



CITY OF
PORTLAND, OREGON

**OFFICIAL
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 25TH DAY OF OCTOBER, 1995 AT 9:30 A.M.

THOSE PRESENT WERE: Mayor Katz, Presiding; Commissioners Blumenauer, Hales and Kafoury, 4.

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

On a Y-4 roll call, the Consent Agenda was adopted as follows:

CONSENT AGENDA - NO DISCUSSION

- 1705** Reject all bids for North Precinct remodel and seismic upgrade (Purchasing Report - Bid 15)
Disposition: Accepted.
- 1706** Reject all bids in favor of the State Price Agreement for purchase of 65 police patrol sedans (Purchasing Report - Bid 41)
Disposition: Accepted.
- 1707** Accept bid of Jim Miller Construction for Columbia Park ADA improvements for \$49,964 (Purchasing Report - Bid 45)
Disposition: Accepted; prepare contract.
- 1708** Accept bid of Pneumatic Construction dba PCI Mechanical for Columbia Pool HVAC and new piping and filtration system for \$184,718 (Purchasing Report - Bid 46)
Disposition: Accepted; prepare contract.

Mayor Vera Katz

- 1709** Confirm appointment of Cathey Briggs to the Housing Authority of Portland (Resolution)
Disposition: Resolution No. 35455. (Y-4)

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***1710** Pay claim of Lois C. McDaniel (Ordinance)

Disposition: Ordinance No. 169414. (Y-4)

***1711** Authorize appointment of Kiriazis Burnovas to the classification of Information Systems Supervisor at a rate of pay above entry (Ordinance)

Disposition: Ordinance No. 169415. (Y-4)

***1712** Authorize the Purchasing Agent to sign a Purchase Order as a contract with REMOTEC, Inc. for two robotic vehicles in the estimated amount of \$155,617 without advertising for bids and provide for payment (Ordinance; waive City Code 5.32)

Disposition: Ordinance No. 169416. (Y-4)

Commissioner Earl Blumenauer

***1713** Consent to change in control of Columbia Cable of Washington (Hayden Island franchise) with conditions (Ordinance)

Disposition: Ordinance No. 169417. (Y-4)

Commissioner Charlie Hales

***1714** Agreement for services with TriData Corporation for \$29,565 for review and evaluation of the Fire Bureau's programs and Strategic Plan (Ordinance)

Disposition: Ordinance No. 169418. (Y-4)

***1715** Call for bids on behalf of Portland Parks and Recreation for the renovation of restroom buildings (Ordinance)

Disposition: Ordinance No. 169419. (Y-4)

***1716** Authorize a Ground Lease Agreement with Self Enhancement, Inc. for use of a portion of Unthank park for the Center for Self Enhancement (Ordinance)

Disposition: Ordinance No. 169420. (Y-4)

***1717** Grant a right-of-way easement in Springwater Corridor to City of Milwaukie for the purpose of constructing, operating and maintaining an underground waterline (Ordinance)

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Disposition: Ordinance No. 169421. (Y-4)

1718 Accept donation of a propane tank truck to the Bureau of Fire for training (Second Reading Agenda 1682)

Disposition: Ordinance No. 169422. (Y-4)

Commissioner Gretchen Kafoury

1719 Accept contract with JASCO Construction to perform tenant improvements at the Pacwest Building as complete and authorize final payment and release of retainage (Report; Contract No. 29690)

Disposition: Accepted.

