



CITY OF
PORTLAND, OREGON

**OFFICIAL
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **14TH DAY OF FEBRUARY, 2007** AT 9:30 A.M.

THOSE PRESENT WERE: Commissioner Leonard, Presiding; Commissioners, Saltzman and Sten, 3.

OFFICERS IN ATTENDANCE: Karla Moore-Love, Clerk of the Council; Harry Auerbach, Chief Deputy City Attorney; and Gary Crane, Sergeant at Arms.

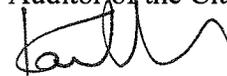
<p>DUE TO THE ABSENCE OF TWO COUNCIL MEMBERS NO EMERGENCY ORDINANCES WERE CONSIDERED THIS WEEK AND ITEMS WERE NOT HEARD UNDER A CONSENT AGENDA</p>	<p>Disposition:</p>
<p>COMMUNICATIONS</p> <p>131 Request of Kylie Meiner to address Council regarding a public thank you for making the playgrounds smoke free (Communication)</p>	<p>PLACED ON FILE</p>
<p>TIME CERTAINS</p> <p>132 TIME CERTAIN: 10:00 AM – Declare intent to initiate local improvement district formation proceedings to construct street improvements from Virginia Avenue to west of Virginia Place in the SW Nevada Street Local Improvement District (Resolution introduced by Commissioner Adams; C-10021)</p> <p>Motion to adopt an amendment to reflect the additional petition support: Moved by Commissioner Saltzman and seconded by Commissioner Sten. (Y-3)</p> <p>(Y-3)</p>	<p>36482 AS AMENDED</p>
<p>REGULAR AGENDA</p> <p>133 Amend City 2007 Legislative Package and direct the Office of Government Relations to take a neutral position on state legislation designed to enhance the collective bargaining rights of public safety personnel by allowing them to bargain for staffing levels that provide for their safety (Resolution introduced by Commissioners Adams, Leonard, Saltzman and Sten)</p>	<p>REFERRED TO COMMISSIONER OF PUBLIC SAFETY</p>

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<p style="text-align: center;">Mayor Tom Potter</p> <p style="text-align: center;">Office of Management and Finance – Purchases</p> <p>134 Adopt findings and authorize an exemption to the competitive bidding process to the Bureau of Purchases pursuant to ORS 279C and City Code 5.34 and provide payment for construction of the Gabriel Park Skate Project (Previous Agenda 127)</p> <p>(Y-3)</p>	<p style="text-align: center;">180763</p>
<p style="text-align: center;">Commissioner Sam Adams</p> <p style="text-align: center;">Bureau of Environmental Services</p> <p>135 Authorize low-interest State Revolving Fund loan agreement with Oregon Department of Environmental Quality for \$100,000 for work in Johnson Creek Watershed (Ordinance)</p>	<p style="text-align: center;">REFERRED TO COMMISSIONER OF PUBLIC UTILITIES</p>
<p>136 Authorize a formal bidding process and contracts to be executed for the NW Glisan Street, between NW 11th and NW 15th Ave, Sewer Replacement Project No. 8333 (Ordinance)</p>	<p style="text-align: center;">REFERRED TO COMMISSIONER OF PUBLIC UTILITIES</p>
<p style="text-align: center;">Commissioner Dan Saltzman</p> <p style="text-align: center;">Parks and Recreation</p> <p>137 Authorize a facility use agreement with the African American Health Coalition for Matt Dishman Community Center, University Park Community Center and Columbia Pool (Ordinance)</p>	<p style="text-align: center;">PASSED TO SECOND READING FEBRUARY 21, 2007 AT 9:30 AM</p>
<p>138 Authorize license agreement with the State of Oregon, on behalf of Portland State University to develop, manage and operate a food-based educational gardening program on Portland Parks and Recreation Green Thumb property (Ordinance)</p>	<p style="text-align: center;">PASSED TO SECOND READING FEBRUARY 21, 2007 AT 9:30 AM</p>

At 10:04 a.m., Council adjourned.

GARY BLACKMER
Auditor of the City of Portland



By Karla Moore-Love
Clerk of the Council

For a discussion of agenda items, please consult the following Closed Caption File.

