



CITY OF
PORTLAND, OREGON

OFFICIAL
MINUTES

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 13TH DAY OF FEBRUARY, 1991 AT 9:30 A.M.

THOSE PRESENT WERE: Mayor Clark, Presiding; Commissioners Blumenauer, Bogle, Kafoury and Lindberg, 5.

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

On a Y-5 roll call, the Consent Agenda was adopted as follows:

CONSENT AGENDA - NO DISCUSSION

- 225** Accept bid of Alexander Motor Company for furnishing 60 compact four door sedans for \$517,444 (Purchasing Report - Bid 70)

Disposition: Adopted; prepare contract.

- 226** Accept bid of Reliable Computer Management Company for \$128,694 for three IBM 3380 disk units (Purchasing Report - Bid 90)

Disposition: Adopted; prepare contract.

- 227** Accept bid of IBM Corporation for disk storage control unit for \$184,426 (Purchasing Report - Bid 91)

Disposition: Adopted; prepare contract.

- 228** Reject all bids for 32 megabyte central storage upgrade (Purchasing Report - Bid 92)

Disposition: Adopted.

- 229** Vacate NE Hoyt Street between NE 49th Avenue and NE 52nd Avenue, under certain conditions (Ordinance by Order of Council; Second Reading Agenda 184)

Disposition: Ordinance No. 163861. (Y-5)

Mayor J. E. Bud Clark

- 230** Confirm appointment of Mr. Steven R. Rinkle to the Hospital Facilities Authority for a term to expire June 30, 1993 (Report)

Disposition: Adopted. (Y-)

- 231** Authorize the City Attorney to take an appeal from the judgment of the Circuit Court in Anna M. Winnett v. City of Portland, Multnomah County Circuit Court No. A8807-03916 (Resolution)

Disposition: Resolution No. 34812. (Y-5)

- *232** Pay claim of Nancy Lee Strohecker (Ordinance)

Disposition: Ordinance No. 163862. (Y-5)

- *233** Increase contract for design of the Rivergate vehicle storage facility (Ordinance; amend Contract No. 26227)

Disposition: Ordinance No. 163863. (Y-5)

Commissioner Earl Blumenauer

- 234** Accept completion of the Columbia Blvd. Wastewater Treatment Plant fine bubble aeration system and make final payment (Report; Contract No. 25999)

Disposition: Adopted.

- 235** Accept the improvement of the SE Mitchell/68th HCD Improvement Project, approve Change Order Nos. 1, 2, and 3, make final payment and release retainage (Report; C-9658)

Disposition: Adopted.

- 236** Accept the improvement of the SE Reedway/57th district HCD Improvement Project, approve Change Order Nos. 1 and 2, make final payment and release retainage (Report; C-9673)

Disposition: Adopted.

- *237** Accept a street deed for the future widening of SW Shattuck Road, granted by Gregory F. and Dianne A. Parker, at no cost to the City (Ordinance)

Disposition: Ordinance No. 163864. (Y-5)

FEBRUARY 13, 1991

- *238** Accept an outfall easement for the Cathedral Park sewer project, granted by the Division of State Lands (Ordinance)

Disposition: Ordinance No. 163865. (Y-5)

- *239** Revocable permit to Toralf and Christina W. Ericksen for two stair landings in the right-of-way at 2934 SE 50th Avenue (Ordinance)

Disposition: Ordinance No. 163866. (Y-5)

Commissioner Gretchen Kafoury

- *240** Contract with Peninsula Neighbors to provide support for community organizing and planning activities for a community-based revitalization project in the Cathedral Park, Kenton, Portsmouth and St. Johns neighborhoods (Ordinance)

Disposition: Ordinance No. 163867. (Y-5)

Commissioner Mike Lindberg

- 241** Accept Contract No. 26369 with Werbin West Contracting, Inc., as complete, approve Change Orders 1 and 2, waive liquidated damages and authorize final payment (Report)

Disposition: Adopted.

- 242** Accept progress report from the Bull Run Water Quality Monitoring Task Force; approve revisions to Bull Run Water Quality standards (Report)

Disposition: Adopted.

- *243** Call for bids for concrete deck replacement at Wilson pool, authorize a contract and provide for payment (Ordinance)

Disposition: Ordinance No. 163868. (Y-5)

City Auditor Barbara Clark

- 244** Cancel systems development charge at 7334 SW Virginia Street (Ordinance; amend 163479)

Disposition: Passed to second reading.

