



CITY OF

PORTLAND, OREGON

OFFICIAL
MINUTES

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 16TH DAY OF DECEMBER, 1992 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; Kathryn Imperati, Senior Deputy City Attorney; and Craig Greathouse, Sergeant at Arms.

Representatives of the 1993 Square Dancers Convention presented a plaque to the Mayor for his efforts in getting the new Convention Center.

The Martin Luther King, Jr. School Choir sang Happy Birthday to Mayor Clark and presentations were made by Dean Johnston of the Fire Bureau for the Toy and Joy Makers and Sgt. Jeanne Bradley of the Police Bureau for the Sunshine Division.

Commissioner Lindberg led other Council members in celebration of Mayor Clark's birthday.

Agenda No. 2114 was pulled from Consent. On a Y-4 roll call, the balance of the Consent Agenda was adopted as follows:

CONSENT AGENDA - NO DISCUSSION

- 2092** Accept bid of Ross Island Sand and Gravel Company for furnishing mixed concrete for \$447,380 (Purchasing Report - Bid 56-A)

Disposition: Accepted; prepare contract.

- 2093** Accept bid of American Business Machines for furnishing 32 CPM copiers through October 31, 1993, including five year maintenance for \$244,115 (Purchasing Report - Bid 66)

Disposition: Accepted; prepare contract.

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- 2094** Vacate N Kellogg Street east of N Charleston Avenue, under certain conditions (Second Reading Agenda 2014)

Disposition: Ordinance No. 166079. (Y-4)

Mayor J. E. Bud Clark

- 2095** Confirm appointment of Steven W. Abel to the Portland Historical Society Landmarks Commission (Report)

Disposition: Confirmed.

- 2096** Revise Interagency Agreement Policy for the City of Portland (Resolution)

Disposition: Resolution No. 35089. (Y-4)

- *2097** Pay claim for Rasta Walid (Ordinance)

Disposition: Ordinance No. 166080. (Y-4)

- *2098** Authorize modification of legal services agreement dated March 11, 1992, with Williams, Fredrickson, Stark and Weisensee for special legal counsel to obtain certain property for Police precinct headquarters (Ordinance; Contract No. 27706)

Disposition: Ordinance No. 166081. (Y-4)

- *2099** Authorize \$54,000 purchase of personal property located at 16160 SE Powell Boulevard (Ordinance)

Disposition: Ordinance No. 166082. (Y-4)

Commissioner Earl Blumenauer

- 2100** Accept completion of the NE 13th Avenue Basin C.S.O. Sump Project - Unit 2 and make final payments to B, L & B Contractors, Inc. (Report; Contract No. 27768)

Disposition: Accepted.

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- 2101** Accept completion of the NE Wisteria Drive from NE 42nd Avenue to 480' West Sewer Reconstruction and make final payment to Canby Excavating, Inc. (Report; Contract No. 27972)

Disposition: Accepted.

- *2102** Agreement with the Oregon Department of Transportation's Highway Division to provide for bridge inspection reimbursement (Ordinance)

Disposition: Ordinance No. 166083. (Y-4)

- *2103** Call for bids for the NE 13th Avenue Basin C.S.O Sump Project - Unit 5, authorize a contract and provide for payment (Ordinance)

Disposition: Ordinance No. 166084. (Y-4)

- *2104** Call for bids for the 13th Avenue Basin C.S.O Sump Project - Unit 6, authorize a contract and provide for payment (Ordinance)

Disposition: Ordinance No. 166085. (Y-4)

- *2105** Call for bids for the NE 112th Avenue, NE Wygant Street to NE Bennett Street Sewer Extension, authorize a contract and provide for payment (Ordinance)

Disposition: Ordinance No. 166086. (Y-4)

- *2106** Revocable permit to Portland Saturday Market, Inc., to close part of W Burnside Street under the Burnside Bridge for additional market operations between December 21 and December 24, 1992 (Ordinance)

Disposition: Ordinance No. 166087. (Y-4)

Commissioner Gretchen Kafoury

- *2107** Amend contract with Raphael House to increase the amount of compensation by \$4,575 and provide for payment (Ordinance; amend Contract No. 28073)

Disposition: Ordinance No. 166088. (Y-4)

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- *2108** Contract with Multnomah County for \$16,015 to provide shelter and services to the homeless mentally ill and provide for payment (Ordinance)

Disposition: Ordinance No. 166089. (Y-4)

- *2109** Accept a \$4,942 grant from the State of Oregon, Department of Land Conservation and Development, to provide alternative dispute resolution activities for the period ending June 30, 1993 (Ordinance)

Disposition: Ordinance No. 166090. (Y-4)

Commissioner Mike Lindberg

- 2110** Accept contract with Werbin West Contracting, Inc., for 16-inch and 12-inch water mains in NW Skyline Boulevard, Phase III as complete and authorize final payment (Report; Contract No. C-9761)

Disposition: Accepted.

