



CITY OF
PORTLAND, OREGON

**OFFICIAL
 MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 12TH DAY OF DECEMBER, 1990 AT 9:30 A.M.

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

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

Agenda No. 1958 was pulled from Consent. On a Y-4 roll call, the balance of the Consent Agenda was adopted as follows:

CONSENT AGENDA - NO DISCUSSION

1928 Accept bid of Leavitt Enterprises for Construction of NE Flanders St. and NE 113th Ave. sanitary sewer for \$94,906 (Purchasing Report - Bid 36)

Disposition: Adopted; prepare contract.

1929 Accept bid of John Arnold Company for construction of NW Skyline Blvd. 16" DI water main Phase II for \$75,829 (Purchasing Report - Bid 38)

Disposition: Adopted; prepare contract.

1930 Accept bid of Albina Fuel Company for furnishing PS-300 residual domestic fuel oil for \$34,750 (Purchasing Report - Bid 47-A)

Disposition: Adopted; prepare contract.

1931 Accept bid of Western Microfilm Systems, Inc., for reprographic services and supplies for \$79,280 (Purchasing Report - Bid 48-A)

Disposition: Adopted; prepare contract.

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- 1932 Accept bid of American Cast Iron Pipe Company for furnishing fire hydrants for \$86,230 (Purchasing Report - Bid 51-A)
Disposition: Adopted; prepare contract.
- 1933 Accept bid of System Construction Company for construction of SE Main St. 12-inch DI water main for \$44,894 (Purchasing Report - Bid 58)
Disposition: Adopted; prepare contract.
- 1934 Approve the annual review of the Basic Emergency Services Plan (Resolution introduced by Mayor Clark and Commissioner Bogle)
Disposition: Resolution No. 34788. (Y-4)
- Mayor J. E. Bud Clark**
- 1935 Revise preliminary approval for Revenue Bonds in an amount not to exceed \$7,000,000 (Resolution)
Disposition: Resolution No. 34789. (Y-4)
- * 1936 Pay claims of Donald Rivers and Ronald Rivers (Ordinance)
Disposition: Ordinance No. 163651. (Y-4)
- * 1937 Settle the claim of Clare Thyberg (Ordinance)
Disposition: Ordinance No. 163652. (Y-4)
- * 1938 Establish salary rates for the Compensation Plan in accordance with the Personnel Rules adopted by the City Council (Ordinance)
Disposition: Ordinance No. 163653. (Y-4)
- * 1939 Agreement to sell petroleum products to the Housing Authority of Portland (Ordinance)
Disposition: Ordinance No. 163654. (Y-4)
- * 1940 Amend Contract No. 25931 with Megann Ratzow for Urban Services canvasser services (Previous Agenda 1887)
Disposition: Ordinance No. 163655. (Y-4)
- * 1941 Authorize a contract with Preston Thorgrimson Shidler Gates & Ellis for bond counsel services (Previous Agenda 1888)
Disposition: Ordinance No. 163656. (Y-4)

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- * 1942 Contract with Multnomah County for \$68,000 for emergency basic services and provide for payment (Previous Agenda 1889)

Disposition: Ordinance No. 163657. (Y-4)

- * 1943 Authorize amendment to Agreement 26439 to increase contract for assistance to the 1992 Heritage City Executive Committee by \$15,000 (Previous Agenda 1908)

Disposition: Ordinance No. 163658. (Y-4)

Commissioner Earl Blumenauer

- 1944 Request from Manuel Fagundes to address Council regarding a sewer assessment (Communication)

Disposition: Referred to Public Works Commissioner.

- * 1945 Grant revocable permit to Paul J. Bieker and Jeffrey J. Bieker for an auto detailing business at 1859 SE 122nd Avenue, to be leased to Robert Hayes, Robert's Detailing, for a period of 18 months, under certain conditions (Ordinance)

Disposition: Ordinance No. 163659. (Y-4)

- * 1946 Grant revocable permit to Portland Development Commission for irrigation system in NE Airport Way between I-205 and NE 138th Avenue (Ordinance)

Disposition: Ordinance No. 163660. (Y-4)

- * 1947 Revocable permit to Portland Saturday Market, Inc., to close part of W Burnside under the Burnside Bridge for additional market operations between December 19 and December 24, 1990 (Ordinance)

Disposition: Ordinance No. 163661. (Y-4)

- * 1948 Grant revocable permit to the Port of Portland for a sign at 14546 N Lombard Street (Previous Agenda 1893)

Disposition: Ordinance No. 163662. (Y-4)

- * 1949 Revocable permit to the Association for Portland Progress to maintain banners on street light poles from December 16 to December 29, 1990 (Previous Agenda 1894)

Disposition: Ordinance No. 163663. (Y-4)