***1720** Agreement between the City of Portland, Portland Development Commission and Old Town Development Associates to modify the method of repayment of the construction write-down contribution on the Old Town parking garage (Ordinance; amend Agreement No. 24147)

Disposition: Ordinance No. 169423. (Y-4)

***1721** Contract with the Community Action Agency of Yamhill County, acting as a fiscal agent for the Oregon Housing NOW Coalition for the coordination and management of the Affordable Housing Preservation Program 1995-96 activities in Portland in the amount of \$10,250 and provide for payment (Ordinance)

Disposition: Ordinance No. 169424. (Y-4)

***1722** Contract with Portland IMPACT for \$21,824 for assistance to homeless families and provide for payment (Ordinance)

Disposition: Ordinance No. 169425. (Y-4)

***1723** Contract with the Housing Authority of Portland for the implementation of activities under the HOME Investment Partnership Program in the amount of \$2,534,316 and provide for payment (Ordinance)

Disposition: Ordinance No. 169426. (Y-4)

***1724** Amend City Code to add new building alteration regulations and amend definitions (Ordinance; amend Code Section 24.85.020, replace Code Section 24.85.060 and add new Section 24.85.065)

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Disposition: Ordinance No. 169427. (Y-4)

Commissioner Mike Lindberg

1725 Accept contract with BL&B Contractors, Inc. for the N Charleston Avenue, north of Leonard Street, minor sanitary sewer extension as complete and provide for final payment (Report; Contract No. 29081)

Disposition: Accepted.

***1726** Designate sewer easements within Pier and Chimney Parks and provide for payment (Ordinance)

Disposition: Ordinance No. 169428. (Y-4)

***1727** Intergovernmental Agreement with Metropolitan Service District which authorizes the City to adopt a Waste Reduction Program and thereby receive Metro Waste Reduction Challenge Grant funds (Ordinance)

Disposition: Ordinance No. 169429. (Y-4)

REGULAR AGENDA

1702 **TIME CERTAIN: 9:30 AM** - Recognize individuals and businesses for their support of the "Bottles and Cans for the Homeless Fund" program (Presentation introduced by Commissioner Kafoury)

Discussion: Commissioner Kafoury said the program is working well and is now moving into a new phase with an added number of stores participating. She reminded Council that the goal is to hire people out of homelessness. She recognized individuals and businesses for their support.

Disposition: Placed on File.

Commissioner Blumenauer asked that Item 1730 be moved ahead and heard as part of the Time Certains.

1703 **TIME CERTAIN: 9:45 AM** - Approve the Photo Radar Demonstration Project report and authorize the Bureau of Traffic Management and the Bureau of Police to implement the Photo Radar Demonstration Project (Resolution introduced by Mayor Katz and Commissioner Blumenauer)

Discussion: Commissioner Blumenauer said it has taken five years of work to get to the point of actually implementing this project. He

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said citizens have insisted on the use of photo radar and have been instrumental in moving this through the political process. He said this tool will make a big difference in enforcement and citizen compliance.

Roy Kendrick, Police Captain, Traffic Division, noted that this is a citizen-driven initiative and reflects the fact that traffic and speeding problems are the number one complaint of neighborhoods. He explained how the program, which will photograph speeding vehicles and cite their drivers for speeding violations, will work. It will be used only in residential and school zones and at the end of two years a report on the results will be forwarded to the State Legislature, which passed the enabling legislation at its last session. He emphasized that photo radar is only one tool to be used with other traditional ways of reducing speeding.

Mark LeRoux, member of the Reclaiming Our Streets Implementation Team, said the growing population has outstripped the City's ability to handle the increased traffic using its current tools. Photo radar was chosen as a project by the Implementation Team, which was also involved in passage of the legislation.

Brandi Stewart, Office of Transportation, said a project implementation team has been formed to make sure the program meets the requirements of the Legislature. The City is also required to conduct a public information campaign as the aim is not to try to sneak this by the public unawares. A project evaluation is required by the Legislature and the Office of Transportation will review traffic reduction on between 10 and 15 streets. Citizens will also be surveyed as to their acceptance of the program.

Disposition: Resolution No. 35456. (Y-4)

1730

Accept bid of US Public Technologies for furnishing photo radar equipment and services for an annual estimate of \$400,000 (Purchasing Report - RFP 16)

Disposition: Accepted; prepare contract. (Y-4)

***1704**

Contract with US Public Technologies to provide photo radar equipment and services to the Office of Transportation and Bureau of Police and provide for payment (Ordinance introduced by Mayor Katz and Commissioner Blumenauer)

Disposition: Ordinance No. 169430. (Y-4)

1728 Request of Norman Wicks to address Council regarding the towing of his bus (Communication)

Discussion: Mayor Katz noted that Mr. Wicks was not present.

