny appeal of Secondhand Dealer Civil Penalties for Echols Doyle Ford, dba, The Moneyman, 6614 SE 82nd Avenue (Previous Agenda 1063)

Discussion: Dennis Nelson, Manager, Bureau of Licenses, said on June 14 Council allowed additional time on this and the next item for the filing of additional comments by appellants. He said the Bureau had reviewed these and concluded there was no reason to amend the draft findings filed on June 8.

He said appellants' attorneys in both cases would be allowed five minutes oral argument today but that no new material not already on the record is to be introduced.

James Esterkin, Attorney for Echols Doyle Ford, asked which Council members would vote today.

Cay Kershner, Clerk, said the Mayor and Commissioner Lindberg did not vote at the initial hearing.

Kathryn Imperati, City Attorney, recommended that only those Commissioners who had reviewed the record vote.

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Commissioner Lindberg said he would not vote today but if the issue was not resolved today he would review the transcript so that he could vote at a later date.

Mr. Esterkin said that among the things absent from the report were any authorities in the Code for Council to make factual findings to levy fines. He said there had not been a fact finding in this case and that none of the testimony was sworn or subject to cross-examination, that there was no subpoena power or any attempt to really get at the facts.

Mr. Esterkin asked Commissioner Bogle to express his ex parte contacts and said the extent of his contacts and degree of participation in this matter indicate bias on his part.

Ben Walters, Deputy City Attorney, said he saw no basis for advising the Bureau to change its recommendation to Council on Mr. Ford's appeal.

Commissioner Blumenauer said he had heard nothing here that was not a rehash of what he had heard earlier. He moved to adopt the findings and deny the appeal. Commissioner Bogle seconded.

Disposition: Findings Adopted. Appeal denied (Y-3)

1203

Deny Appeal of Secondhand Dealer Civil Penalties for David C. Grigonis, dba The Moneyman, 6614 SE 82nd Avenue (Previous Agenda 1064)

Discussion: Dennis Nelson, Manager of the License Bureau, said the Bureau has reviewed objections filed by Mr. Grigonis' attorney and finds no basis for amending the findings as filed.

Richard Helzer, Attorney for Mr. Grigonis, said he understood that Commissioner Lindberg would not be voting today. He said the Bureau findings are biased against Mr. Grigonis to a bizarre degree and ignore substantial evidence presented by Mr. Grigonis and his witnesses. He said the findings seem to go beyond Mr. Werneken's testimony that Mr. Grigonis is vicariously liable if it can be shown that Mr. Ford is his agent or that Mr. Grigonis allowed or suffered a violation. He also questioned ex parte contacts by Commissioner Blumenauer and Commissioner Koch.

Mr. Helzer said no findings were necessary if Council voted to deny the appeal as all that was needed was for Council to give an order back to the Bureau of Licenses to enter into discussions or file a law suit. He said he did not think spending lots of taxpayers dollars on the cost of litigation would be money well spent.

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Ben Walters, Deputy City Attorney, responded to Mr. Helzer's testimony. He said he believed Mr. Werneken's statement was a reiteration of Code standards for determination of responsibility on Mr. Grigonis' part for violations occurring out of The Moneyman. As for sending the matter back to the Bureau, he said it is their opinion that Council needs to make some sort of determination on the appeal that is substantiated by findings on the record. He advised Council to go ahead with the adoption of some findings to reflect whatever vote they took. As for the issue of litigation costs, he said it is Council's responsibility to determine how public funds are to be expended.

Commissioner Bogle moved to deny the appeal and approve the findings. The motion was seconded by Commissioner Blumenauer.

Commissioner Blumenauer described his ex parte contacts and said they had no bearing on his ability to make an impartial judgment.

Commissioner Koch said the City is off on a new venture in the sense that it is taking much more assertive action in dealing with issues involving the marketplace of crime.

Disposition: Findings Adopted. Appeal denied (Y-3)

1204 Liquor License application for Tumay Corporation, dba Portland International Tacqueria, 231 SW Ankeny Street, Dispenser Class A license, change of ownership, unfavorable recommendation (Previous Agenda 1170)

Discussion: Commissioner Bogle announced that he had reviewed the record and would be participating today.

John Werneken, License Bureau, said representatives of the License and Police Bureaus met with Mr. and Mrs. Tuite on July 2 to encourage them to present a complete management plan to the Council. He asked Officer Bolliger to comment on the management plan submitted by the Tuites.

Officer Chuck Bolliger said he had reviewed all prior compliance plans entered into with the Tuites, all of which failed, and is at a loss as to what to suggest that would eliminate the problems that seem to follow this couple.

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Commissioner Blumenauer said he was uncomfortable at the last hearing by assertions that Council's past actions and neighborhood complaints had been motivated by racial intolerance. He said the record is clear and that regardless of where it is located or the race or age of applicants and clientele, this kind of behavior is not acceptable. He urged applicants to establish a track record in a business that does not involve alcohol.

Sara Tuite, President of Tumay Corporation, said they had met all conditions put on them in the past one hundred percent. She said they felt they were extremely good operators and that the problems they had at Goldies were because of an unwelcoming neighborhood. She added that except for a few instances the previous establishment did not experience any more incidents than any other related liquor outlet in the City.

Commissioner Bogle asked about the thinking behind raising admission prices in order to discourage patrons from coming after hours and why she wanted to stay open after hours.

Ms. Tuite said she did not think people would pay eight dollars or so just to come for an hour or so. She said the after hours extension allows patrons who come to dance to taper off slowly and tone down the energy level.

Commissioner Lindberg asked about how they would go about barring the undesirable -- the 160 noted as such by the security guard who testified last week.

Ms. Tuite said they have a list and these people would be refused entrance.

Commissioner Lindberg asked staff if Council approved this with the conditions in the management plan and then things did not go well, would they still have their license for a year or could it be revoked?

Mr. Werneken said it would depend on the nature of the offence but the license would ordinarily be good for a year.

Commissioner Koch asked if Council could ask for a report on the plan in six months.

Mr. Werneken said yes but that it is not at all clear this would affect the operation of their current license.

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Commissioner Blumenauer said he would support the unfavorable recommendation for the reasons cited earlier and because of the glaring absence from the management report of anything that would actually involve a phase down.

Commissioner Bogle said he did not see enough substance in the management plan to make him believe that it would be a substantially different from Goldies.

Commissioner Lindberg said he did not feel management had been all that bad and that there was a need for this kind of place, based on its popularity. However, with sixty residents in close proximity, the potential is high for the same kind of problems Goldies had and for this reason a lot tougher management plan is needed.

Disposition: Unfavorable recommendation. (Y-4)

At 2:55 p.m., Council adjourned.

BARBARA CLARK
Auditor of the City of Portland

Cay Kershner

By Cay Kershner
Clerk of the Council