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WEDNESDAY, 2:00 PM, FEBRUARY 14, 2007

**DUE TO THE LACK OF AN AGENDA
THERE WAS NO MEETING**

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Closed Caption File of Portland City Council Meeting

This file was produced through the closed captioning process for the televised City Council broadcast.

Key: ***** means unidentified speaker.

[The following text is the byproduct of the closed captioning of this broadcast. The text has not been proofread, and should not be considered a final transcript] * * *

FEBRUARY 14, 2007 9:30AM

[gavel pounded]

Leonard: Council will come to order and the clerk will call the roll.

[roll taken]

Leonard: So we have a time certain on item 132 can you read that karla?

Moore: We can start with communications, item 131.

Item 131.

Leonard: Oh, i'm sorry. Yes. Thank you.

Kylie Meiner: Good morning. This is my daughter, and she's just one of the many examples of why we're so appreciative of you making the playgrounds and other areas of parks smoke-free. Since it's valentine's day we wanted to give each of you some valentines, thanking you from the children of the city from all over Portland.

Leonard: We appreciate that. Thank you. Do you want to introduce everybody?

Meiner: Sure.

Diane Water-King: I'm diane with the american lung association of Oregon.

Amanda Wright: Amanda wright with this is my daughter sophie.

Leonard: Thank you for coming. We appreciate it.

Water-King: You'll have individual packets made from the kids, and this is a big valentines made by a lincoln high student. Just thank you so much for tabling -- for taking the leadership to take this great first step. We hope it's just a first step, the parks will end up ultimately completely smoke-free. Thank you and happy valentine's day.

Leonard: Thank you very much. We appreciate that. Thank you. Very nice.

Saltzman: Thank you very much. Happy valentines.

Leonard: Now time certain, 132.

Moore: That's the 10:00 a.m. Time certain. We'll have to hold that.

Leonard: I guess we'll jump to the regular -- do we have a consent?

Moore: No.

Leonard: Ok. Item 133.

Item 133.

Leonard: I'm going to send this back to my office, but I want to say this first. One of the fundamental rights employees have is to be able to discuss with their employer conditions of safety.

And I can think of no two groups who shouldn't enjoy that right more than police officers and firefighters. Unfortunately this proposal has developed a constitutional problem overnight. That meaning it doesn't have a majority of the votes to pass. So i'm going to send it back and intend to bring it back and maybe a slightly different form that's a more positive support of senate bill 400 in salem that is the vehicle by which firefighters and police officers are attempting to have the right to talk to their employers about their safety. I'll be bringing that back next week. So i'm going to ask for unanimous consent to pull item 133 and send it back to my office. Thank you.

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*****: [inaudible]

Sten: If we're going to have testimony, we should have testimony from everybody or hold the letter to next week.

Leonard: We are going to -- this will be back next week. Would it be more appropriate to do it then?

Austin Raglione, Chief of Staff, Mayor's Office: That's your choice. Chief of staff for mayor Potter. The mayor is in Washington, d.c. this week. He wanted to be available to talk about this. He did have a letter that he would like me to read into the record. As of 15 minutes ago I had been told by you this would not be pulled, so we're prepared to have discussion. So with all due respect, the mayor did --

Leonard: That's fine. You can speak to it and robert is in the audience and I would ask him --

Sten: It makes perfect sense. What i'm trying to say is the mayor is going to be here next week. Rather than have the debate today, I assume his letter is going to provoke debate, which is going to cause us to need to give others a chance to testify, it might be better to let him debate it next week. And not have the debate at all.

Raglione: That's the choice of the council?

Leonard: I'm not going to do something that tom is going to think is disrespectful toward him if your understanding is he'd like to you read that today, but as commissioner Sten said, we'll probably have more of a discussion than what I intended.