- 2111** Accept contract with Oregon Electric Construction, Inc., for installing telemetry equipment and instrumentation as complete and authorize final payment of \$68,158 (Report)

Disposition: Accepted.

- *2112** Amend contract with Northwest Construction, General Contracting, Inc., for additional \$6,570 and make final payment (Ordinance; amend Contract No. 28133)

Disposition: Ordinance No. 166091. (Y-4)

- *2113** Authorize an agreement with CH2M Hill and authorize payment of funds not to exceed \$61,000 for professional consulting services to the Bureau of Water Works (Ordinance)

Disposition: Ordinance No. 166092. (Y-4)

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REGULAR AGENDA

City Auditor Barbara Clark

- *2114** Cancel City liens which have been extinguished because of Multnomah County foreclosure or which are otherwise uncollectible (Ordinance)

Discussion: Cay Kershner, Clerk of the Council, said the Auditor had requested that this be placed on the Regular Agenda.

Disposition: Ordinance No. 166093. (Y-4)

- 2115** Vacate a certain portion of NW Marshall Street lying between NW 26th Avenue and NW Cornell Road, under certain conditions (Ordinance by Order of Council; C-9807)

Disposition: Passed to Second Reading December 23, 1992 at 9:30 a.m.

Mayor J. E. Bud Clark

- *2116** Adjust FY 1992-93 Budget for First Quarter changes (Ordinance)

Discussion: The Clerk said several proposed technical amendments to Exhibit A had been distributed.

Commissioner Lindberg said another issue between General Services and Parks also needs to be resolved.

David Kish, General Services Director, said Facilities has requested \$27,500 from the General Fund for expenses incurred at the request of the City Forester to clean up 112 trees that had been cut down on Willamette Boulevard. Later, they learned that the trees were not on Parks property and that the Parks Bureau did not have the money to pay for the removal. He requested that Facilities be repaid out of the General Fund adding, however, that the Office of Finance and Administration believes it is not appropriate to take it out of contingency.

Commissioner Lindberg said it is unusual to take this much money out of contingency but the work had to be done and \$27,500 cannot be taken out of Facilities' or Parks' budgets without causing other services to suffer. He moved to take this one time cost out of contingency. Commissioner Bogle seconded and the motion carried. (Y-3; N-1, Blumenauer)

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Commissioner Lindberg moved the amendment making technical adjustments to Exhibit A. Commissioner Bogle seconded and the motion carried. (Y-4)

Commissioner Blumenauer asked if anyone was available to speak to what action is being taken on the Blazer arena.

Council continued the item until representatives from the Office of Finance and Administration were available.

Commissioner Earl Blumenauer

- 2117** Consider vacating a portion of SE 100th Avenue south of SE Powell Boulevard as initiated by Resolution No. 35082, to consolidate property for development of a public park (Hearing; C-9819; Previous Agenda 2070)

Disposition: Adopted. City Engineer prepare contract. (Y-4)

- 2118** Sewer Discharge Agreement between Bureaus of Fire, Water and Environmental Services (Resolution)

Disposition: Resolution No. 35090. (Y-4)

- 2119** Amend Chapter 17.102 of the City Code to clarify solid waste and recyclables collection rates for duplexes, triplexes and four-plexes (Second Reading Agenda 2074; amend Chapter 17.102)

Disposition: Ordinance No. 166094. (Y-4)

- *2120** Transfer appropriations within the Office of Transportation to provide the first \$1 million installment payment of local match to the Tri-County Metropolitan Transportation District (Tri-Met) for the Westside Corridor project (Ordinance)

Discussion: Commissioner Blumenauer said he saw no other option but to take this money out of the Transportation contingency fund in order to keep the West Side Light Rail going. He said the loss of \$6 million in tax increment financing will have a major impact on the Transportation budget, particularly as the Mt. Hood freeway funds have all been spent. However, he said, West Side Light Rail is the number one transportation priority in the region and this transfer keeps it on track. In the months ahead, Council will need to address how the City is to come up with the remaining \$5 million dollars.

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Mayor Clark said because of the Supreme Court decision on tax increment financing, \$6 million has to be taken from other transportation projects.

Commissioner Blumenauer said the City has already paid one \$1 million. However, this is the first installment payment on the money that was to have come in tax increment financing through the Portland Development Commission.

Disposition: Ordinance No. 166095. (Y-4)

- *2121** Authorize Interagency Agreement between the Bureau of Environmental Services and the Portland Development Commission for land acquisition service personnel (Ordinance)

Discussion: The Clerk noted that an amendment had been proposed that clarifies the indemnification agreement. Commissioner Blumenauer moved the amendment. Commissioner Lindberg seconded and the motion carried. (Y-4)

Disposition: Ordinance No. 166096 as amended. (Y-4)

- 2122** Amend City Code Title 17 to eliminate sewer connection charges for properties previously connected to the City's sewer system and modify methods for calculating impervious area for residential properties (Ordinance)

Disposition: Passed to Second Reading December 23, 1992 at 9:30 a.m.