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- * 1950 Accept a public walkway easement for the NE 82nd Avenue and NE Schuyler Street Improvement Project, granted by Portland Veterinary Services, Inc., at no cost to the City (Previous Agenda 1895)
Disposition: Ordinance No. 163664. (Y-4)
- * 1951 Authorize the execution of a lease between the City of Portland and Rogers Construction, Inc., for 3000 square feet of office space (Previous Agenda 1896)
Disposition: Ordinance No. 163665. (Y-4)
- * 1952 Release the City's interest to Craig S. Kiest, Lauri O. Kiest, Jeannine M. "Trump" Sanders, Michael A. Blakeney and Robert A. Blakeney, as their interest may appear of record, in that certain public utility easement located in Lots 3 and 8, Block 1, and Tract A, Shauchris, Multnomah County, Oregon (Previous Agenda 1897)
Disposition: Ordinance No. 163666. (Y-4)
- * 1953 Release the City's interest in a portion of a certain sewer easement in Lot 7, Terraceview (Previous Agenda 1898)
Disposition: Ordinance No. 163667. (Y-4)
- * 1954 Authorize the appointment of Jeffrey S. Bauman to the position of Water Quality Administrator in the Bureau of Environmental Services at a rate higher than midpoint of the range, effective December 5, 1990 (Ordinance)
Disposition: Ordinance No. 163668. (Y-4)
- * 1955 Accept two sewer easements for an identical parcel of land for the Linn Park (#39) Sanitary Sewer System Project, granted by Roger D. Scherz, Shirley J. Scherz and the State of Oregon, Director of Veterans' Affairs, authorizing total payment of \$680 (Ordinance)
Disposition: Ordinance No. 163669. (Y-4)
- * 1956 Accept two sewer easements for the Linn Park (#39) Sanitary Sewer System Project, granted by AAA Structures, Inc., Gordon L. Chong and Kay Chong, authorizing total payment of \$1,020 (Ordinance)
Disposition: Ordinance No. 163670. (Y-4)
- * 1957 Call for bids for the Sullivan Pump Station revisions and modifications, authorize a contract and provide for payment (Ordinance)
Disposition: Ordinance No. 163671. (Y-4)

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- * 1959 Modify existing Sewerage Service Agreements and Maintenance and Engineering Agreements with the City of Milwaukie, the City of Gresham, Dunthorpe-Riverdale Service District and West Hills Service District to meet federal pretreatment program requirements (Ordinance)

Disposition: Ordinance No. 163672. (Y-4)

Commissioner Dick Bogle

- * 1960 Modify Network Service Agreement (Contract No. 25851) with U.S. West Communications for Enhanced 911 telephone system (Previous Agenda 1899)

Disposition: Ordinance No. 163673. (Y-4)

Commissioner Mike Lindberg

- 1961 Approve Change Order No. 1, accept as complete Contract No. 26297 with Clearwater Construction Company and authorize final payment (Report)

Disposition: Adopted.

- 1962 Appoint McKinley Burt to the Water Quality Advisory Committee (Resolution)

Disposition: Resolution No. 34790. (Y-4)

- * 1963 Contract with the Portland Opera in the amount of \$95,000 to provide public performances and public services to promote the arts and provide for payment (Previous Agenda 1904)

Disposition: Ordinance No. 163674. (Y-4)

- * 1964 Contract with Oregon Symphony in the amount of \$95,000 to provide public performances and public services to promote the arts and provide for payment (Previous Agenda 1905)

Disposition: Ordinance No. 163675. (Y-4)

- * 1965 Contract with the Oregon Art Institute in the amount of \$95,000 to provide public art exhibitions and public services to promote the arts and provide for payment (Previous Agenda 1906)

Disposition: Ordinance No. 163676. (Y-4)

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- * 1966 Authorize acceptance of a grant from the Meyer Memorial Trust in the amount of \$59,000 to conduct a preliminary design/feasibility analysis for an outdoor performing and entertainment facility (Previous Agenda 1907)

Disposition: Ordinance No. 163677. (Y-4)

- * 1967 Authorize a Purchase Order as a contract between the Bureau of Water Works and CH2M Hill, Inc., for professional services (Ordinance)

Disposition: Ordinance No. 163678. (Y-4)

- * 1968 Authorize an Agreement with School District No. 1 for the operation of the Eastside Performance Center (Ordinance)

Disposition: Ordinance No. 163679. (Y-4)

- * 1969 Call for bids for the Heron Lakes Clubhouse Addition, authorize contract and provide for payment (Ordinance)

Disposition: Ordinance No. 163680. (Y-4)

- * 1970 Authorize a contract and provide for payment for the construction of 12-inch main in SE Main Street (Ordinance)

Disposition: Ordinance No. 163681. (Y-4)

- 1971 Approve enforcement rules for cable consumer protection standards, as adopted by the Cable Regulatory Commission (Ordinance)

Disposition: Ordinance No. 163682. (Y-4)

REGULAR AGENDA

- * 1958 Amend Agreement with Tri-Met providing for transportation planning analysis for preliminary engineering for the Westside Light Rail project (Ordinance)

Discussion: Cay Kershner, Clerk of the Council, said the star denoting an emergency ordinance was inadvertently omitted. The ordinance was corrected to indicate its emergency status.