REGULAR AGENDA

- *223 TIME CERTAIN: 9:30 AM** - Authorize a performance-based agreement with PacificCorp dba Pacific Power and Light Company (PP&L) to augment the Low-Income Multi-Family Weatherization Assistance Program (Ordinance)

Discussion: Commissioner Lindberg said they are very excited about these partnerships between the City and the private utilities to provide weatherization in low income households.

Dan Saltzman, Chair of the Energy Commission, said this public/private partnership is a hallmark of how government should operate. He said this pay-for-performance contract takes advantage of the Energy Office's nationally recognized track record in assisting apartment owners in their weatherization efforts. This contract is very similar to the one with Portland General Electric approved by Council in November, 1990 which, to date, has resulted in over 5,000 apartment units being weatherized in the past four years. He said the Energy Office expects to earn over \$50,000 for its marketing efforts from these two contracts, or one-half of its general fund budget request.

Others speaking in support of the program included:

Sheila Holden, Manager, Rose City District, Pacific Power and Light Co.
Dave Ford, Program Manager, Portland General Electric
Bill Thomas, Manager, Multnomah County Community Action Program
Paul Cotter, Operations Vice-President, Pacific Renaissance

Supporters applauded this program and its implications for long term energy conservation.

Disposition: Ordinance No. 163869. (Y-5)

- 224 TIME CERTAIN: 9:45 AM** - Appeal of Delmark Goldfarb against decision of the Bureau of Parks and Recreation to grant a special use permit to Oregon Food Bank to use the Tom McCall Waterfront Park for the period of July 5-7, 1991 (Hearing)

Discussion: Dee Vanderbout, Parks Bureau staff representative, said this matter concerns two users, Delmark Goldfarb and Oregon Food Bank, both of whom have claimed priority scheduling privileges this year to the July 4th weekend in Section E of Waterfront Park. In 1988, the Bureau established a priority scheduling rule for the park that would protect established users. After reviewing the claims of both Oregon Food Bank and Mr. Goldfarb, the Bureau awarded the permit to Oregon Food Bank based on records that showed that, for the past two years, OFB was listed

as festival sponsor, provided the certificate of insurance, and paid restoration and damage costs. A request for review was received from Mr. Goldfarb and the matter was referred to the City Attorney, who agreed with the staff findings. The Parks Bureau then issued the permit to OFB. Mr. Goldfarb subsequently appealed, first to the Parks Bureau, which denied it, and then to Council as allowed under City Code 20.04.050.

Ms. Vanderbout said the Parks Bureau believes that a user must be a legal entity and that representatives of organizations cannot take prior scheduling rights with them if they leave the organizations' employ. Parks Bureau staff and the City Attorney believe that Oregon Food Bank is the only user that meets the criteria for special priority privileges.

Commissioner Bogle asked if the City Attorney had any guidance for Council on appeals of this type, which have never come before Council before.

Kathryn Imperati, Senior Deputy City Attorney, said this is a quasi-judicial matter and should be treated in much the same way as Council would treat a land-use appeal hearing. She recommended that Council make a tentative decision today and ask for findings that address the criteria in the Code and the evidence heard today.

Kevin E. Brannon, Attorney for appellant Delmark Goldfarb, said this differs from a land use appeal in that the land use rules are well known, while in this case no one knows exactly what the rules mean because they have never been appealed before. He took issue with the City Attorney's definition of the words "event" and "user". He said the City Attorney indicated that "user" was the operative term in this rule and went on through the regulations to attempt to find out who the user was. He said this is backwards and that "event" should be the key word. He said if the permit was awarded on the basis of who the user was, there is nothing to stop that same user from putting on a square dance or whatever the next year.

Mr. Brannon asked Council to focus on an event --the Rose City Blues Festival. He reviewed Mr. Goldfarb's role in creating the four-year old festival and the history of Oregon Food Bank's involvement as a sponsor. Mr. Brannon noted that an individual or a partnership is also a legal entity. He said it is their position that the permit holder has been Mark Goldfarb and later, Melody Arts Music, which was originally his and then became a partnership with Clay Fuller before being dissolved, with Mr. Goldfarb retaining the rights to it. He cited an Oregon Food Bank memorandum noting that the Festival is a three-year deal, ending in 1991 after which the festival reverts to Melody Arts.

Delmark Goldfarb, appellant, described his background as a music events producer. He claimed that the original concept for the Rose City Blues Festival was his and that he registered it in his name in 1986. He then found sponsors for the festival to provide insurance, something individuals usually are unable to do because they lack verifiable accounting systems. However, all expenses have come out of the money that is raised from blues festival accounts.