- *2116** Adjust FY 1992-93 Budget for First Quarter changes (Ordinance)

Discussion: (Continued discussion from above.)

Commissioner Blumenauer said he was unclear about how the Arena Project funds were to be treated. He said it sounds as though not all the costs the City would incur would be eligible for financing out of project revenues.

Ruth Roth, Bureau of Financial Planning, said she could not address which costs would be eligible for reimbursement out of project revenues. She said she understood that some portion will come from higher property taxes due to higher assessed values.

Commissioner Blumenauer said in the past he has not supported putting any General Fund money into the Arena Project but feels comfortable

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drawing a circle around identified revenues, such as increased property taxes, and using them to pay the uncovered expenses. He said he wanted to make sure the funds were segregated so that the project would not drain the General Fund. He said Council intent was that all expenses, regardless of how they are segregated, would be paid back from project revenues.

Mayor Clark said he understood that all these expenses were to be paid out of revenues from the operation of the new arena.

Tim Grewe, Bureau of Financial Planning, said no suitable options to replace the loss of funding for staff support for the project have been specified. Today's proposal would capitalize the project costs, some of which they hope would be reimbursable from the long term debt but others may need to be financed over 5-10 years from General Fund resources. He said it is not clear that revenues from the project will support staffing costs and another revenue source may need to be tapped to cover them.

Commissioner Lindberg said during the negotiations with the Blazers it was recognized that some General Fund resources would be expended. However, the \$2.7 million per year generated by the project in property taxes and business license revenues could be used to offset the costs. He said the costs need to be isolated as do revenues specifically associated with the project.

Mr. Grewe said such an analysis has been done although he could not provide details today.

Commissioner Blumenauer said it is important to nail this down. He said as far as he could discern, the financial plan does not reflect the increased property taxes anticipated from this specific project. He said monies paid from the general fund should be regarded as a loan to be repaid from revenues generated by the project and dedicated to meeting this obligation.

Commissioner Lindberg said Council needs to adhere to the principle that this is a self-sustaining project.

Mayor Clark said this revenue was an added bonus before the Supreme Court decision but now looks as if a part of it should be dedicated.

Mr. Grewe said Steve Bauer would have to report on any obligations made against those revenue sources.

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Commissioner Blumenauer said if there were such obligations, they were without Council authorization and would be contrary to its intent. He said Council should know what it is voting on before final approval today. He asked to delay this item until there is some clarification.

Mr. Grewe noted that the City lost the tool of financial increment financing when midstream in its negotiations with the Blazers. The Portland Development Commission identified the staffing issues but at that point the only funding source was property tax revenues in the General Fund.

Commissioner Lindberg said a pact has been made with the public that the project will pay for itself and that needs to be put in writing.

Disposition: Continued to December 16, 1992 at 2:00 p.m.

2091 TIME CERTAIN: 10:00 AM - Accept the First Annual Report of the Elder Safety Coalition (Report)

Discussion: Becky Wehrli, Director, Portland/Multnomah Commission on Aging, said for the last four years the Commission has been working to pull together law enforcement agencies and aging services to address the issues of elder abuse. A grant from the federal Commission on Aging has resulted in such a project in North/Northeast Portland.

Delanie Delamont, Coordination, Elder Safety Coalition, said many businesses were involved in the project and with their help, the Coalition has been able to provide extensive training in the areas of fraud, elder abuse and personal safety for seniors.

Virginia Shay, Elder Safety Coalition, described the Senior Helpline program and efforts underway to advertise its availability.

Jim Nelson, Portland Police Bureau and liaison to the Coalition, said a major concern has been under-investigation and under-prosecution of crimes against seniors. He said Police have trained caseworkers at social service agencies to identify criminal activity and hope to have an advocate for seniors in each precinct. In return, the service agencies are training Police officers to identify elder abuse. Police have also expanded the HCD lock program to help seniors who live in rental properties.

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Ms. Wehrli thanked the Police Bureau and the Multnomah County District Attorney's office for their help. She said with the extension of the grant for another year, they hope to turn attention onto East County where the same kind of interagency agreements are needed.

Disposition: Accepted.

Commissioner Gretchen Kafoury

- 2123** Grant a ten-year property tax exemption to Villa Medicea Investors for new multi-unit housing at the south half of the block between NE 14th, 15th, Weidler and Broadway (Report introduced by Planning Commission)

Discussion: Mike Saba, Planning Bureau, said this is the first Eastside Central City project recommended for approval.

Disposition: Approved. (Y-4)

- 2124** Grant a ten-year property tax exemption to Villa Medicea Investors for new multi-unit housing at the south half of the block between NE 14th, 15th Weidler and Broadway (Ordinance)

Disposition: Passed to Second Reading December 23, 1992 at 9:30 a.m.

Commissioner Mike Lindberg

- *2125** Authorize contract with Portland Habilitation Center for \$245,981 for janitorial services, January 1 - December 31, 1993 and authorize payment (Previous Agenda 2054)

Discussion: Commissioner Lindberg said he hoped the current contractor would be willing to continue on the old contract while discussions about the new contract continue. He said staff would be glad to meet with any contractors present today.