Disposition: Ordinance No. 163683. (Y-4)

Mayor J. E. Bud Clark

- 1972 Direct the Bureau of Personnel Services to implement the provisions of PROJECT TRANSITION (Resolution)

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Discussion: Melinda Peterson, Personnel Director, said this resolution is the response of City managers and the Personnel Bureau to the impact of the tax property limitation measure, which will result in significant layoffs of City employees. It authorizes the Personnel Bureau to develop a humane and cost effective program to assist displaced employees in finding alternative employment.

Ms. Peterson said Project Transition has three basic components: 1) an internal job placement policy to retain as much of the skilled workforce as possible; 2) development of an outplacement center for displaced workers, and 3) exploration of ideas to achieve greater efficiencies in the workforce and creative alternatives to worker displacement.

Commissioner Blumenauer said Council agreed at the budget work session held yesterday to change paragraph c) to make it consistent with what is in the budget guidelines. The changes would include deletion of references to unpaid furloughs, E-time and shortened work weeks, which are actually hidden budget cuts and not in the same vein as doing the same amount of work more creatively.

Commissioner Blumenauer suggested deleting everything after "identifies areas for service and program improvement via greater efficiencies in the workplace."

Mayor Clark suggested that the reference to modification of certain labor contracts be retained.

Ms. Peterson said she did not think there would be a problem with modifying it as suggested.

Commissioner Blumenauer moved to delete references to implementation of greater use of "E-time" and other unpaid furloughs, flexible work schedules, shortened work weeks and incentives for early retirement. Commissioner Lindberg seconded and the motion carried. (Y-4)

Disposition: Resolution No. 34791 as amended. (Y-4)

* 1973 Accept a grant of \$200,000 from the Bureau of Justice Assistance titled "Community Partnerships - A Community Policing Model for Drug Demand Reduction" (Previous Agenda 1909)

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Discussion: The Clerk noted that a substitute ordinance had been filed. Commissioner Bogle moved the substitute. Commissioner Blumenauer seconded and the motion carried (Y-4).

Disposition: Ordinance No. 163684. (Y-4)

- * 1974 Authorize an extension of Contract No. 26247, Info-Com Consulting, Inc., to continue providing tele-communications consultation and analysis (Ordinance)

Disposition: Ordinance No. 163685. (Y-4)

Commissioner Earl Blumenauer

- 1975 Appoint "citizen-at-large" member to Union Station Transportation Committee (Resolution)

Disposition: Resolution No. 34792. (Y-4)

- 1976 Accept a deed granted by the Portland Development Commission, in connection with the South Auditorium Urban Renewal Project (Second Reading Agenda 1923)

Disposition: Ordinance No. 163686. (Y-4)

- * 1977 Authorize the City to enter into a contract with Dr. Gerald Blake for \$26,400 for professional services in directing a project to set up and evaluate recycling systems in multi-family residences; waive contractor selection provisions of Chapter 5.68 of City Code (Ordinance)

Discussion: Commissioner Blumenauer said this and the following two ordinances continue a very successful program. He said they did not wish to lose the services of Dr. Blake and the background he brings to the process.

Disposition: Ordinance No. 163687. (Y-4)

- * 1978 Authorize the City to enter into an Intergovernmental Agreement with Portland State University for \$83,830 for professional services in setting up and evaluating recycling systems in multi-family residences (Ordinance)

Discussion: Commissioner Blumenauer noted the advantage to the City in having this partnership with Portland State.

Disposition: Ordinance No. 163688. (Y-4)

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- * 1979 Authorize the Mayor to enter into an Intergovernmental Agreement with the Metropolitan Service District (Metro) so the City can receive \$122,000 in Metro matching funding to set up and evaluate recycling systems in multi-family residences (Ordinance)
- Disposition:** Ordinance No. 163689. (Y-4)
- * 1980 Authorize a contract with Scientific Resources, Inc., to perform nonpoint source pollution treatment facilities site evaluations and assist in design criteria development for such facilities in Portland's portion of the Tualatin River Basin for a cost not to exceed \$69,651 and provide for payment (Ordinance)
- Disposition:** Ordinance No. 163690. (Y-4)
- * 1981 Amend contract with Kramer, Chin and Mayo, Inc., to increase funds for project management, design and construction services for the Ankeny and Sullivan pump stations and provide for payment (Ordinance; Amend Contract No. 25203)
- Disposition:** Ordinance No. 163691. (Y-4)
- * 1982 Authorize a contract with Century Testing Laboratories, Inc., to provide professional laboratory services and provide for payment (Ordinance)
- Disposition:** Ordinance No. 163692. (Y-4)
- * 1983 Grant a revocable permit to Douglas E. McQuown, Arctic Sheet Metal Company, to continue operation of a sheet metal business and outdoor storage at 5304 N Albina for a period of six months, under certain conditions (Ordinance; 7864R)
- Disposition:** Ordinance No. 163693. (Y-4)
- * 1984 Allows approval of Condominium Declaration for Pioneer Place Condominium (Ordinance)
- Disposition:** Ordinance No. 163694. (Y-4)
- Commissioner Mike Lindberg**
- * 1985 Require property owners to plant street trees where value of new construction or improvements exceeds \$25,000 and authorize inspection fees (Previous Agenda 1914)

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Discussion: Commissioner Lindberg asked that this be referred back to his office for more work.