Disposition: Placed on file for no further consideration.

1729 Appeal of Alan Stuart Graf of Noise Review Board decision granting a noise and sound variance to Metro Management, Inc., dba New Market Theatre (Hearing)

Discussion: Alan Stewart Graf, said he is an attorney and advocate for street musicians and is also here today representing the Mayor's Downtown Street Musicians Task Force. He said the Task Force has been meeting for about three months to determine a workable solution to the problems that have arisen as to the shared space in the "Market area," which includes Portland Saturday Market and the Skidmore Fountain Market. Because this is such a small area with a wide range of activities, there has been an occasional problem as to the use and abuse of sound, particularly music. Such problems have occurred when one musical source interferes with another and creates a cacophony of sounds that disturbs the traditional atmosphere of the Market, turning it into bedlam and distracting from its "mellow vibes." All the key players in the market area came to the first few meetings but at the third meeting Mr. Hashem stormed out when he realized that the Task Force's purpose was one of compromise and accommodation. Originally, the Noise Review Board granted Mr. Hashem a variance which allowed music and sound levels greater than 70 dba at the New Market venue. However, after repeated violations and Mr. Hashem's insistence that he was not responsible for the violations, the Board revoked the variance. Mr. Hashem reapplied for a variance and that is why this is before Council today. The Task Force expressed its opposition in written comments to the Noise Review Board, based on its belief that it was premature to grant a variance until the Task Force finding and recommendation could be made. The Noise Review Board decided, however, to issue a variance on the grounds that it could be reviewed monthly depending on what transpired and on what the Task Force recommended. Today, the Task Force unanimously recommends that the variance be changed to allow a sound level of 70 dba average and 80 dba peak to be permitted at the Harbor Lights building. All other conditions of the variance will remain the same. The Task Force believes the Market seems to function better in terms of atmosphere, sanity and creative environment when noise levels are reduced and loud rock-and-roll and heavy metal bands do not fit into the confines of small city blocks surrounded by concrete, brick and glass. It is important, too, for Mike Hashem to get the message that in Portland things are

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worked out through give-and-take and compromise. Mr. Hashem bypassed a committee that has made an honest effort to find a workable solution for a shared area that is a key to Portland's culture and identity as a livable city that values the arts. Also, a finding of the Noise Review Board indicates that hearing loss begins at 85 dba and yet, inconsistent with that finding, it granted a sound level of 85 dba maximum and 75 dba at the western boundary of the property, at First Avenue. Mr. Graf said they are asking the Board not to throw the whole variance out but to change it to 75 dba instead of an 85 dba maximum. That will give Mr. Hashem a slight variance and it will be workable within the Saturday Market area. He noted that Paul Herman, the Noise Control Officer, had pointed out that when you go from 75 dba it is an exponential, not an arithmetical, progression.

Mayor Katz noted that Michael Mills of her office had been working with the Task Force to reach a resolution. She said she was sorry the Noise Board moved before its recommendations were put together but that is why Mr. Graf is here.

Paul Owens, Task Force member and street musician, said he has been on location in the Saturday Market area almost every weekend since 1978. He said he has noticed a change in the last three years when there is an outdoor, four-piece band. The sound cannot help but travel and it does. The area around the Skidmore Fountain building works almost like an amphitheater and sound ricochets off all the walls. The Market area has a history of acoustic musicians and amplified music being played along the perimeter of the Saturday Market. However, when the bands at the Skidmore Fountain Market start up, street musicians can barely be heard because the bands are allowed to play at such voluminous levels. He said the street musicians have tried to work out a compromise but have been labelled as complainers out for their own interest. However, the law calls for a limit of 70 dba and Mr. Hashem is going above that. Mr. Owens said he personally bought a noise meter and, as of October 15, has recorded levels that went past 85 dba.

