



CITY OF
PORTLAND, OREGON

**OFFICIAL
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 25TH DAY OF JULY, 1990 AT 9:30 A.M.

THOSE PRESENT WERE: Mayor Clark, Presiding; Commissioners Blumenauer, Bogle and Lindberg, 4.

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

Agenda Nos 1262 and 1275 were pulled from Consent. On a Y-4 roll call, the balance of the Consent Agenda was adopted as follows:

CONSENT AGENDA - NO DISCUSSION

1259 Vacate a portion of SW 60th Avenue North of Douglas Street under certain conditions. (Second Reading Agenda 1233)

Disposition: Ordinance No. 163274. (Y-4)

1260 Vacate a portion of SW 60th Avenue south of SW Lesser Road under certain conditions. (Second Reading Agenda 1234)

Disposition: Ordinance No. 163275. (Y-4)

Mayor J. E. Bud Clark

1261 Confirm Alfred Staehli, Arden L. Eby, Lore Labby and Donn DeBernarndi to the Pittock Mansion Advisory Board. (Report)

Disposition: Confirmed.

* 1263 Agreement with Jean M. Boylan, not to exceed \$22,000 per year for three years, for services to the Police Bureau. (Ordinance)

Disposition: Ordinance No. 163276. (Y-4)

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Commissioner Earl Blumenauer

- * 1264 Amend the Comprehensive Plan Map to remove the OS, Open Space, designation from property located at 2732 NE Fremont Street. Ordinance: CU 43-90/7992-PA)
Disposition: Ordinance No. 163277. (Y-4)
- * 1265 Accept two Sewer Easements for an identical parcel of land, for the Englewood Sanitary Sewer System Project, granted by Thomas E. Webb and Teresa A. Webb, and Hersel O. Lewis, authorizing total payment of \$250. (Ordinance)
Disposition: Ordinance No. 163278. (Y-4)
- * 1266 Accept four Sewer Easements for the Englewood Sanitary Sewer Project, granted by Dorothy Medak West, Vicki J. Bonagofski, Alexander Suchanek & Mary Suchanek, and William J. Parks & Thelma D. Parks, authorizing total payment of \$860. (Ordinance)
Disposition: Ordinance No. 163279. (Y-4)
- * 1267 Accept five Sewer Easements for the Englewood Sanitary Sewer System Project, granted by James H. Kim and Jung K. Kim, Robert Frederick Lubach and Debra Lynn Boggis, William T. Powell and Susan M. Powell, Rudolph F. Borke III and Dianna G. Borke, & Virgil L. Baker and Carol I. Baker, authorizing total payment of \$1,360. (Ordinance)
Disposition: Ordinance No. 163280. (Y-4)
- * 1268 Accept a Temporary Construction Easement for the Englewood Sanitary Sewer System Project, granted by Gary B. Eder, authorizing total payment of \$200. (Ordinance)
Disposition: Ordinance No. 163281. (Y-4)
- * 1269 Accept a temporary construction easement and slope easement for the NE Martin Luther King J. Boulevard Street Improvement Project, granted by Burnham J. Haley and Madonna D. Haley, at no cost to the City. (Ordinance)
Disposition: Ordinance No. 163282. (Y-4)
- * 1270 Authorize the continuance of negotiations for the purchase of a sewer easement required for the Fanno Creek Pressure Sewer Project, authorize the City Attorney to commence condemnation proceedings, and authorize the City Attorney to obtain early possession (Ordinance; Durkin)
Disposition: Ordinance No. 163283. (Y-4)

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* 1271 Authorize the continuance of negotiations for the purchase of a sewer easement required for the Fanno Creek Pressure Sewer Project, authorize the City Attorney to commence condemnation proceedings, and authorize the City Attorney to obtain early possession (Ordinance; Buckley Park Homes)

Disposition: Ordinance No. 163284. (Y-4)

* 1272 Authorize the continuance of negotiations for the purchase of a sewer easement required for the Fanno Creek Pressure Sewer Project, authorize the City Attorney to commence condemnation proceedings, and authorize the City Attorney to obtain early possession (Ordinance; Bengel)

Disposition: Ordinance No. 163285. (Y-4)

* 1273 Call for bids for the Columbia Blvd. Wastewater Treatment Plant Sludge Processing Facility Gravity Belt Installation, and provide for payment. (Ordinance)

Disposition: Ordinance No. 163286. (Y-4)

* 1274 Release the City's interest in a portion of a certain storm drainage reserve, in lot 70 Hera Franklin Colony (Ordinance)