Disposition: Referred to Commissioner of Public Affairs.

* 1986

Authorize an agreement with the Friends of Performing Arts to co-sponsor a Children's Theater program through the Park Bureau's Performing Arts Division and transfer funds from unforeseen reimbursable (Ordinance)

Disposition: Ordinance No. 163695. (Y-4)

The Clerk asked Council members if they were agreeable to starting Council at 10 a.m. on Wednesday, January 2, 1991, to allow sufficient time for the swearing-in ceremonies scheduled for 9 a.m. They voiced their assent.

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

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 12TH DAY OF DECEMBER, 1990 AT 2:00 P.M.

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

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

1987 TIME CERTAIN: 2:00 PM - Appeal of The Landing Boat Club, applicant, against parking conditions imposed by Hearings Officer in approving application for a Greenway Permit for an existing marina at SW Boundary & SW Landing Drive (Hearing; GP 16-90)

Discussion: Sheila Frugoli, Planning Bureau, announced that the appellant wished to withdraw his appeal.

Disposition: Appeal withdrawn.

REGULAR AGENDA

1991 Tentatively grant appeal of Richard Michaelson, contract purchaser, against Hearings Officer's decision to deny variances in approving application of Marvin & Anita Witt for a subdivision at NW 28th & Upshur (Findings; Previous Agenda 1927)

Disposition: Findings adopted. (Y-4)

1988 Appeal of Stephen M. Burleson, sign contractor, against Hearings Officer's decision to deny application of Gramor-Goodrich Development Co. for a sign adjustment to allow a 35-foot-tall, freestanding sign at 9740 SE Washington (Hearing; ADJ 23-90)

Discussion: John Southgate, Planning Bureau, said he had approved applicant's request for a 35-foot tall, freestanding sign on the property, in excess of the code-prescribed 30 feet maximum. His decision was based on his belief that a single sign would be better aesthetically than the several freestanding signs the Code allows. However, the Hearings Officer overturned that decision and denied the height adjustment, on the basis that minimum visibility standards could still be met with multiple signs.

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Applicant Allen Connant, Executive Vice President of Heath Sign Co., said the taller sign was needed in order to be visible, as called for in the Code, from at least 400 feet by drivers heading north and south on I-205. He said it would help merchants along Washington Street by pulling people off the freeway into the area.

Mr. Connant said the sign had been praised for its design by City staff and adds less visual clutter than would occur if multiple signs are used. He said the developer is obligated to his tenants to provide signs and if this one is denied he will have to add other signs. He said the Code allows for up to a 20% variance while their request is for 17%. Granting the adjustment will also allow them to overcome a site difficulty situation as well as identifying the project with one sign. Mr. Connant stressed that the proposed adjustment was supported by the Montavilla Neighborhood Association.

Marc Meigs, Attorney, representing First Union Real Estate which appealed Planning Bureau approval to the Hearings Officer, said the appellant failed to meet both the general and specific criteria required for an adjustment. He said the Code says applicant must show this is the minimum adjustment necessary to achieve the required visibility. He said they can obtain the same visibility from I-205 with a 30-foot sign and meet the Code requirements without any adjustment whatsoever.

As for the specific criteria, Mr. Meigs stated that the area enhancement criteria regarding site difficulty is also not met. He contended that once appellants get the adjustment, there is nothing to stop them from adding the other signs as well.

Commissioner Lindberg asked staff if this adjustment were allowed, could the developers put up additional signs later.

Mr. Southgate said yes, unless approval was conditioned otherwise.

Commissioner Blumenauer suggested adding a condition that would limit additional signs. Commissioner Lindberg said he would second such a motion.

Mr. Meigs noted that a new building is under development which should be included in any condition covering additional signage.

Mr. Connant said the sign location was chosen to reach cars on I-205, not Washington Street and they would have no problem limiting signs on the I-205 side.

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Commissioner Blumenauer moved to tentatively overturn the Hearings Officer's decision and approve the application as recommended by staff with a condition requiring that applicant be limited to a single sign.

Commissioner Lindberg seconded and the motion carried. (Y-4)

Mr. Southgate said that sounded reasonable and that the condition should refer to freestanding signs.

Disposition: Appeal granted tentatively with condition. (Y-4) Bureau of Planning prepare findings for January 2, 1991 at 2 p.m.