Mayor Katz asked how much the meter cost.

Mr. Owens said \$61 at Radio Shack. It is a digital meter which prints out the information so if you are filming it you can identify where you are.

Mayor Katz said for that amount of money, every Police officer could have one.

Mr. Owens said he believes there is only one or two of them in the

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hands of Central Precinct and requested that more be bought.

Mayor Katz said that will be an item to be discussed.

Mr. Owens said, even if his request is granted, the noise level can be abused if the Police are not around to enforce it.

Doug Archer, site manager, Portland Saturday Market and Task Force member, said he is on site every single weekend and the noise variance of 85 decibels (he has a noise meter too) is too high. The spaces designated for street entertainers are limited and the Market area is not a tenable place for them to perform if dominated by one source. He endorsed the Task Force recommendation of 75 dba, with a peak of 80 decibels. That is also Saturday Market's recommendation.

Paul Herman, Noise Control Officer, said because the Noise Review Board did not know, at its September meeting, when the Downtown Street Musicians Task Force expected to make its recommendations, the Board attempted to put together something he would categorize as an interim variance. For instance, one of the conditions on that variance is that the Board reserves the right to modify the variance, subject to the recommendation from the Task Force. It now looks as if the group is going to report out sometime in the near future. The Board stuck in another unusual condition, calling for monthly review of the variance. Mr. Graf, the appellant, is not challenging any of those conditions, however. The one he is challenging is the sound level established by the Board, which was identical to the one set in the previous variance.

Mayor Katz noted that he had recommended denial.

Mr. Herman said he did, based on Mr. Hashem's past performance, and several other people did as well. But the Board was trying to craft something that would perhaps bridge the gaps that existed and set a basis for continuing discussion. He does not argue against the appellant's request for a new level but believes the real question is enforcement. In the last few weeks the stage has been relocated and, unlike Mr. Owens, he has not noted any violations when he has been down there. He said he thinks there are changes in the works but does not know whether they will remain.

Commissioner Hales said he was a little mystified by the Board's logic. He said maybe Council, in this case, should communicate a little more clearly with the Board. He read several sentences from page 2 of the report "...complaints and violations continued after the activation of the previous variance. Many stated they could not carry

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out their business or otherwise enjoy the ambiance of the area due to the overpowering level of sound." The officer also noted consistent failure to comply with the requirements of the variance. On Page 5, it states: "the applicant had noted he would not accept any responsibility for a variance unless it was approved without any conditions." Another position statement like that appears on Page 2: "The position of the Skidmore Fountain Market was that unless they hired the band, they bore no responsibility." He said in any other area where a variance was requested by an applicant with this track record who stated at a public hearing that he would not take the responsibility that the variance entailed, he or she would get summary denial. He said he is a little dumbstruck by the rationale for this granting this variance.

Mr. Herman said also on Page 5, at the end of the second paragraph, it is important to note in the last sentence ".it is the Board's position and that of the City Attorney that it is the responsibility of the permittee or his agents to keep sound levels arising from the premises to compliance levels, whether he pays for those services or not, even in the absence of a variance." The next sentence is important: "To this end, Mr. Hashem was specifically asked if he would (and it is appropriate to insert the word now) accept responsibility for a variance as it was being crafted at that time by Mr. Corrado." And he replied that he would. Mr. Herman said he wished Mr. Corrado was here to respond directly but he believes what was going through his mind was that here was an opportunity perhaps to bridge the gap.

Commissioner Hales said the City should set good standards, whether in its Building Codes or design requirements, and the application of those standards should be routine. Variances should be exceptions where it can be shown that granting one meets some larger good or works a serious hardship on the applicant. That is the standard the Zoning Code Board of Appeals, the Adjustment Committee and the Planning Bureau applies. The Noise Board may be trying a little too hard to be a negotiator. The message to Mr. Hashem, and anyone else, ought to be, these are the rules. If you can prove you have an exceptional reason why you should not be subject to them and can prove you have the reliability to carry out your side of the bargain, then the City will consider granting a variance. He said he does not see that reliability here.