Disposition: Ordinance No. 163287. (Y-4)

* 1276 Contract with Cross-Continent Engineers, to supply the Bureau of Transportation Engineering with qualified inspection personnel upon request, and provide for payment (Ordinance)

Disposition: Ordinance No. 163288. (Y-4)

* 1277 Contract with the Intergovernmental Resource Center, the Metropolitan Service District and Tri-Met for the accomplishment of a Bi-State Transportation Study at \$8,750. (Ordinance)

Disposition: Ordinance No. 163289. (Y-4)

Commissioner Dick Bogle

* 1278 Authorize application to the Federal Emergency Management Agency for a grant for emergency management preparedness for fiscal year 1991 (Ordinance)

Disposition: Ordinance No. 163290. (Y-4)

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- * 1279 Call for Bids for 1990-91 FY Annual Supply Contracts for City's bureaus and departments, authorize contracts, and provide for payment (Ordinance)

Disposition: Ordinance No. 163291. (Y-4)

- * 1280 Waive the building permit fees and plan checking fees required by Title 24 for work performed under the Home Repair Training Program. (Ordinance)

Disposition: Ordinance No. 163292. (Y-4)

Commissioner Bob Koch

- * 1281 Call for bids for the Portland Building 3rd floor computer room cooling improvements, authorize a contract, and provide for payment (Ordinance)

Disposition: Ordinance No. 163293. (Y-4)

- * 1282 Declare surplus property located north of N. Killingsworth between N. Albina and N. Borthwick and authorize sale to Portland Community College (Ordinance)

Disposition: Ordinance No. 163294. (Y-4)

Commissioner Mike Lindberg

- * 1283 Contract with the Boys and Girls Club to Hire youth in work experience positions in the Water Bureau, and provide for payment of \$27,333. (Ordinance)

Disposition: Ordinance No. 163295. (Y-4)

- * 1284 Authorize an agreement with Murray, Smith and Associates, Inc., for \$84,670 for engineering services for the Surface Water Treatment Rule Compliance Study; transfer funds; and provide for payment (Ordinance)

Disposition: Ordinance No. 163296. (Y-4)

- * 1285 Call for bids to replace a section of the 48-inch groundwater collection main in NE Airport Way, authorize a contract and provide for payment (Ordinance)

Disposition: Ordinance No. 163297. (Y-4)

REGULAR AGENDA

The following items, removed from the Consent Agenda, were addressed next:

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* 1262 Pay claim of Faye Burch (Ordinance)

Discussion: Jeff Rogers, City Attorney, said the City is obligated under state statutes (ORS 30.285) to defend and indemnify a City officer in a case such as this and pay any resulting judgments or settlements. Because of this obligation, the City cannot compel reimbursement from any employee or official.

Commissioner Bogle said the issue before Council today, the settlement of a sexual harrassment claim against him, has been quite a learning experience, one he hopes to share with others in the community. He said he agreed to a settlement on the recommendation of the City Attorney and the Bureau of Risk Management because of the expenses of going to trial and the possibility the City might lose. He apologized to the City for the incident and announced that while he is under no legal requirement to do so, he will pay the \$20,000 out of his own pocket and reimburse the City for the entire amount within thirty days. He said he will make a down payment of \$10,000 today and hopes this will put the matter to rest.

Disposition: Ordinance No. 163298. (Y-4)

* 1275 Pay claim of Great Western Bank, subject to the dismissal of suit by the Multnomah County Circuit Court (Ordinance)

Discussion: Mayor Clark asked for more time to discuss this with the City Attorney and requested continuance for one week.

Disposition: Continued to August 1, 1990.

Mayor J. E. Bud Clark

1286 Establish fee for background investigations for sale and transfer of handguns. (Ordinance, Second reading, previous Agenda No. 1248)

Discussion: Commissioner Blumenauer moved to attach an emergency clause to the ordinance. On a second by Commissioner Lindberg, the motion carried. (Y-4)

Mayor Clark said more information was available about our lobbying efforts on HB 3470 and about getting the legislature to appropriate money to help cover the costs.

Disposition: Ordinance No. 163299. (Y-4)

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- * 1287 Contract with the Oregon Trail Chapter of the American Red Cross for \$93,495 for the operation of the Emergency Housing Voucher Program and provide for payment (Ordinance)

Disposition: Ordinance No. 163300. (Y-4)

Commissioner Earl Blumenauer

- * 1288 Grant a revocable permit to Lisa Roegner on behalf of the Shadow Project to place certain images on public sidewalks on August 6, 1990 (Ordinance)

Discussion: Mayor Clark said he was the first one to propose this project several years ago, and strongly favors remembering Hiroshima, but is unable to support the project this time because of competing interests which also want to put things on the sidewalk.