1989 Appeal of Renda Horn, Trustee for Margaret & Clyde Brummell, applicant, against Hearings Officer's decision to deny a conditional use for fill within 25 feet of a water feature at 2210 SE Lambert (Hearing; CU 35-90)

Discussion: Laurie Wall, Planning Bureau said at issue here is the fill within 25 feet of the center line of the stream. The zoning code requires a conditional use for this type of fill.

Ms. Wall said the Hearings Officer denied the Conditional Use, finding that neither general or specific criteria were met. She found that the applicant failed to demonstrate a need to do the fill and, further, found that creek flow and water quality would be disturbed and that more erosion would be caused with negative impacts on nearby wetlands.

Ms. Wall said Planning and Bureau of Environmental Services staff had been looking for solutions and recommend that the applicant do the following: 1) reshape the bank to a 2:1 slope where there is a steeper bank now; 2) provide erosion control on the bank in the form of native vegetation and, 3) remove as much of the fill as possible.

Paul Norr, attorney representing Clyde Brummell, asked for approval of the conditional use application. He said the neighborhood started a salmon and trout enhancement program (STEP) in the 1980's, with the Brummell's providing use of their property and a lot of work, and the neighborhood association providing the funds and much of the volunteer effort. In 1988, SMILE (Sellwood-Moreland Improvement League) and the City added the concrete chunks to the fill.

Commissioner Lindberg asked if the City provided the chunks.

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Mr. Norr said yes, the City brought them to the site and then members of SMILE placed them in the creek. He said the State Fish and Wildlife Department knew about this and a permit was eventually issued by them but that no City permit was obtained at that time.

Mr. Norr said now Council is being asked to go back and try to figure out if it would have issued the permit if it had been requested at the right time. While not justified just because it is already there, he believes it does meet both general and specific conditional use criteria.

Mr. Norr showed slides to indicate how the creek had been diverted over the years by other property owners. One concern the Bureau of Environmental Services has is with the incremental impact which, while minimal individually, can cause a very significant impact overall. He said 26 other property owners downstream have already made changes to the creek similar to the the Brummells.

He said the proposal made by the Planning Bureau and Environmental Services makes a lot of sense. Regarding fill from the 1983-84 construction project, he noted Home Owners Association concern about revoking a previously approved action. Now, four years later and six years after completion of the project, the Bureau of Buildings is going back and saying they do not like some of the things that happened then. Mr. Norr noted that Steve Kenworthy, Environmental Services, proposes the removal of materials placed there that cause any kind of problem.

Commissioner Lindberg asked if the Building inspector looked at other properties along the creek, as shown on the slides.

Ms. Wall said there was no discussion of other properties.

Mr. Norr said when he talked to the Buildings inspector who initiated the complaint, he was told a complaint had to be made first before he would look at someone else's property. He said it did not make a lot of sense to single out one person now.

Sid Bryant, 3340 SW Ridge Dr., described changes to the creek by two property owners who illegally changed the flow of of the creek without obtaining permits.

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Raymond Ems, retired City of Portland Buildings Inspector, explained how issuance of the original permits had come about. He said he found Mr. Brummell completely in compliance and did not consider the fill a problem. He added that the concrete is the same as that used in the Rhododendron Garden.

Catherine Sohm, 7212 SE 17th and active SMILE member, said her organization was delighted to sponsor the fish hatchery and is concerned that Mr. Brummell's efforts have landed him in trouble. She said in 1988, the concrete chunks were used in an effort to prevent siltage and stabilize the bank. She said she met with City officials at that time to review the project and came away believing that all issues had been resolved.

Stuart Reif, 1015 SE Spokane, SMILE Board member, said the Planning staff recommendation could have been supported by the Hearings Officer and that this was a good example of a case that should have been settled correctly at that level and not brought to Council.

Clyde Brummell, 2212 SE Lambert, said he did not try to hide anything he was doing. He said they had accepted the responsibility to rehabilitate Crystal Springs as a salmon habitat and that neither he nor SMILE would ever want to create a problem there. He said he disagreed with the finding that 25 feet of fill should be removed.

Commissioner Lindberg moved to tentatively overturn the Hearings Officer's decision and uphold the staff recommendation.

Ms. Wall said she would like to prorrate the dates to bring them into line.

Commissioner Blumenauer asked that enough flexibility be given SMILE and Mr. Brummell to allow them to do what was needed.

Disposition: Tentatively grant appeal and overturn Hearings Officer's decision. (Y-4). Bureau of Planning prepare findings for January 2, 1991 at 2 p.m.

1990 Tentatively grant appeal of Winkler Scrap Metals against Planning Commission's interpretation of the zoning code to deny the operation of their scrap metal recycling business at 3365 SE 17th (Findings; Previous Agenda 1880)

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Discussion: Doug Warren, Planning Bureau, noted that Council had earlier voted to tentatively grant the appeal and allow Winkler to continue as a preexisting use if it met offsite impact standards. He said an agreement was to be specifying how this was to be accomplished and that Planning staff met with Winkler representatives and John Kelly of the Brooklyn Action Corps about the terms. He noted that while agreement had been reached, the BAC had expressed reservations.