Joceyln Cox, Chair, Noise Review Board, said the variance application eventually passed, three to one, hers being the nay vote. Mr. Corrado's sense was that things were improving as far as Mr. Hashem's operation was concerned and that the Saturday Market Committee was floundering and did not have any sense of when their

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committee report would be ready.

Michael Mills, ombudsman, said he has the utmost respect for the work of the Task Force which was trying to deal with a very divisive problem. Those who stuck with the process deserve a lot of credit for putting their own interests aside to look at the interests of all those involved. He recommended that Council give credence to the Task Force recommendation.

Commissioner Kafoury moved to reduce the decibels to 75.

Mayor Katz said it is an average of 75 dba and a peak of 80 decibels. She asked for a second.

Commissioner Hales seconded. Roll was called.

Commissioner Blumenauer said he has been frustrated by the dynamics here and he hopes this decision will help in some small way. He said he appreciates the hard work that has been done.

Mayor Katz thanked the committee for its work. The ombudsman in her office, working with a citizens' group, solved the Downtown Musicians issue in a much shorter period of time than this has taken. There are a lot of reasons for that and she is sorry that they had not reached closure at the time the Board heard the variance request but thinks the points Commissioner Hales made were on target. With the long history that the City has had at the Market, she is sorry the Board chose to continue that variance.

Disposition: Appeal granted. (Y-4)

Commissioner Earl Blumenauer

1731 Consider vacating a portion of NE Elrod Drive west of NE 33rd Drive at the request of Riverside Golf and Country Club (Hearing; Report; C-9888)

Disposition: Approved; City Engineer prepare ordinance. (Y-4)

1732 Consider vacating a portion of NW Ogden Street south of NW Mills Avenue, at the request of Randy Arnold (Hearing; Report; C-9890)

Discussion: Randy Arnold, 8946 NW Mills, said this would gain him some room for a possible community garden and is being done at the request of the Parks Bureau.

Disposition: Approved; City Engineer prepare ordinance. (Y-4)

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Commissioner Charlie Hales

1733 Grant a ten-year property tax exemption to Noell Webb for new multiple-unit housing between the Stadium Freeway, SW 15th, Alder and Burnside (Planning Commission Report and Recommendation)

Discussion: Mike Saba, Bureau of Planning, said this is for a limited 10-year property tax exemption. He described the project, which is located on a small, difficult site that appeared to be a City park known as "Stone Park" but is actually ODOT right-of-way. The Planning Commission believes this is a small but significant step in meeting Central City 2000 goals for housing and supports it with a condition that requires that at least three units be affordable for a family of two earning 60 percent of median income. The Portland Development Commission found tax abatement was necessary to make it feasible.

Disposition: Accepted. (Y-4)

1734 Grant a ten year property tax exemption to Noell Webb for new multiple-unit housing between the Stadium Freeway, SW 15th, Alder and Burnside (Ordinance)

Disposition: Passed to Second Reading November 1, 1995 at 9:30 a.m.

Commissioner Mike Lindberg

***1735** Contract with Northwest Software, Inc. to provide professional services for computer programming services for the Bureau of Environmental Services and provide for payment not to exceed \$100,000 (Ordinance)

Disposition: Ordinance No. 169431. (Y-4)

City Auditor Barbara Clark

1736 Assess property for sewer system development contracts of the Mid-County sewer project for the period ending September 20, 1995 and non Mid-County for the period ending September 20, 1995 (Second Reading Agenda 1698; Z0618 through Z0622)

Disposition: Ordinance No. 169432. (Y-4)

At 11:20 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 OCTOBER, 1995 AT 2:00 P.M.

THOSE PRESENT WERE: Mayor Katz, Presiding; Commissioners Blumenauer, Hales and Kafoury, 4.