Disposition: Referred to Commissioner of Public Works.

- *2126** Authorize a contract with the Oregon Department of Energy for \$25,000 to co-sponsor an international global warming workshop and symposium (Ordinance)

Disposition: Ordinance No. 165097. (Y-4)

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- *2127** Authorize the Bureau of Water Works to file claims for pre-1909-surface water rights on the Bull Run, Little Sandy and Willamette Rivers at a total cost of \$75,000 and provide for payment (Ordinance)

Discussion: Commissioner Lindberg noted that while the Water Bureau is currently facilitating a regional water planning process, opportunities arise in the short term that should be pursued. Although the City now has an abundance of water, it is important to keep all the supply options open and for that reason the Water Bureau and City Attorney should pursue its claim to water rights on these three rivers.

Terry Thatcher, Deputy City Attorney, reviewed the 1909 State law which granted the City exclusive use of the Bull Run and Little Sandy rivers subject to the preexisting rights of others. It also protected water rights established prior to 1909. He said under current law any entity which believes it has a pre-1909 water right must file a statement and filing fee with the State Water Resources Department before the end of 1992. He said staking such a claim does not guarantee that the water right exists and explained the process involved in making such a determination.

Individuals testifying in favor of the ordinance included, particularly with respect to filing for pre-1909 water rights on the Little Sandy River included:

Bob Robinson, 2226 SE 35th, 97214
Frank Gearhart, 2103 NE 24th Court, Gresham
Dale Sherbourne, Portland Community Water Forum
Regna Merritt, Oregon Resources Council
Michael Carrigan, Oregon Peace Works, 1137 SE 34th, 97214
Don Francis, 133 SW 2nd, 97204
Deborah Howes, 3020 SE Yamhill, 97202
Joe Keating, Community Action Network
Dan Aspenwall, 3565 SE Clinton, 97202
Lynn Ford, 4245 SE Yamhill, 97202
Fred Cash, Chair Democratic Central Committee
Russ Farrell, Eastside Democratic Club, 3144 NE 43rd, 97213
Winnie Francis, 633 NE Tillamook, 97212
Paul Richmond, PO Box 454, 97207

Proponents stressed the value of the Little Sandy River as a source of clear water which can help meet future water supply needs, especially as contaminants in the Columbia and Willamette rivers, as well as in the ground wells, make them unreliable sources of safe drinking water.

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Joe Miller, Jr. 52815 SE Marmot, Sandy, 97055, asked why the Water Bureau never did an in-depth study of the Little Sandy as a separate water source. He accused the Bureau of collusion with the Forest Service.

Pauline Buhler, 41141 SE Kubite Rd., Sandy, 97055 asked what had happened to the Goodfellows Lake project which had been proposed some years before. She argued that tapping the Little Sandy will bother a lot of residents and probably cause Roslyn Lake to dry up.

Kathy Amundsen, Bull Run Community Association, said if water is taken out of Little Sandy it would devastate the Bull Run Community area, dry up Roslyn Lake and hamper other recreational activities.

Commissioner Lindberg pointed out that Portland General Electric, which has a hydroelectric dam on the river, has also filed for pre-1909 rights. He said they have been very cooperative.

Mike Rosenberger, Water Bureau Administrator, read into the record a statement from the Water Quality Advisory Board calling for the aggressive pursuit of pre-1909 water rights.

Commissioner Bogle asked about water status now and the Goodfellows Lake project.

Mr. Rosenberger said they are preparing a wrap-up report on this summer's problems. Preliminary indications regarding use of groundwater wells indicate that the Bureau should have partial access to the well field next summer, giving them up to 30 million gallons a day. He said he would have to research the Goodfellows Lake project.

Joe Miller, Jr., said the Goodfellows Lakes are at the headwaters of the Little Sandy and could supply only a small amount of water. He contended that the best use of the Little Sandy is as a separate conduit system.

Linda Day, Customer Relations, City of Gresham, said Gresham supports this ordinance.

Disposition: Ordinance No. 166098. (Y-4)

At 11:35 a.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 16TH DAY OF DECEMBER, 1992 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 and Ruth Spetter, Senior Deputy City Attorney.

- 2129** Tentatively grant appeal of Harry Kemm III and Chaney Development Corp., applicant, against Hearings Officer's decision to impose certain conditions in approving a major subdivision and variance at the extension of SW Dover Street, east of SW Oleson Road, north of Alpenrose Dairy (Findings: Previous Agenda 2088; 92-00377 SU)

Discussion: Cay Kershner, Clerk of the Council, said two replacement pages had been submitted by Tom Bizeau, Planning Bureau, to make technical corrections. Commissioner Lindberg moved to accept the substitute. Commissioner Bogle seconded and the motion carried. (Y-4)

Disposition: Substitute findings adopted. (Y-3; Blumenauer abstained because of absence at hearing)

- 2130** Tentatively deny appeal of Forest Park Neighborhood Association and grant appeal of Raintree Development, applicant, against Hearings Officer's decision regarding the 25-lot subdivision and PUD located south of NW Skyline Boulevard (Findings; Previous Agenda 2089; 92-00436 PU SU IR AD)

Disposition: Findings adopted. (Y-4)

- 2128** **TIME CERTAIN: 2:00 PM** - Transmit report from the Office of Cable Communications and Franchise Management submitting renewal franchise with TCI Cablevision recommended by the Cable Regulatory Commission (Report)

Discussion: Commissioner Bogle said the Cable Regulatory Commission (CRC) report represents three year's worth of work on an agreement with TCI.