Raglione: ok. For the record, austin raglione with the mayor Potter's office. This is a memorandum dated february 9 to the city council and auditor gary blackmer from mayor Potter. A resolution is coming to council on february 14 that would direct the office of government relations to take a neutral position on state legislation impacting the collective bargaining rights of public safety personnel. If passed, this resolution would change the city's position proper from opposed to neutral on house bill 2404, also senate bill 400, currently being heard at the state legislature. I have been advised by the city attorney's office, bureau of human resources, and police bureau, that the passage of house bill 2404 would negatively impact the city's ability to manage its work force, assign staff, and negotiate labor agreements. See attached documents. I have the stack of documents here to present. I agree with the assessment and oppose this legislation. Fire and police chiefs are strongly opposed to the house bill, changing our position from opposed to neutral would not be in keeping with the collaborative working relationship we have developed with our partners across the state and would improve the chances that house bill 2404 will pass. I respectfully urge you to review the attached memos and reconsider your position on this resolution before council.

Please feel free to contact me if you have any questions. Thank you.

Robert King, President, Portland Police Association: Good morning, president of the Portland police association. Having heard the comments that were made by austin today, and the letter from the mayor, the officers of the city, i'm sure this is true for the firefighters as well, think it's important they have the ability across the bargaining table to discuss with their employer a variety of issues that concern safety. One of them is staffing for us and the police bureau, I think in the fire bureau too, radios, kinds of cars or fire engines we drive, the kinds of guns we carry, etc. This is the passage of the state level of this particular house bill and senate bill does not in fact have the negative or the catastrophic impact or consequence that you heard here stated today. I look forward to coming back next week, sharing with the council and the community the concerns that we have. We would like the ability to be able to talk about the issues that affect our lives and the safety of our community across the bargaining table. It's a right we do not have today.

Leonard: Does anybody else wish to testify?

Sten: Could I ask you a question? We should probably have some discussion then. As i've been presented the arguments from both sides, the side against it tends to say -- have a series of examples That could happen. On its face it's too simplistic perhaps, but hard to argue that for me at least that

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firefighters and police shouldn't have some ability to talk about safety issues in collective bargaining. I feel like if we're going to have this discussion today, we need to actually frame it a little bit and let people understand the choices in front of us, otherwise it becomes words. On a collective bargaining front now police and fire cannot strike. I don't know if everybody knows that. If the two sides cannot reach an agreement, and I think mayor Potter works very hard as to the rest -- as do the rest of the commissioners to get to agreements, and more often than not we do, but if we can't, the two sides have to go to arbitration, and stakes are high by law, because the arbiter can only pick one side or the other. I'm not doing this for the council's benefit, but for those who might be drawing into -- drawn into this debate and don't know all these details. Both sides, I think what's good -- what's bad is it can be arbitrary, but both sides have a huge burden on them to not make extreme proposals, because if you throw -- you're going to lose and get the whole package. So I think this allows police and fire unions to make proposals, but it does not give them any clean way to get them done. They're going to be -- going to Have to be very careful. I'm in support and I think that's the intent of the fire and police unions of the idea of allowing those things to be bargained. Every example i've had come across my desk so far is that the union cso under this legislation grieve what I would call routine decisions by the fire and police chief. And so I wanted to talk a little bit about this morning once we had the debate about whether or not that's the union's intent. If it's not, whether or not there's some ability to maybe amend, suggest, work together as a collaborative approach to try and amend the council's recommendations to put a couple sentences in that says we would be -- I might move from neutral to support, which is where commissioner Leonard is pushing if we could say that the extreme cases which is all that make up the memos that are being -- that are coming my way, are not actually possible. I just wanted to ask robert if it's your intent to use this legislation to grieve -- you can define routine, but what i'm saying is, it's your intent to use this for the bargaining process as opposed to month-to-month decisions.