Rachel Bristol Little, Executive Director, Oregon Food Bank, said her organization assumed the financial risk and accountability for the Blues Festival and played an essential role in building this event into a major fund raiser, which they have now renamed the Waterfront Blues Festival. She said OFB was responsible for the costs of the event, including payment of the permit fees, and also provided the up-front money to cover expenses until sponsorship dollars came in. She said this event is crucial to OFB if they are to meet its goal of feeding low-income Oregonians.

Mark Wada, Attorney for Oregon Food Bank, said this dispute started with the 1990 breakup of Melody Arts Music, the partnership between Mr. Goldfarb and Mr. Fuller. He said the issue is not who owns an event, if in fact an event can be owned, but who is responsible to the City and who is liable if money is owed. He said OFB came in as producer in 1988 and that the event draws sponsors based on OFB's credibility, not Mr. Goldfarb's. He said Mr. Goldfarb's role was Music Director, not producer/owner. He drew attention to an assumed business registration in Mr. Goldfarb's exhibits that is file stamped May 22, 1990 by the Secretary of State's Office, the same year that he dissolved his partnership with Mr. Fuller, claiming that there was no further partnership property to distribute. He said if registration is the key to ownership, why are all the participants from last year's festival, except Mr. Goldfarb, working with OFB instead of him.

Commissioner Lindberg asked what had happened to attempts to mediate this dispute.

Mr. Wada said there had been two or three meetings but the parties had been unable to resolve their differences.

Bill Manlove, Deputy City Attorney, said in determining who could properly claim the permit, one must consider the reasonableness of the Parks Bureau interpretation of the priority scheduling rule and the consistency of its application. Council has to decide what the rule means and determine whether it was appropriately applied, but should not be distracted about partnership arrangements or how the groups conduct their internal affairs.

Commissioner Blumenauer said he thought public testimony should be limited to the reasonableness and applicability of the rule.

Mr. Manlove said there may be policy reasons for considering testimony beyond the scope of these two factors.

The following individuals spoke in support of Mr. Goldfarb's claim:

Bob Moore, 3517 NE Shaver
Bill Coones, 2019 NE 19th
Barbara Roberts, 1932 NW 143rd, #73
Leah Akridge, 934 SE 14th
Bobbie Shervey, 1934 SE Umatilla
Lyle Haus, 1638 SE 12th
James Berry, Urban Entertainment Coalition, 6003 N. Michigan
Faith Love, 6615 SE 34th
Mark Ferrin, former member, Cascade Blues Association
David Leikin, 3903 SW Kelly
Sandra Wadsworth, 1829 NE Knott
Herb Wadsworth, 1829 NE Knott
Miles Ward, 4003 SE Ash
Fritz Richmond, 7100 SW Brier Place

Supporters of Mr. Goldfarb, many of them members of the Cascade Blues Association, said they consider him the founder of the festival, which he has now built into one of the biggest in the country. They criticized Oregon Food Bank for being interested in it solely as a money-making event and for refusing to make any compromises during attempts at mediation.

Supporters of Oregon Food Bank included:

Bill Dickey, Event Services, 5631 SE Belmont
Clay Fuller, 795 SW 83rd

They cited the need for a clear policy. They also noted that the festival's first sponsor lost \$10,000 and that Oregon Food Bank's sponsorship had saved the event from extinction.

Daniel Kearns, Attorney for Mr. Goldfarb, asked that the record be kept open for seven days.

Ms. Imperati said, because this is a tentative decision, time should be allowed for the submission of additional written statements. She said, however, that unlike land-use procedures, there was no statutory obligation to leave the record open.

Mayor Clark announced Council consensus to leave the record open until Thursday, February 13 at 5 p.m.

Commissioner Lindberg noted Mr. Goldfarb's vision and his role in originating the festival and asked Ms. Little if OFB had exhausted every possibility for him to participate.

Ms. Little, said yes, absolutely. They had tried to save the event as it had existed in prior years and had also invited Mr. Goldfarb to serve as music director and talent coordinator.

Commissioner Lindberg asked if she felt the Food Bank had the ability to produce a festival of the same quality.

Ms. Little said that they had selected two individuals to act as talent coordinators based on their commitment to blues music.

Commissioner Bogle asked if one of the two groups owns these dates in perpetuity as long as they apply for them annually.

Mr. Manlove said he would hesitate to characterize it as owning those dates. This rule allows a group with a history of using the Park to reapply until such time as the Bureau decides to change the rule.

Commissioner Blumenauer said he believed the rule did not require that the Parks Bureau issue a permit. Commissioner Bogle said he thought it did imply such a requirement.