David Olson, Office of Cable Communications and Franchise Management, said Council has not issued a new cable franchise in more than a decade and many changes in technology and the law have occurred since then. He

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thanked members of the Commission for the hundreds of hours they spent on the process. He said they were able to resolve many very significant issues, including a contingent process for upgrading the cable system if warranted and replacement of prior access commitments with an access fund to benefit all institutions in the franchise area.

Mary Beth Henry, Office of Cable Communications and Franchise Management, introduced individuals representing institutions that will benefit from the access fund.

Mr. Olson said the Commission is here to recommend the franchise and seek Council input about two issues raised by TCI.

Chris Thomas, attorney representing TCI, said Portland is known as one of the most difficult regulatory areas in the country with a high degree of regulation, often without a demonstration of real need. He stressed the investments TCI has made not only in the cable system but in support of local organizations. He said except for the guarantor issue and one lesser issue, TCI is committed to fulfilling all of the many additional obligations imposed. The issue of guarantees, however, is the one TCI finds most objectionable, believing it would be better to go through the formal federal renewal process than accept this requirement. He said they were told the guarantee issue is a Council policy decision and called for Council to decide if the City, not TCI, should have to produce evidence that the proposed guarantee is necessary. He asked for the issue to be resolved today to end a long and expensive process.

Mr. Thomas said requiring guarantees in television cable franchises is not standard practice in the country, citing a survey of some 500-600 TCI systems which showed that only nine systems have guarantees, none anywhere close to the kind they are being asked to provide here. He said, with the exception of Rogers Cablesystems, no other Portland cable company has been asked to provide guarantees and in that case the circumstances were entirely different since Rogers, unlike TCI, was a highly-leveraged company with no other assets to compel performance and a low credit rating. Mr. Thomas said that case should not be a precedent for TCI, which is a statewide company with a value of more than ten times the Portland system.

Mr. Thomas said Council must decide if there is some reason the City needs the protections provided by the guaranty. He outlined other remedies the City has, including finding a violation, the ability to enforce through civil proceedings, financial penalty, rate reimbursement penalty, reduction of franchise term for construction violations, implementation of a

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performance bond requirement and forfeiture of the franchise. With these protections, a guarantee by TCI Inc. is unnecessary and one TCI can not accept, especially because of the precedent-setting access requirement. He also asked to have TCI's right to continue operation if the franchise lapses prior to renewal, adding that the franchise runs out in January, 1993.

Commissioner Bogle said he would direct the City Attorney to prepare a revocable permit to allow TCI to continue operations until the renewal is approved.

Commissioner Lindberg, noting that TCI of Oregon had been proposed as a guarantor rather than the parent, TCI Inc., asked about its assets and whether the proposed guarantor would be the franchisee.

Mr. Thomas said TCI Cablevision of Oregon would be both the guarantor and the franchisee here, adding that in this case the City is asking for a guarantor ten times the size of the Portland operation.

Mayor Clark asked why, if TCI is so solvent and confident in its position, it is so concerned about the guaranty.

Mr. Thomas said TCI Cablevision of Oregon is owned by a geographical division, TCI West, which is a part of TCI Holdings Company and which in turn is owned by TCI Inc. He said it is organized this way so that if there are problems with one operation, it can not necessarily call on the assets of other corporations and harm the whole system. He said as soon as guarantees are pushed up the corporate chain, you are undoing the purpose of the structure, which is to promote long term stability for the total system. He said there would be no problem if only the Portland system was being guaranteed by the parent company but the reality is that this is one of the franchise negotiations everyone else in the country is looking at because they know that Portland is very aggressive in its regulations. He contended that the City must assume the burden of determining that there is a significant need for the requirement, and argued that it is not needed.

Bill June, Chair, Cable Regulatory Commission, 1975 SW Edgewood Road, said a three-member subcommittee spent over a year looking at this issue and no member of that committee was persuaded nor was anyone on the Commission itself. He said the CRC concluded that a guarantee by the parent company, TCI Inc., is important because it wanted to do business with the people who call the shots, noting that TCI of Oregon is not a stand-alone organization but a wholly-owned subsidiary of TCI Inc. He argued that subsidiaries can be changed at will and the City could find

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itself with a guarantor whose character changes just when an upgrade or something else of importance is needed. He said the intermediary organizations are somewhat fragile in that they can be changed, modified or recharacterized at will. He urged Council to support the franchise as recommended by the CRC.