Commissioner Blumenauer said he agreed with the Mayor that sidewalks should not become billboards and if this project were allowed to go forward, he would work to come up with a policy Council felt comfortable with. He said he had not been aware until this year that the permits came from Right-of-Way in Transportation.

Mayor Clark said that is what we said two years ago and such a policy should have been worked out by now.

Commissioner Lindberg said problems in the past have been the issue of competing groups with other messages and the type of paint used and how it is removed. He said he was not aware there was a problem this year as he thought everything had been worked out.

Lisa Roegner, project coordinator, said she is responsible for removing shadows and said that since the project first began the mixture has been modified to make it more water soluble.

Mayor Clark said he appreciated Commissioner Blumenauer's accommodation but could not change his vote.

Commissioner Blumenauer moved to remove the emergency clause. On a second by Commissioner Lindberg, the motion carried. (Y-4)

Harry Auerbach, City Attorney, suggested the ordinance be amended to correct the ORS citation in section B (4) to read ORS 30.260 (not 20.260).

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Commissioner Blumenauer moved the correction and on a second by Commissioner Lindberg, the motion carried. (Y-4).

Commissioner Blumenauer said they will work on a policy and also follow through on this and try to get a majority of Council one way or the other.

Mayor Clark said he recalled that the policy previously proposed created so much interest from other groups that he believes it is better not to encourage graffiti of any kind.

Disposition: Passed to second reading as amended.

- * 1289 Agreement with the Oregon Department of Transportation, Highway Division, to provide for construction finance and maintenance of East Marquam Interchange Project (Ordinance)

Disposition: Ordinance No. 163301. (Y-4)

- 1290 Adopt the Manual on Uniform Traffic Control Devices.
(Resolution)

Disposition: Resolution No. 34755. (Y-4)

Commissioner Dick Bogle

- * 1291 Authorize application to the U.S. Bureau of Justice Assistance for a \$362,500 grant to study ways to reduce levels of contamination at drug lab sites (Ordinance)

Disposition: Ordinance No. 163302. (Y-4)

Commissioner Mike Lindberg

- 1292 Grant a franchise to Pacific Telecom Cable, Inc. for a period of ten years. (Ordinance, Second reading, previous agenda No. 1141)

Disposition: Ordinance No. 163303. (Y-4)

At 10:00 a.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 25TH DAY OF JULY, 1990 AT 2:00 P.M.

THOSE PRESENT WERE: Mayor Clark, Presiding; Commissioners Blumenauer, Bogle and Lindberg, 4.

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

- 1293 **TIME CERTAIN:** 2:00 PM Appeal of Multnomah Athletic Club, applicant, against Condition A imposed by the Hearings Officer in approving a conditional use to convert an auto body shop to a parking garage and parking lot with a laundry facility & storage at 826 SW 21st Avenue. (Hearing: CU 11-90)

Discussion: Mayor Clark said both sides concur with the applicant's request that this appeal be setover indefinitely. Commissioner Blumenauer so moved and on a second by Commissioner Lindberg, the motion carried (Y-4)

Disposition: Postponed indefinitely.

REGULAR AGENDA

- 1294 Appeal of Charlotte Brown, applicant against decision of the Variance Committee to deny application for a variance to increase the number of employees to eight plus two owners at the wholesale craft business located at 3915 SW Freeman. (Hearing; VZ 64-90)

Discussion: Cay Kershner, Clerk of the Council, said applicant had requested a postponement.

John Shonkwiler, Attorney for applicant, said one of the main reasons for the postponement request was because the principal spokesperson for the applicant, Judy Hoiland, was out of town.

Commissioner Blumenauer said since Mr. Shonkwiler was there to represent the applicant and the neighbors had indicated their wish to proceed he believed it was best to go ahead.

Cathey Briggs, Planning Bureau, said this is a major variance where applicants propose to increase the number of employees from the two plus two owners granted by a 1988 variance to eight plus two owners in a non-conforming use in a residential zone. She said this matter is before Council today as a result of a zoning code enforcement action because the previous conditions of the 1988 variance were not met.

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Ms. Briggs said the Variance Committee decision was to deny the request, citing among their reasons an intensification of use and detrimental traffic impacts.