King: That is our intention. I think when you look at the relationship the police union and the -- we've grieved issues like the ones we've been talking about very infrequently. We have the ability to grieve -- there's a letter that was sent to both the house and to the senate that gave -- they wouldn't be able to fund or they Wouldn't be able to direct activities of the officers in a neighborhood livability mission. We have the ability to make grievances on issues like that today. That is not our intention at all. I hope people recognize that in the early 1970's there was the development of the collective bargaining laws in the state of Oregon and for public safety workers who don't have the ability to strike, the development of that collective bargaining act and the public safety's ability to negotiate with their employer was really critical for harmonious relationships, for productivity, for a continuity of service, a whole variety of reasons. And through the years there's topics that come across the bargaining table that are mandatory that the employer and the employees -- the law requires that we talk about over the table, the employers are required to talk about it over the table and there are other items that are permissive, which is to say the employer can look at us and say, we're not going to talk to you about that. We can meet with you privately and can talk in committee settings, we will not talk about this over the bargaining table. Our point has been, we need a way over the bargaining table to discuss the issues that relate to our safety. And how our safety and discussions about our safety has this catastrophic impact on the city of Portland and its operations is completely lost on me. So I just think it's fundamentally fair and it's necessary, and given the work we do and the role we play in the community and the fact we put our lives on the line every day, I think it's abundantly fair that we have the ability to discuss this over a bargaining table and the way we do health insurance and wages. And for us, i'm very careful. I am singly responsible to the men and women that I represent and producing results for them on the issues that really matter to them, and their wages benefits and working conditions, and when you step on to the arbitration playing field, you put yourself at risk because it's a win or take all -- winner take all environment. So i'm not going to be taking a variety of issues in to arbitration that

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put me and my organization's effectiveness at risk. We simply want the opportunity to be able to talk about things that relate to our safety over the table because today the city can look at us and say, we are not talking to you about the items that relate to your safety. And we think that's unfair.

Sten: Would you be open to try to work on some language? I have reviewed all these memos, because I think this is a really serious question, because I want to get this right, the paragraph from yvonne deckard says "recent organizational change is being considered by chief sizer probably could not occur without bargaining if this bill was enacted. Reappointing school officers could be challenged." I won't read the whole piece, but I don't support a bill that would say you can unilaterally block deploying somebody from gang detail to school police. Is that your intention?

King: It is not.

Sten: Would you be ok if we work order language -- I don't know what is it --

King: I don't know either --

Sten: I'd like to work with our lawyers and Yvonne to get some language, because I think it's one of these things where we absolutely have to live in a world of worst case scenarios.

King: I agree.

Sten: But I haven't read a memo yet that isn't strictly about worse case scenario and not about what you're saying you intend to do, and I take you at your word. So I want to ask chief, do you is that what you're after here?

Rosie Sizer, Chief of Police: Rosie sizer, chief of police. With all due respect I think we have a great working relationship, robert king and i. He will not always be Portland police association's president, and as reasonable as he is on issues, he could be supplanted by someone who is less reasonable. I cannot think of in my 22 years as a police officer, any occasion where the police chief or police management refused to talk to the police union or police officers about safety issues. It is a fundamental, all-important aspect of our work, and so I think the argument about the requirement that we bargain around these issues is kind of a straw dog, Because not talking and not working together just doesn't happen when it's a safety issue. If you look at the language of the bill, it is extremely broad. It's staffing and safety and workload. And I don't know many people, and i've talked to commissioner Leonard about this, who can activate the collective bargaining process for matters related to workload. If you take safety aside and just talk about workload, I can't think of really any change I would implement in the police bureau that wouldn't affect workload and many of them could potentially affect safety and not necessarily in a disadvantageous way. So this bill has extremely broad ramifications, I think a potential impact of it would be demand a bargain letter over virtually any change. Since i've been police chief I understand how difficult it is to change an organization that is as large as the police bureau. Sometimes the power of inertia is overwhelming, and if I look at the school police issue, it's a pproa and a ppa issue. It's probably a larger workload issue for the command officers association than it is necessarily for the Portland police association. And by reassigning those senior resource officers to precinct commanders, I could see the pproa demanding to bargain around it.

Leonard: Chief sizer, why wouldn't you, as opposed to having this blank opposition that the city has taken, do what It is to say would you like to do? That is support the part that has to do with safety and develop language as commissioner Sten is talking about with robert king, that makes it clear the intent isn't to have these kinds of changes that impact workload trigger bargaining? This -- i'm intimately familiar with the legislative process and the collective bargaining process.