Max Miller, attorney representing Winkler Scrap Metal, said Winkler agrees to all the findings except that they do not agree that the Brooklyn Action Corps appeal was timely filed. He said the only way the agreement will work is if it is a two-party agreement.

John Kelly, Vice-Chair, Brooklyn Action Corps, 3414 SE 16th, called attention to misrepresentations in the findings, citing the following: 1) no mention was made that written notice of the adjustment approval was not provided to surrounding property owners (page 2, Section 2, paragraph 3); 2) the statement that neighbors were notified of the nature of the proposed use (page 2, Section 2, paragraph 4) was incorrect; 3) the date stated on page 3, Section 2, paragraph 1, should be December and not February, and 4) a paraphrase of the Planning Director's intention (page 5, item 5) uses words that never appeared in his memo.

Regarding the agreement, Mr. Kelly said it does not accomplish Council intent to require that Winkler Scrap Metal meet the standards in the new zoning code. First, it addresses only conformance with present noise standards and not those in the new Code. Among the new standards is an opportunity for the City to decide that a use cannot comply with the offsite impact standards which then becomes a basis for denial of approval for the operation. Secondly, it does not incorporate architectural means to protect against violating noise standards.

Mr. Kelly said the BAC advocates establishment of a three-member panel, with itself as one of the members, to protect the neighborhood's interest. He also called for inclusion in the agreement of a ban on outdoor work activity, as is required in the new Code. He said all of these goals can be achieved by having Winkler wait and seek approval under the new Code.

Mr. Kelly concluded by asking that a neighbor who has been keeping noise measurements be allowed to testify.

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Council concluded that no new testimony should be taken. They noted that the prior vote had been split (Y-3; N-1, Lindberg with Commissioner Blumenauer absent).

Mr. Warren responded to Mr. Kelly's statements about the findings. He noted that notice is not necessarily required for interpretations but did agree to delete the reference to the neighborhood being informed of the proposed use. He also agreed with the change in dates but disagreed with Mr. Kelly's contention that he has misparaphrased the Planning Director's language.

Commissioner Blumenauer said that although he had missed the hearing, he had reviewed the appeal so that, if need be, Council could move forward rather than rehear it. He said he was concerned with the issues raised by Mr. Kelly and wondered about strengthening the terms of the agreement to give the neighbors the protections they seek.

Paul Elsner, City Attorney, said he had drafted language that says "in the event that it is determined by the City that Winkler's operation is in violation of the Code's impact standards, that this violation is likely to be continuous and due to the nature of Winkler's operation, Winkler agrees to cease and desist any and all operation determined by the City to be likely to create a violation until such time as remedial measures are taken to prevent said violations." This means that if Winkler is found to be in violation of the standards, it agrees to cease and desist such operations until such time as remedial action is taken.

Mayor Clark asked who determines that and if the standards in the agreement were in line with the new Code.

Mr. Elsner said Council would determine what action would be taken if violations occur and that the agreement just makes more explicit the standards called for in the new Code.

Mr. Miller said he believes the new language does not add anything not already implicit in the agreement but noted the lack of a time frame on it. He said they have agreed to test for noise problems immediately and implement changes in practices at the site if noise violations are found. However, he asked to be allowed to delay capital improvements until such time as a potential appeal is finished. He said the agreement is in perpetuity and Winkler will have to comply with the noise standards forever and will have to shut down if they are unable to show continued compliance.

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Mr. Elsner said this agreement will not negate Winkler's obligation to comply with terms of the Code or give them any vested rights that exempt them from meeting new regulatory requirements that are adopted at a later date.

The Mayor said he was ready to vote for the findings as they are.

Doug Warren said the record could reflect the agreed-upon corrections to the findings and they did not need to be rewritten.

Commissioner Blumenauer said he was not voting on the findings as he had not been present when the case was heard.

Commissioner Lindberg said, although he initially voted against Winkler, he would vote in favor of the findings in the interests of moving this matter along and because the majority of Council approves the agreement, with the additional safeguards suggested by Commissioner Blumenauer.

Mr. Elsner said he will add explicit language to the agreement spelling out Winkler's obligation to comply with noise standards.

Disposition: Corrected findings adopted. (Y-3; Blumenauer abstained)

At 3:46 p.m., Council recessed.

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 13TH DAY OF DECEMBER, 1990 AT 2:00 P.M.

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

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

1992 TIME CERTAIN: 2:00 PM - Transmit the report and recommendation of the Planning Commission regarding amendments to the existing and new zoning codes (Report; Introduced by Commissioner Blumenauer)

Discussion: Cary Pinard, Planning Staff, noted the relationship of this report and the two ordinances that follow (#1993 and 1994). The first ordinance establishes a reservation system for the units left in the SRO shelter bed cap north of Burnside and changes the existing Code. Item #1994 would impose similar regulations in the new Code and also proposes several additional amendments.