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

REGULAR AGENDA

Mayor Vera Katz

***1737**

Authorize agreements with federal and state governments and Multnomah County to implement Enterprise Community designation (Ordinance)

Discussion: Carol-Linda Casson, Portland Development Commission, said this ordinance makes the City's Enterprise Community designation from HUD a reality. Portland, Multnomah County and the North/Northeast Economic Development Alliance submitted the successful application and today's action empowers the Mayor to negotiate a memorandum of agreement with the federal and State governments to utilize a \$3,000,000 award to enhance community-based organizations. It also outlines the reporting responsibilities of the Portland Development Commission and the City.

Ron Herndon, Chair, Enterprise Community Commission and Chair, North/Northeast Economic Alliance, said they are pleased to be one of the few organizations to earn this designation. In determining the criteria for funding, the Commission stressed that applying organizations state clearly what they were going to do, the impact it would have on the community and how that would be measured. The day has long passed for people to make claims about what they are doing without some accountability.

Regina Warren, Multnomah County Department of Community and Family Services and staffperson to the Commission, said applicants include the Albina Ministerial Council, Central City Concern, the YWCA, Legacy Emanuel Hospital Project Network and the Northeast Coalition of Neighborhoods.

Mayor Katz requested that descriptions of the programs and the

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corresponding benchmarks be distributed to Council members. She asked if the Albina Community Plan was being used as the focus of these efforts.

Ms. Casson said yes, coupled with the North/Northeast Economic Development Alliance document and the Central City Plan.

Commissioner Blumenauer said he appreciates the commitment to carefully monitor results.

Commissioner Hales said the success being seen in Northeast Portland is a sign that the partnership building done through the Albina Community Plan is beginning to make a difference.

Mayor Katz said this piece reflects Council's commitment to meet the objectives of the Albina Community Plan, the Central City Plan and, most important, the Portland/Multnomah County Progress Board benchmarks. While the City did not receive the Enterprise designation, it did receive the Empowerment designation.

Disposition: Ordinance No. 169433. (Y-4)

Commissioner Gretchen Kafoury

1738

Liquor license application for NNA, Inc., dba Annie Pearl's, 315 SE 3rd Avenue, dispenser Class A or in the alternative a restaurant liquor license (new outlet); favorable recommendation with conditions (Report)

Discussion: Gary McGrew, Bureau of Licenses, said this is an application for a two-story restaurant with stage, dance floor and upstairs and downstairs bars. The applicant, Cedric Walker, was involved with Club Ced on North Denver Avenue which received an unfavorable recommendation from Council in June, 1995. Annie Pearl's is in a general industrial zone but is grandfathered in as a facility of this nature has been operating here for some time. The Bureau's concerns are with the applicant's minimal experience in food service, the traffic impacts and Mr. Walker's involvement in Club Ced. As conditions of approval, they ask that the applicant maintain at least a 35 percent food ratio, submit a workable parking plan and negotiate a good neighbor agreement. The Bureau was unable to determine Mr. Walker's precise degree of responsibility at Club Ced where he worked for three weeks in March, 1995. Mr. McGrew noted 12 letters in support of Annie Pearl's. The Neighborhood Association is supportive if Mr. Walker agrees to sign a good neighbor agreement.

Cedric Walker, applicant, 735 SW St. Clair, described his plans for

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the restaurant with an emphasis on African-American food and catered events. He said he met with community groups in the area to deal with any concerns they might have.

Commissioner Kafoury asked if he understood the concern about his connection with Club Ced.

Mr. Walker said he served as outside security person for three weeks at Club Ced and learned a great deal from that experience about what not to do.

Cecil Gill, attorney for Mr. Walker, stressed that he was employed by Club Ced for only three weeks and thus had limited responsibility for what went on. He said Annie Pearl's is intended to be a restaurant with some dancing and live music, not a night club. He said they have tried to address parking and security issues and will work with the community to ensure there are no problems. Regarding Mr. Walker's lack of restaurant experience, he noted that Mr. Walker had hired a very experienced person to serve as general manager.

Anthony George Keep, Annie Pearl's General Manager, said Mr. Walker has already implemented a good neighbor plan and taken other steps to gain the community support.