Unfortunately not from you, you and I have had frank discussion, but from others in the city their comments don't ring true. I really find myself a little frustrated when I hearsay things like, we have partners around the state that we don't want to upset, we don't want to let our firefighters and police officers talk about their safety. Come on, let's get real. That doesn't really mesh up real well with the consistent public comments that I hear from every member of the council that we value our

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employees, that they should sit at the table with us, they should help us make decisions. But when the rubber hits the road is city is down there in force trying to kill this bill. And it just bothers me a little bit. So my point is, if you think there is some middle ground, why aren't we working towards that as opposed to this blanket opposition to a bill that for most of us is a fundamental right of employees?

Sizer: I think there are people who are working on alternative language to this overly broad language. And I think if you took out workload that would be something along the line, and if you lessened potential impact as to probable impact, that would narrow the field as well. But I think as the legislation is proposed, I think the city's position should be in opposition to it. And I still care about the safety of my employees terribly, it motivates everything that we do. We talk about issues that are related to safety. But I believe this is overly broad language.

Leonard: Would you agree to support language that in your opinion focused on the ability of firefighters and police officers to bargain over the safety of their workplace if it was narrowed to that from what the current --

Sizer: I that I would be better language, and i'd be interested in working with others to narrow the field.

Leonard: I'm asking you for your personal opinion.

Sizer: Yes.

Leonard: Would you support that? Ok. Maybe by next week we can get to a place where we're all in agreement, but it's just difficult to me to not have the city try to figure out a solution to this as opposed to this really what's been this aggressive opposition down in salem, which started my involvement in this, was the -- not just opposition, but aggressive opposition. And I just think that's unfair.

Sizer: And I would just challenge Robert to think of circumstances where police management hasn't been willing to talk about issues.

Leonard: But you made the point to him he won't always be around. Why shouldn't that apply to you as well and your managers? You won't always be around. I can certainly think in my history as president of the fire union chiefs I liked to deal with and others I hoped i'd never see again after one meet can. So that applies to the police bureau as well as it does to robert and the ppa.

Sizer: And --

Leonard: The point being we shouldn't have laws and rules that reflect personalities, they should be organizational and speak to systems and not who the people are at the table.

Sizer: Right, but in 22 years police experience, I can't think of an important matter where the stir in the body of whatever chief was present at the time, or whatever police union leader did not talk about issues related to safety of mutual concern.

Leonard: Maybe there's a way, I appreciate commissioner Sten's questions, that we can get to a place where next week -- I would really like fit we could get to a place -- again, we're not passing the legislation here. There is a whole list of people down there as we speak, a half dozen or more, that are lined up in legislators' office to tell them why this is the end of the earth as we know it if it passes. So it isn't like our involvement one way or the other really Makes much difference, but to me it's a statement to -- that's an actual statement to our employees that we don't just say we value you, we want to do things that demonstrate we value you. And I guess that's the part that has me fired up a little bit. I'm not confused to think we're going to one way or another impact what happens to the bill one way or the other. I don't think any of us think that.

Sizer: Thank you.

Sten: I appreciate your thoughtful response.

Leonard: Does anybody else -- so we'll send this back to my office. Continue it to next week. Actually -- i'm thinking of actually just redrafting it, so maybe we'll just refer back to my office. Item 134.

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Item 134.

Jeff Baer: Good morning. I'm Jeff Baer with the Bureau of Purchases. Before you is a recommendation to approve the exemption to the competitive bidding process in order to use an alternative construction process, and that is the design-build process for constructing the Bureau of Parks and Recreation's Gabriel Park Skate Park. And we have found this worked -- this design-build process worked really well with the Glen Haven Skate Park and under Oregon law we're required to provide findings related to why we think it's a better process than the traditional low bid process. And that under Oregon law required to make findings which are included as attachment A which show that it would not diminish competition and that means we are going to do a competitive request for proposal process, and also that it would produce substantial cost savings. And another third part is that we would require to provide a post-project review at the end of the project, we'll come back to Council and show where those findings actually showed true in terms of the project. And with that I'll stop and address any questions you have, plus we have a representative from Parks in case there are any project-related questions.

Leonard: Thank you. Any questions? Is this the first reading, Karla?