Commissioner Lindberg asked if Portland was one of the toughest regulatory markets in the country.

Mr. June said Mr. Olson would have to answer that but noted that the franchise does not demand sweeping changes or step forward from an unprecedented base. He said the three percent access fee is not out of line.

Commissioner Lindberg asked about TCI's claim that no other city has required a guarantee at the parent company level.

Mr. June said he did not think it was extreme to ask the entity which calls the shots to stand behind its commitments. He said he does not think Portland should apologize for having a more diligent and vigorous regulatory effort. He said this should be looked at in terms of what is right for the citizens of Portland.

Commissioner Lindberg asked about the 12-year length of the franchise, which seems long for a franchise.

Mr. June said the 12-year length was traded off during the negotiating process in exchange for the three percent access fee. He said he is very troubled by the lobbying at this point in which TCI is now attacking a commitment it agreed to earlier. He added that he believed the agreement is very fair and very advanced in comparison with the prior franchise.

Ray Pirkel, Portland Community College, PO Box 19000, described the importance of cable for telecourse offerings by the college and supported the three per cent access fee.

Tony Midson, Portland State University Coordinator for the distance learning program, said the three percent access funds are needed to develop educational programs.

Bill Beck, Portland Public Schools, said exciting telecommunications advances are occurring in the schools, noting the PPS hope that access

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funds can be used to provide cable and vcrs in every classroom in the Lincoln and Wilson High Schools cluster, at a cost of approximately \$350,000.

Velma Johnson, Principal, Lincoln High School, said having telecommunication equipment in every classroom in the Lincoln Wilson cluster will prepare students for life in the 21st century.

Sam Dana, 1020 SW Maplecree Dr., 97219, said the agreement does not discuss the advancement of the infrastructure for communications in the entire community. He said there is a need to look at the whole picture. He said there are fewer access channels on the West side than the East side and that public access should be expanded.

Commissioner Bogle said Council needs to provide direction to the CRC. He noted several options: 1) accept the CRC report as presented today; 2) accept a lesser guarantor than TCI Inc., perhaps with a performance bond and a security fund which would be consistent with the Paragon agreement; 3) reduce the length of the franchise term in exchange for some other provisions.

Mr. Olson said this was presented as a report in order to allow the Council to provide direction. Council could accept the CRC document which would then become the City's final negotiating position. A second option is to ask the CRC to look at the guarantee issue again and explore what the impact of a lesser guarantor would be. He said there were many tradeoffs in exchange for the parental guarantor and if that were deleted other things in the document would need to be changed.

Mayor Clark said he did not get the idea that the guarantor issue was a Council policy issue.

Mr. Olson said the final decision on issuing a franchise is made by Council. The CRC is the citizen's group that prepares a decision package.

Mayor Clark noted that the Commission unanimously agreed to the full parental guarantee.

Mr. Olson said if something less than the full parental guarantee is in the document, he believes the Commission would want to look and see what other adjustments may be necessary because the level of security had been reduced.

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Commissioner Lindberg said his preference was to send this back to the CRC to see if there might be some other tradeoffs that could be made.

Mr. Olson recommended issuing a six-month revokable permit, from January to July 1.

Commissioner Blumenauer asked what would happen if this were referred back to the CRC.

Mr. Olson said the Commission could send two alternative franchises forward, one with the full parental guarantee and the other reflecting the adjustments necessary if that guarantee was omitted. He said he expects Council would want to know what adjustments regarding such aspects as security funds and performance bonds, as well as the franchise term itself, would be necessary if that level of security were reduced.

Mayor Clark said his tendency was to accept the report of the CRC and let TCI decide if they want to take it or not.

Mr. Olson said if a stalemate persists and TCI still disagrees with the terms, there is a formal federal renewal process that could be pursued.

Commissioner Lindberg moved to direct the City Attorney to prepare a revokable permit to allow TCI to continue operating and to refer this back to the Cable Regulatory Commission to explore alternative solutions and return to Council with a recommendation within the next 60 days.

Commissioner Blumenauer said he is concerned with the budget implications and would like to see it concluded within a month.

Mayor Clark noted that the Commission had made a unanimous recommendation and should not be made to suffer anymore than they have.

Commissioner Lindberg said he would be willing to change his amendment to ask that the CRC return to Council by the end of January.
Commissioner Bogle seconded.

Commissioner Bogle said he was voting aye because he did not want to put the new Council in an awkward position. He said that he hoped that some acceptable accommodation can be reached within the 30 day period.

Disposition: Accepted with directions to the City Attorney and the Cable Regulatory Commission. (Y-4)

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***2116 Adjust FY 1992-93 Budget for First Quarter changes (Ordinance)**

Discussion: The Clerk noted that this item was continued from the morning session.

Commissioner Blumenauer asked if the City could dedicate revenues from construction of the Arena to some sort of loan fund that would deal with the City's obligation.