Julie Lenocker, Vice President, Moore Co., 333 SE 2nd, said her company, which is directly across the street from the back entrance of the restaurant, had a bad experience with The Warehouse, the prior operation at that location. Customers disrupted their business, used their parking lot and uprooted landscaping, despite the owners' attempt to control the problems. She said since the Warehouse closed, her company has extended its hours and also opened a training facility available for evening rentals so they fear a repeat of the problems they had before. She said Mr. Walker has tried to alleviate their concerns about traffic on Second Avenue and security. While they believe he is sincere, this is a difficult situation because of the people who come into the vicinity.

Dee Baker, no address given, spoke in support of Mr. Walker on behalf of many community groups. She said when she planned an event at Annie Pearl's she went to all of the neighboring establishments and was told a restaurant of this type would be welcome. She said Mr. Walker's operation will have a positive impact on the neighborhood and the situation is quite different from that of Club Ced.

Commissioner Kafoury moved to forward a favorable recommendation with conditions. Commissioner Hales seconded.

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Commissioner Blumenauer said there are potentially incompatible land uses in this area but he is encouraged by the good neighbor agreement. However, the applicant's only experience in the business was with a very negative operation and he also has a prior criminal record. Taken together, this does not inspire confidence about granting a liquor license to a bootstrap operation. He said he wishes Mr. Walker well but believes it would be much wiser to first establish a track record and get some experience in the business before going ahead with a liquor license. He voted no.

Commissioner Hales said he can accept the business failure and the efforts Mr. Walker has made to work with the neighborhood. He said he is satisfied with his explanation about his application.

Commissioner Kafoury said she will vote yes but is very nervous about this application. Mayor Katz agreed.

Disposition: Favorably recommended with conditions. (Y-4)

At 2:50 p.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 26TH DAY OF OCTOBER, 1995 AT 2:00 P.M.

THOSE PRESENT WERE: Mayor Katz, Presiding; Commissioners Blumenauer, Hales and Kafoury, 4.

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

1739

TIME CERTAIN: 2:00 PM - Accept Second/Third Quarter 1995 Monitoring Report submitted by citizen advisors to the Police Internal Investigations Auditing Committee per City Code 3.21.085(5) (Report introduced by Mayor Katz)

Discussion: Gerald Kling, Chair, Police Internal Investigations Auditing Committee (PIIAC) Monitoring Subcommittee and Vice-Chair, PIIAC, said the second and third quarter reports were combined to allow new staff in the revamped Internal Affairs Division more time to generate and close cases. He commended Captain Webber for the positive changes he initiated and said the Advisors hope these efforts will continue under the new Internal Affairs commander, Captain Bennington. Captain Webber initiated a new process for handling minor cases, sending them to the precincts for investigation. One concern raised by the Advisors has been with the final letter of disposition which they believe should come from Internal Affairs, rather than the precinct, to preserve the appearance of independence that citizens expect. The Advisors will still monitor the thoroughness of the investigations, at both the precinct and Internal Affairs level.

Noting recent criticism by the Portland Police Association of Internal Affairs for investigating frivolous complaints, Mr. Kling said the Citizen Advisors found no record of the complaints they cited. He said there is a discrepancy between the total number of complaints filed and the number of findings, perhaps as a result of multiple complaints generated by a single incident. Complaint statistics for 1994, broken down by categories, show that 6 percent originate from within the Bureau, 75 percent were initiated by Caucasians, 13 percent by African-Americans and two percent by Hispanics. This information has not been broken down by precinct.

Ms. Botsko said their information seems to indicate a match in the number of complaints and the size of the precinct.

Mr. Kling said that complaint originations do not necessarily match

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the population mix and sometimes they hear that certain groups distrust Internal Affairs. He said the Advisors want to find ways to encourage people with legitimate complaints to file.