Moore: Actually, we did have its first reading last week so we can go ahead and vote on this. We continued it.

Leonard: Any further discussion? Please call the roll.

Saltzman: Aye. **Sten:** Aye.

Leonard: Aye. [gavel pounded] item 134. 135

Item 135 and 136.

Leonard: Anybody here to testify?

Moore: These are the two they want to refer back to the commissioner's office, and 136. 136 is authorize a formal bidding process

Leonard: Any objection to sending those both back to commissioner Adams' office? If not, so approved. [gavel pounded] 137.

Item 137.

Leonard: Anybody here? Commissioner Saltzman?

Saltzman: I'll just say this is a very effective relationship we've developed with the African-American Health Coalition to get more people to use our community centers through their outreach efforts. In the African-American community, primarily. This is basically renewing that relationship, or continuing it, I should say.

Leonard: Any discussion? Is that a first reading?

Moore: Yes, it is.

Leonard: Passes to second reading. [gavel pounded] 138.

Item 138.

Saltzman: This is also the continuation of a relationship with P.S.U. to provide as it says, food-based educational gardening program at -- at the Green Thumb site, which is in southeast Portland.

Leonard: Any discussion, anybody want to testify? First reading something passes to second reading. Council's adjourned --

Moore: We have our time certain. Our 10:00 a.m.

Leonard: Oh. I'm doing great here, aren't I? 10:00 a.m. time certain.

Item 132.

Leonard: Good morning, Andrew. Do you want to just go ahead and explain this? Hi some things here that Sam wanted me to say. Do you want me to do that?

Andrew Aebi: Sure, Commissioner Leonard. We will have an amendment here in a moment that I'll be asking you to approve. We wanted to go ahead and bring this item to Council today because we notified all the property owners of this hearing in advance of knowing that Commissioner Adams would be absent today. I checked with Karla, I don't think we have anybody signed up to testify, so

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I think I can be quite brief this morning. I want to quickly show you one slide. This is a map of the southwest nevada street local improvement district. The area shaded in gray there is the area the street area -- the street will be improving. All the property is shaded in green have tendered their petition support for this project. There is one wavered property shaded in blue, and then there's one property in gray that did not tender a petition support for the project. This item previously came before council in november of 2004. At the time I recommended to council that we terminate local improvement district formation proceedings because there was a consensus to construct the street under a permit. The do it yourself option has not worked very well over the past two years, and I held a property owner meeting last month and there was a strong consensus to form the l.i.d. and go ahead and get the street improved using the city instead of going through the permit route. So that's it in a nutshell. What we've done since two years ago is we've changed the scope of the project, wove reduced the cost of the project, and we've changed the assessment methodology. So all the property owners see savings from where they were two years ago. With that, when I filed the resolution we had a little over 30% petition support. We had some late petition support that came in. So I just wanted to request commissioner Leonard if we could adopt an amendment to reflect the additional petition support, and I have copies of that amendment here with me.

Leonard: Ok.

Aebi: And then we can take a roll call on the resolution.

Leonard: Ok.

Aebi: Once he distributes that someone will need to move the amendment.

Leonard: Yes.

Saltzman: Move the amendment.

Sten: Second.

Leonard: Let's take a look at it before we vote.

Leonard: Is there any discussion on the amendment? If not, Karla, can you call the roll on the amendment?

Saltzman: Aye. **Sten:** Aye.

Leonard: Aye. [gavel pounded] any further discussion on the resolution? Anybody wants to testify?

Saltzman: I was curious, what is the cost of the improvements, or estimated costs?

Aebi: When we originally costed this out two years ago, the cost of the property owners was about 196,000. We've been able to drop that down to 1 hundred 145,000, despite a couple years of inflation.

Saltzman: These this is one of these unimproved stretches of road in southwest?

Aebi: Yes. We don't get a lot of projects in southwest, so we certainly like to put them together when we can.

Leonard: Further discussion? Please call the roll.

Saltzman: Aye. **Sten:** Aye.

Leonard: Aye. [gavel pounded] it's adopted. Council is adjourned until next wednesday at 9:30. [gavel pounded]

At 10:04 a.m., Council adjourned.