Steve Bauer, Office of Finance and Administration, said the first question is whether the City can track how much it receives off the site. He said there are still a number of unknowns regarding the costs and kinds of revenues they can get off the site. He said they can make an annual report for budgeting purposes of the estimated revenues and put them in a separate fund although some pledge beyond those revenues will be needed to cover the debt service. The ordinance at this point just talks about a loan to cover costs already authorized for the balance of this year. Ultimately Council faces decisions regarding PDC staff costs and the additional seismic costs, which the City can either pay as they come due or roll into a separate bond issue. He said his office proposed to pay these costs with a line of credit until the project is complete at which time they would sell the bond issue to be paid off out of the project revenues. He said they can get a pretty good idea of the property taxes that would be generated.

Commissioner Blumenauer said it should be a fairly substantial amount of money.

Mr. Bauer said it should be enough to pay off the debt service at least.

Commissioner Blumenauer said it should be a relatively simple matter to identify the enhancement revenues and pledge them to a special fund, making sure that the expenditures are regarded as a loan to be repaid. He said he would like Council to take action today to reflect that position, to be followed by a document that sets it up.

Mr. Bauer said as he understood it, Council would issue debt, considering it a loan to the overall project to be recovered later out of the other part of the revenues from the site.

Commissioner Blumenauer said the City would set up a separate fund and loan money to it to be repaid as soon as possible, carrying it as an asset which accrues interest and holds the General Fund harmless.

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Mayor Clark said this would maintain the Council's credibility that this project would be done without General Fund dollars.

Commissioner Blumenauer moved to approve the quarterly adjustments ordinance contingent upon the Office of Finance and Administration returning with whatever structure is necessary to treat the City's obligation to the Blazers Arena project as a loan, that the loan carry interest and that there be a mechanism for repayment with revenues generated out of the project as distinct from the project revenues that are defined for purposes of the contract with the Blazers. Commissioner Lindberg seconded. (Y-4)

Disposition: Ordinance No. 166099 as amended, with directive to Office of Finance and Administration. (Y-4)

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

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 17TH DAY OF DECEMBER, 1992 AT 2:00 P.M.

THOSE PRESENT WERE: Mayor Clark, Presiding; Commissioners Blumenauer and Lindberg, 3.

OFFICERS IN ATTENDANCE: Cay Kershner, Clerk of the Council and Linda Meng, Chief Deputy City Attorney.

S-2131 TIME CERTAIN: 2:00 PM - Amend Title 14, Public Peace, Safety and Morals to include a Chronic Nuisance Property Chapter (Second Reading Agenda 1930; amend Code Sections 14.110.010 through 14.110.090)

Discussion: The Clerk noted that a substitute had been distributed earlier in the day. Commissioner Blumenauer moved the substitute; Commissioner Lindberg seconded and the motion carried. (Y-3)

Commissioner Blumenauer said this ordinance cracks down on systematic patterns of obnoxious behavior such as intimidation, harassment, disorderly conduct and discharge of firearms which terrorize people and make them hostages in their own homes. He noted the outrage about the recent abduction at Kellogg Middle School and said there may well be some applications for an ordinance of this nature that provides additional protections. In that regard, he said he sees no reason why the City has to allow businesses which rent motel rooms by the hour and has asked the City Attorney to draft an ordinance to take care of that. He noted that Commissioner Kafoury is at work on a similar ordinance regarding adult businesses.

Valencia Tolbert, Deputy City Attorney, said some additional revisions have been made to the ordinance after meetings with the Chief's Forum, the ACLU and District Attorney. The first would state that the three separate incidents will be independently investigated by any law enforcement agency. That will eliminate its misuse as a means to deal with disputes between neighbors. The substitute also excludes several provisions regarding harassment, loud noise and intimidation because of questions as to their applicability and appropriateness. Another technical change was the additional of a sunset clause which will repeal the ordinance on June 30, 1994 unless Council votes to continue it.

Ms. Tolbert also described nuisance abatement procedures property owners can use to avoid litigation.

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Commissioner Blumenauer said a year and a half should be enough time to see if this works or if a pattern of abuse emerges.

Chief Deputy Charles Moose stressed the Police Bureau's support for this ordinance. He said they believe this will allow landlords and homeowners to solve some of the problems before they become explosive.

Jack Bierwith, Superintendent, Portland Public Schools, referred to the incident at Kellogg Middle School regarding the abduction of a student. He said he was appalled to find an adult motel directly across from the school and believes its proximity provided too easy access to a population of young children. He supported the ordinance and asked Council to recognize there are things that can be done to minimize the vulnerability of its citizens.

Commissioner Blumenauer said he sponsored an ordinance at Multnomah County to provide a buffer between schools and adult businesses but it was struck down by the Supreme Court based on its violation of free speech protections.

Emily Cedarleaf, Multifamily Housing Council, asked for assurance that the Police use a warning system that would notify property owners as quickly as possible. She said the landlord must have documentation in order to proceed with an eviction and asked that Police send incident reports or other documentation to the landlords in order to allow them to act more quickly. She said they need confirmation that the Water Bureau will log in registration of agency agreements. She said they are also not comfortable with the 10 days notification.