Mr. Kling outlined the disposition of the 13 new appeals the PIIAC Advisors reviewed during the third and fourth quarters. He said the Monitoring Subcommittee also reviewed 29 cases which were not appealed to the Board. Many involved the use of force, disparate treatment or cases which were sustained and reviewed by the Review Level Committee. Fourteen of those complaints were sustained cases and four cases arose out of a single incident. In the future they expect that sustained cases will come one by one, instead of a lump. No specific pattern was observed among the sustained cases, where allegations varied from abuse of sick leave to excessive force. Two appeals which came to the Board after Internal Affairs declined to investigate showed that, because of the way the declination letters were worded, citizens felt that they had to go to PIIAC for further action. The Advisors recommended that the wording in these letters be softened to indicate that more information was needed to carry on an investigation. That has been accomplished. The Police were also reminded not to use derogatory terminology regarding mentally ill individuals when dealing with the public. Another issue raised was some officers' refusal to provide their names to citizens. He said not having one's badge on the outer garment is a violation of General Orders, which requires officers to give their names or supply business cards to citizens upon request.

Mayor Katz said she does not think the General Orders are as specific as the Advisors believe.

Mr. Kling said there is a lack of appropriate reporting on the use of force. The Advisors found two cases where this was done improperly, making it hard to reconstruct the incidents, and hope that in the future officers will be required to write their reports the same day. PIIAC Advisors also found a number of instances where mediation should have been offered and that Internal Affairs staff were unclear about when it was appropriate. A specific operating procedure is being prepared and the Advisors will monitor that. Regarding the use of Risk Management data, the Advisors found there were difficulties in having the Police Bureau use tort claim notices for General Review purposes. They do not want the City Attorney's office to violate attorney/client privilege. Investigations conducted by the City Attorney are prohibited from review as well, creating a dilemma for supervisors in using that data. There is also a great variation in the information provided on the tort claim notices themselves. However, the Advisors still support the use of that data by Command Review to counsel officers who have had a number of

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complaints filed against them, including those which were unsustained.

He said the Advisors have three questions for Council. The first is whether Risk Management data can be used to identify potential problem officers. Second, is there a way to examine officer performance without having to access protected information. Third, what is the status of the Loss Control Prevention Committee and can it monitor the Risk Management data to identify patterns or officers who have developed complaint patterns. On its own, the Monitoring Subcommittee has reviewed the tort claim notices for the past year to ascertain the officers involved. They will then check the disposition of those cases which went to trial to determine if any patterns exist. This information will be provided in future reports.

Commissioner Hales asked if mediation center staff have been used yet.

Lisa Botsko, PIAC staffperson, said three have been done in two years and a fourth is in the works. In some cases either the officer or the citizens declined to participate. An initial evaluation of the completed mediations gave the process high ratings.

Commissioner Hales asked if she had any ideas for getting Internal Affairs to recommend this more often.

Ms. Botsko said more training is needed at the precinct level since minor complaints are now being parceled out to them. A subcommittee is planning to do a training video so that both officers and citizens can observe what actually takes place. A lot of officers feel like they will get beat up in the process and do not realize that the ground rules will not allow that.

Mr. Kling said mediation gives officers a chance to explain why they handled a situation in a certain manner.

Mayor Katz said she likes the idea of taping the Citizens Academy training sessions and running them on cable television. She said she will review the Risk Management data to see if some institutional barriers can be broken down. She said it will be interesting to see if there is a pattern where certain officers' names keep coming up over and over again.

Ms. Botsko said many attorneys discourage their clients from filing Internal Affairs complaints.

Sheldah Holmes, People Overseeing Police Study Group, said the

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General Orders for identification state that on-duty officers will give their name and Badge Police Shield (BPS) number upon request. She said they have found that not all officers do this and ask that officers be required to give a business card to any citizen they have contact with. She said the problem, however, is not so much the procedure as with the attitude of the officers. She suggested using the Los Angeles Police Department Special Order as a model.

Disposition: Accepted. (Y-4)

At 2:45 p.m., Council adjourned.

BARBARA CLARK
Auditor of the City of Portland



By Cay Kershner
Clerk of the Council