Regarding the shelter bed cap, Ms. Pinard said, under the Central City Plan, a limited number of SROs and shelter beds are allowed north of Burnside. The ordinances before Council today impose a reservation system so that people who want to develop some of these units can reserve a certain number of them. Because of the work needed to obtain a building permit, developers need to be assured ahead of time that there are units in the cap available to them.

Ms. Pinard said the second issue in the report clarifies the section in the new Zoning Code dealing with non-conforming uses and specifies the rules that apply when uses are changed within a use category. The third issue in the report deals with an interim resource protection zone in the new Code. Ms. Pinard explained that a SEC (Significant Environmental Concern) chapter was not included in the new Code because it was expected that the Environmental Zones would be finished at the same time the rewrite went into effect. However, since the Environmental Zones are not expected to be finished until July, this interim zone will continue the existing protection until then. The interim zone will also carry forward the special regulations pertaining to water features which otherwise would also disappear on January 1, 1991. No substantial changes to the existing SEC regulations have been made, as this is just meant to be an interim zone.

Disposition: Adopted.

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- * 1993 Adopt a process to reserve remaining Single Room Occupancy units and shelter beds available under the Central City Plan District Limitation (Ordinance; Amend Chapter 33.702; Introduced by Commissioner Blumenauer)

Discussion: Commissioner Bogle commended the staff for the synopsis and presentation.

Disposition: Ordinance No. 163696. (Y-4)

- * 1994 Amend the new Title 33, Planning and Zoning (effective January 1, 1991 (Ordinance; Introduced by Commissioner Blumenauer)

Disposition: Ordinance No. 163697. (Y-4)

REGULAR AGENDA

Commissioner Dick Bogle

- 1996 Liquor license application for Caromarr Health Service Co., Inc., dba One More Time Inn, 2535 NE Alberta Street, Retail Malt Beverage License, change of owner; favorable recommendation with restrictions and letter of warning (Report)

Discussion: Henry Emrich, License Bureau, said because of City and neighborhood concerns about problems in the area, the owner agreed to a compliance plan with the OLCC. Mr. Emrich said the plan seems to have had a significant effect on reducing the problems. Both the License and Police Bureaus have forwarded a favorable recommendation with restrictions and a letter of warning. The letter would state that failure to comply with the agreed-upon plan will result in loss of the license.

Rod Beard, Police Bureau, said that although the tavern is located in a problem area, the compliance plan has resulted in noticeably less severe problems.

John Rogers, Pastor, Mt. Vernon Presbyterian Church and a member of the Portland Organizing Project, objected to the favorable recommendation, calling the tavern a cancer that should be removed from an at-risk community.

Juanita Williams, 4844 NE 26th Ave., also objected to the recommendation, citing her concerns with noise and drug dealing.

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Rene Julian, owner, detailed his attempts to run a tavern in compliance with OLCC codes and noted that the minister at the church across the street did not object to his operation. He said many of the reported abuses cited in the Police logs are untrue.

Commissioner Bogle asked if Mr. Julian objected to what the neighbors said or to approval with a letter of warning.

Mr. Julian said it was a combination of both. He said he wants to stop vicious and untrue charges from those trying to shut him down and that he had been working with the Concordia neighborhood.

Daniel J. Ryan, a resident of NE Alberta, spoke in support, stating that Mr. Julian was trying to get the area cleaned up.

Mayor Clark said he would support the License Bureau recommendation and stated his belief that management was the key to whether a license should be granted or not.

Commissioner Blumenauer said it appears the agreement is working and that denying approval sends the wrong message to those who are trying to respond positively to problems. He said if the problems continue, the City can come down on them like a ton of bricks.

Commissioner Bogle said he sympathized with Reverend Rogers' concerns but will vote yes with confidence that the tavern will be closely monitored.

Disposition: Favorably recommended with restriction and letter of warning. (Y-4)

1997 Liquor license application for Lynda Jones, dba La Tiendita Mexicana, 2817 NE Alberta Street, Package Store Liquor License, new outlet; unfavorable recommendation (Report)

Discussion: Henry Emrich, License Bureau, said this package store outlet is two blocks from the tavern discussed above. He said this store has significant and increasing problems related to liquor sales to go. The Police Bureau confirms criminal activity nearby. He said the presence of nearby residences, the lack of grocery items for sale at the store, and the lack of prior experience by the owner are other reasons the outlet received an unfavorable recommendation. He said the Portland Organizing Project also opposes this application as do both the License and Police Bureaus.

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Rod Beard, Portland Police, said they have received 12 to 14 serious complaints and said licensing this store would be detrimental to a neighborhood with problems, including the existence of nearby drug houses.

Mayor Clark said he was concerned about approving the prior application and not approving this one as both are in the same neighborhood.

Commissioner Lindberg asked why they should be treated differently.

Lt. Beard said liquor to go was the problem with this outlet.