Carolyn Saiget, teacher at Kellogg Middle School, supported the ordinance on behalf of the Portland Association of Teachers.

Douglas Squirrell, 2600 NE Martin Luther King Blvd., said this ordinance is not the right solution for these problems and will only move these people from one area to another. He objected to the lack of neighborhood hearings and asked that an amendment be added to require neighborhood mediation.

John Campbell, Drug House Enforcement Work Group member, said this ordinance will help solve the problems, particularly in giving the Police more leverage to deal with nuisances. He argued that landlords have the ability to evict for much lesser causes than called for in this ordinance. This tells them they must evict.

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Janie M. Wilson, 25605 SE 62nd, 97206, asked for passage of this ordinance in hopes that it will allow them to shut down the adult motels.

Barbara Adler, President, Coalition of Metropolitan Properties Association, said they do not object to the basic concept but definitely feel a warning letter should be sent to the property owner. They also believe a 10-day notice period is inadequate and request a 30-day notice to be delivered by certified mail. She noted that when property ownership changes, mail may go to the prior, rather than current, owners. They asked that the ordinance be delayed until such concerns can be addressed.

Commissioner Blumenauer said he believed those concerns have been addressed by the ordinance's implementation policies and it would take at least 65 days before any action was taken.

Kay Durtschi, Southwest Neighborhood Information, said the Police need to make better use of neighborhood offices and crime coordinators so they can help neighbors who feel threatened. She said adult bookstores are a definite concern to Southwest Portland

Scott MacEwan, 2065 NW Flanders, 97209, said this ordinance finds a whole group guilty rather than selecting out only the guilty ones. He recommended basing action on arrest records rather than just neighbors' complaints .

Gretchen Buener, PO Box 1233, 97207, favored the concept with additional amendments: 1) notification by certified mail and extension of the 10-day period; 2) copying the warning letter to the neighborhood association; 3) Council support for legislation to amend the State constitution to allow zoning of certain types of businesses within the community.

Dan Handelman, 4635 N. Congress, 97217, opposed the ordinance and said community policing should not degrade itself by fostering a "snitch on your neighbor" mentality. He said imposition of a curfew would hold people hostage in their own homes.

Judy Wolchesky, 3235 SE 69th, said the existence of the adult motel is not just a school problem but a neighborhood problem.

Betsy Radigan, 37 NE Morgan, 97211, Chair of Inner NE and Piedmont Neighborhood Association, said both groups support this ordinance. She said this will reduce drug houses in a neighborhood, noting that certain

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houses have created a living hell for neighbors and that there are certain blocks in Piedmont she would not now recommend to any potential home buyer. She said there must be a way to end the nightmare.

Commissioner Lindberg said his neighborhood, Hosford-Abernethy, supports this ordinance.

Commissioner Blumenauer said Susan Parker, the principal of Kellogg Middle School, had also submitted a letter in support.

Victor Dow, 6846 SE Powell, Manager of the Powell Adult Motel, said they have never had any problems with the school before and have tried to help the community. He said, since the incident, they have received threatening phone calls. He said under the federal highway development plan on Powell Boulevard they were supposed to be relocated but never were. He said they are willing to support this ordinance as long as it does not violate their rights.

Katherine Anderson, Southeast Uplift Neighborhood Program and crime prevention organizer, presented a petition in support of the ordinance and supported outlawing hourly-rate motels.

Steve Rogers, 533 NE Brazee, 97212, said the process did not have sufficient community involvement and called for public hearings to be held in the neighborhoods most affected by this. He recommended that a citizens advisory committee be set up to monitor the results and make sure there is no inappropriate use. He also supported certified mail notification.

Sharon Fleming-Barrett, Oregon Apartment Association, supported the ordinance but said they do have concerns about the notification process. She asked for earlier warning to property owners and a longer notification period.

Lynette Gant, 3554 SE 69th, objected to the presence of the adult motel so close to Kellogg School and described neighborhood attempts to close the motel as well as documented previous criminal activities at the motel. She said residents have not reported crimes because they have no protection.

Commissioner Blumenauer said both he and the Police have met with neighborhood groups and the Council has held three separate hearings. He said the hearings process has now been concluded and the final reading will occur next week.

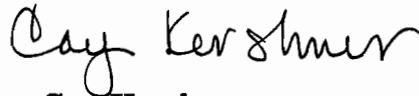
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He said he wants the record to show that a written policy will be developed regarding the mailing of the warning letters before the ordinance is actually implemented. He moved to amend the ordinance to add an emergency clause. Commissioner Lindberg seconded and the motion carried. (Y-3)

Disposition: Substitute Passed to Second Reading as amended December 23, 1992 at 9:30 a.m.

At 3:09 p.m., Council adjourned.

BARBARA CLARK
Auditor of the City of Portland

A handwritten signature in cursive script, appearing to read "Cay Kershner".

By Cay Kershner
Clerk of the Council