Mr. Shonkwiler said this request is consistent with what was previously allowed under a pre-existing valid non-conforming use which granted substantial employee use. He said the impact of the variance would be equal to or less than what was approved in 1981 and 1983 and that the applicants have prepared a transportation plan to show that the actual trips per day will be limited so that the overall effect will be less than it is now. He said there is nothing in the record to show that property values have decreased because of proximity to this property and that applicants have paid for eighty percent of the paving on Freeman Street.

Mr. Shonkwiler said there is a great misconception among neighbors as to what a non-conforming use is and that many seem to think the use will automatically disappear and do not realize a valid non-conforming use is allowed to stay.

John Brooks, spokesman for the neighbors, said Collectable Creations, the appellant, had never communicated with the neighborhood about their intentions and that when they applied for a variance in 1988 they assured neighbors then that if they were allowed to have two employees and two owners they would never ask to have any more.

Mr. Brooks outlined neighbor concerns with traffic, property devaluation, and recent enlargement of office space. He contended that once a non-conforming variance is approved it may not be changed to a less restrictive use and that improvements made by appellant can not be used to justify an allowance for additional employees.

Kay Durtschi, Multnomah Neighborhood Association Chair, said the neighborhood association had voted unanimously in favor of denying the variance.

In rebuttal, Mr. Shonkwiler said there were numerous errors in the testimony submitted by Mr. Brooks and requested additional time to respond.

Adrienne Brockman, City Attorney, said state statutes provide that seven days be granted any applicant who asks for the record to remain open.

Commissioner Blumenauer asked if Council could take a tentative vote today.

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Ms. Brockman said yes, as long as Council was receptive to additional submissions, in this case restricted to rebuttal.

Commissioner Blumenauer moved to tentatively deny the appeal but allow the record to remain open another seven days to allow written rebuttal and then return the matter to Council in two weeks. On a second by Commissioner Lindberg, the motion carried. (Y-4)

Disposition: Continued to August 8, 1990.

At 2:40 p.m., Council recessed.

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 26TH DAY OF JULY, 1990 AT 2:00 P.M.

THOSE PRESENT WERE: Commissioner Blumenauer, Presiding; Commissioners Bogle and Lindberg, 3.

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

REGULAR AGENDA

1296 Grant appeals of Lois Wakelin/Gary Marshel and Richmond Neighborhood association and deny application of Joseph W. Angel for a zone change from R5 to C2 in order to construct a restaurant and parking lot at 1616, 1626 and 1636 SE 39th Avenue. (Findings; 7958)

Discussion: Stephen Janik, Attorney for Mr. Angel, cited his objections to the findings, including ex parte communications not on the record but relied on by the Mayor in making his decision. He requested that the Mayor and three Commissioners, all but Commissioner Koch, disqualify their votes because their decisions were based on personal observations at the site which are not a part of the record and which applicant has no opportunity to rebut. Further, he said, on technical matters, Council is not entitled to take judifical notice of any facts based upon personal observations and inexpert analyses.

Mr. Janik also said the findings on Criteria I, which requires them to show that the zone change request is to the maximum density allowed by the Comprehensive Plan, are completely inconsistent. In addition, the findings on traffic are unsupported by the facts and disregard both the City's expert and Mr. Kittelson in favor of those who did the least amount of analysis. He said the violation of four Comprehensive Plan policies cited in the findings is not applicable because the policies are not meant to provide site specific criteria.

Adrienne Brockman, City Attorney, said if Council members based their decision on the traffic analyses plus their own observations she did not think there was a problem and it was appropriate for Council to go forward and vote.

Disposition: Findings Adopted. (Y-3)

Mayor J. E. Bud Clark

* 1297 Amend Section 5.08.140 of the Code to authorize voluntary payroll deductions for the Portland Police Memorial Assocaition. (Ordinance)

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Discussion: Commissioner Blumenauer announced that this would be held over since it was an emergency ordinance and four votes were needed for passage.

Disposition: Continued to August 1, 1990.

Commissioner Earl Blumenauer

1298 Adjust rates for the repair of sidewalk, driveway and curb. (Ordinance; Amend Code Section 17.28.140)

Discussion: Commissioner Blumenauer said Jeanne Nyquist from the Maintenance Bureau was available to answer questions about the rate adjustments.

Disposition: Passed to second reading.