Lynda Jones, applicant, said she had been in business at this location for six months, had grown up in the neighborhood and was able to deal with the situations and people there. She said the store closes at 7 p.m., thus avoiding operating during high crime times.

John Rogers, Mt. Vernon Presbyterian Church, said there would be no objection if this store operated in another neighborhood but in this location it exacerbates an already bad situation.

Disposition: Unfavorably recommended. (Y-4)

* 1995

TIME CERTAIN: 2:30 PM - Amend the new Title 33 of the City Code by adding a chapter requiring review of most development in forests until June 30, 1991 (Ordinance; Introduced by Commissioner Blumenauer)

Individuals speaking in support of the ordinance included:

Merrie Miller, 6558 SE 108th
 Mary S. Rolfe, 6830 SE 108th
 Tim Bauer, 2534 SE 23rd, speaking for Earth First
 Mike Houck, Portland Audubon Society
 Nancy Rosenlund, 5830 NW Cornell Rd.
 Jeanne Galick, 7005 SW Virginia
 Richard Meyer, Portland Audubon Society
 Arnold Rochlin, Friends of Forest Park
 Leslie Blaize, NW Skyline Blvd.
 Molly O'Reilly, 1414 NW 53rd Drive

Supporters described the ordinance as reasonable and fair, and cited the need for protection of the forests in the face of unprecedented pressures to develop previously undevelopable land. They also supported the need for interim protection while Goal 5 planning is underway.

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Individuals speaking against adoption of the ordinance included:

Harry Czyzewski, 1966 NW Ramsey Court
Don Joyce, 226 NW Hermosa
Steve Janik, representing Forest Heights Development
Linda Bauer, 6232 SE 158th
Bill Moshofsky, Oregonians in Action
L. J. Niedermeyer, 5911 SW Virginia
Scott Niedermeyer, 4303 SE Boise
Anne Moore, 6700 NW Thompson Road
Sally Oswald, 12482 SW Brook Court
Jack Oswald, 12482 SW Brook Court
John Brosy, David Evans & Associates
Margaretta Ramsey, 3026 NW Skyline
Logan Ramsey, 3026 NW Skyline

Opponents objected to the restrictions imposed on property owners as to use of their land, stating that the effect would be illegal confiscation without payment. Margaretta and Logan Ramsey objected to the lack of notification about the hearing on the proposed ordinance.

Mr. Czyzewski spoke of his concern with the lack of provisions to grandfather what has already been done to affected property, such as the introduction of non-native vegetation, fences and paths.

Mr. Janik called the ordinance unreasonable and said it would not stand up if appealed to LUBA. He contended, as did others, that the ordinance causes tremendous problems for property owners who cannot determine what they can and cannot do without first going through a costly and cumbersome review.

Commissioner Blumenauer asked Mr. Janik if he thought the City should do nothing until the inventory is finished.

Mr. Janik said he thought the City should inventory the significant forest areas, such as Balch Creek, and protect those but not take a shotgun approach and sweep everyone, including his client, into the same net.

Commissioner Lindberg asked him what would prevent someone taking out a significant forest if nothing was in effect in the next six months.

Mr. Janik said Planning staff knows where the significant stands are and could focus on protection there.

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Linda Bauer proposed two amendments exempting forest review. One would add the words "or the City Forester's designee" to the language exempting review for trees removed for reasons of public safety. The second would state that review is not required to cut or remove vegetation necessary "to protect existing improvements."

In response to concerns by Anne Moore about restrictions on cutting blackberries, Commissioner Blumenauer said that property owners had the City's commitment to reasonable enforcement. He noted this ordinance is not meant to be a permanent fix.

Mr. Brosy called the ordinance very bad legislation, which sets up a whole new bureaucracy with all kinds of extra costs and requirements. He particularly objected to requiring an expensive tree-by-tree inventory prior to staff determination as to its significance.

The Commissioners questioned him about whether he would prefer to continue the moratorium.

Mr. Brosy said the effect of the ordinance is a moratorium and that he did not believe significant resources would be lost without the new regulations.

Commissioner Blumenauer said many good suggestions had been made today and noted that the ordinance would be tested no matter what Council did. He said he believes a moratorium may be cleaner and cheaper as he is concerned with the possibility of capricious administration. He asked for a one week continuance to allow time to process the information received today.

Commissioner Lindberg agreed with Commissioner Blumenauer.

Robert Stacey, Jr., Planning Bureau Director, said he will come back with a statement dealing with the issues raised today. He expressed hope that this could be passed so as to be effective at the start of the new year.

Mr. Burns said there are several amendments proposed by the Parks Bureau and the Bureau of Environmental Services to be considered also.

Mayor Clark said he is not convinced an additional ordinance is needed and fears the additional work and legal difficulties it will cause may not be worthwhile for a period of only six months.

Disposition: Continued to December 19, 1990 at 2 p.m.

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At 4:25 p.m., Council adjourned.

BARBARA CLARK
Auditor of the City of Portland



By Cay Kershner
Clerk of the Council