1295 **TIME CERTAIN:** 2:00 PM Repeal Ordinance No. 161561, adopt fundamental design guidelines for the Central City Plan Design Zones and direct the Design and Landmarks Commissions to use these guidelines. (Ordinance)

Discussion: Harriet Sherbourne, Design Commission member, said the Commission was eager to have new guidelines that will work well and have good longevity. She said these are generic guidelines and that another tier of district specific guidelines is still to come. She said this is a very good document and urged adoption.

Leo Williams, Planning Bureau, showed slides to illustrate the focus of the guidelines on three categories: Portland personality, pedestrian emphasis and project design.

Other individuals speaking in support of the guidelines included:

Bill Naito, Central City Design Advisory Blue Ribbon
Chair

George Crandall, American Institute of Architects
Urban Design Committee Chair

Bing Sheldon, Portland Historic Landmarks Commission Chair

Lee Lacey, Downtown Community Association President

Stephen Sivage, Portland State University Physical
Plant Director

Supporters praised the guidelines for their clarity and relevance and said having guidelines instead of standards allows a flexibility that encourages creative solutions and will enhance Portland's liveability. Mr. Naito said the Committee and Association for Portland Progress hope to issue a four color brochure based on Mr. Williams slides to be used for education and marketing efforts.

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Tom Wright, Land Use Consultant representing the North Macadam Development District, said they are concerned with Item F in the ordinance which they believe is too open-ended, making it difficult to determine the standards and possibly leading to a prolonged appeal process. He asked Council to remove Item F or if it is retained, to also put it in the design guidelines.

Wayne Stewart, Design Commission Chair, urged Council to retain Item F, stating that it has been in the Downtown Goals and Guidelines for the past four years and there has been no problem with it. He said this gives them some flexibility to deal with innovative ideas and not be locked into tight guidelines.

Commissioner Lindberg moved to adopt the amendment previously distributed which recognizes the importance of the Willamette River as an activity center. On a second by Commissioner Bogle, the motion carried (Y-3)

Disposition: Passed to second reading as amended.

Commissioner Dick Bogle

1299 Liquor license application for Lung Fung Restaurant, Inc., dba Lung Fung Restaurant, 8001 SE Division St., unfavorable recommendation. (Report)

Discussion: John Werneken, License Bureau, said beginning in early 1989 the Bureau and OLCC began receiving disturbing reports about criminal and violent activity at this restaurant. He said the Asian Gang Unit, East Precinct, and the Chief of Police all strongly recommend against renewal of this license because of continuing criminal activity involving gangs and the excessive demand on police resources. He said the OLCC believes the licensee has instructed his security firm not to patrol the parking lot, where most of the reported problems occur.

Chuck Bolliger, Portland Police Bureau, said Officer Stew Wynne, a member of the Asian Gang Unit, was there to answer any questions.

Rosalyn Chern, representing Lung Fung Restaurant, said they have been licensed for about twenty-two years, realize they have a problem and are working hard to solve it. They have already hired additional security and plan to call for stricter house policies and to change their entertainment. To help control the gang problem, they hope to cancel the Vietnamese dances in the future.

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Commissioner Blumenauer asked the difference between this proposal and the condition they agreed to earlier with the OLCC.

Ms. Chern said she used to supervise the bars but now they have hired a night manager to be there. She said the number of fights has been decreasing.

Carolyn Chern, co-owner, said some of the calls to the Police were false alarms and it had not been necessary to call them.

Stewart Wynn, member of the Police Asian Gang Unit, said Lung Fung's is a collection point for gang members and if the Unit is not present there is always a major incident. He said the general demeanor in the parking lot of the patrons is one of total disregard for the law and the police.

Commissioner Lindberg said it seems to be an extremely dangerous place for police officers.

Commissioner Bogle said he has never seen the number of officer injuries occur in a compact time frame as have occurred here and that this must not continue.

Disposition: Unfavorable recommendation. (Y-3)

1300 Liquor license application for H F Market, Inc., dba Handy Food Mart, 2194 W. Burnside St., unfavorable recommendation. (Reports)

Discussion: John Werneken, License Bureau, said the applicant, in response to concerns about noise and disorderly activity, had assured the OLCC in September, 1989 that he would construct a noise barrier in the parking lot by February, 1990. To date, this has not been done.

Glen DeWald, Handy Food Markets, said they are in the process of finalizing the plans and that a lot of things beyond their control have happened to prevent completion of the structure.

Commissioner Blumenauer said they had had sufficient time to meet the condition.

Disposition: Unfavorable recommendation. (Y-3)

At 3:45 p.m., Council adjourned.

BARBARA CLARK
Auditor of the City of Portland

Cay Kershner
By Cay Kershner
Clerk of the Council