Mr. Manlove said the implication is strong that a permit would be issued.

Commissioner Blumenauer said the notion that anyone owns the public parks because they had the foresight to schedule an event five or ten years ago is inaccurate. He said, if this is the case, and the City does not have the right to deny a use or to use it for other purposes, then some reanalysis should be done.

Commissioner Bogle said that he thought the notion of ownership was the crux of the Oregon Food Bank argument.

Commissioner Lindberg said they need to change the procedures to add other criteria to the current rules. However, he said he believed Commissioner Blumenauer was right and they do not really own the park for that date.

Mr. Manlove said he thought that was correct, and that the City is not bound to issue a permit. The Parks Superintendent has the authority under the Code to either approve or deny the application.

Ms. Vanderbout says the rule states that a user is allowed to reapply. It does not say that the Parks Bureau will necessarily issue it.

Commissioner Blumenauer moved to uphold the Park Bureaus decision to grant the special use permit to Oregon Food Bank. Commissioner Bogle seconded.

Commissioner Blumenauer said there is no evidence that the Parks Bureau was unreasonable or inconsistent in its application of the current rule.

Commissioner Bogle said he agreed that the Parks Bureau was right.

Commissioner Lindberg said this is an unfortunate situation, one that has split the blues community. However, he said he felt he had little choice but to support the Parks Bureau decision.

Mayor Clark said it is a matter of who accepted the responsibility and who paid the bills and it seemed clear to him that it was Oregon Food Bank.

Ms. Imperati noted that the record would be kept open until 5 p.m., Thursday, February 14 and suggested that the matter be returned to Council for the adoption of Findings on February 27, 1991 at 9:30 a.m.

Disposition: Appeal Denied Tentatively; City Attorney prepare findings for February 27, 1991 at 9:30 a.m.

Mayor J. E. Bud Clark

***245** Direct the Bureau of Personnel Services to implement the provisions of PROJECT TRANSITION (Ordinance)

Discussion: Commissioner Blumenauer said he was very pleased to see that the City and County were sharing the costs of this.

Disposition: Ordinance No. 163870. (Y-5)

***246** Call for bids for the construction of the 1st and Jefferson parking garage structural repair project, authorize contract and provide for payment (Ordinance)

Disposition: Ordinance No. 163871. (Y-4)

***247** Increase contract for design of 1st and Jefferson (Autoport) structural repair project (Ordinance; amend Contract No. 26713)

Disposition: Ordinance No. 163872. (Y-4)

Commissioner Earl Blumenauer

- 248** Declare support for efforts by the Portland area Bicycle Coalition to work with Tri-County Metropolitan Transportation District of Oregon to allow bicycles on transit (Resolution)

Discussion: Commissioner Blumenauer said this resolution will link two important elements in our transportation system, bikes and buses.

Jim Ferner, spokesperson for Portland Area Bicycle Coalition, 14245 SW Walker, #73, Beaverton, described the efforts of area groups to build support for bicycling issues. These include distribution of a petition in support of bikes on buses which has garnered over 4,000 signatures to date. Supporters see the bikes on buses proposal as an essential element of regional transportation plans, one that combines bicycles and mass transit, thereby making both more versatile and convenient. He said the idea of bikes on transit is not a new idea and that they know of 24 cities that offer this service.

Other supporters of the resolution included:

Jim Ferner, Portland Area Bicycle Coalition
Anndy Wiselogle, 6025 SE Woodstock
Larry Ramsey, 5720 SW 53rd
Brooks Cooper, 14095 SW Walker
Scott Greason, 3739 SW Washington
David Stuart, Sensible Transportation Alternatives
Roy Porter, Transit Riders Association President
Rex Burkholder, 1912 NE 11th
Krys Ochia, Manager, City of Portland Bicycle Program
Jim Scheller, 3536 SE Wister Road

Supporters described how the service worked in other cities. They cited the positive impact this step would have on the transportation system and on the liveability of the area.

Trudy Tolliver, Tri-Met, said Tri-Met welcomes the resolution and is working with the Portland Area Bicycle Coalition to see how it might best be implemented. She said some of the questions to be answered include; 1) where the bikes should be carried; 2) whether a permit should be required and/or an additional fee be charged and, 3) on what routes and at what times of day should this service be offered.

Disposition: Resolution No. 34813. (Y-5)

- 249 Declare the purpose and intention of the City of Portland to construct a sanitary sewer system in the NE Knott Street and NE 105th Avenue Local Improvement District (Resolution; C-9733)

Disposition: Resolution No. 34814. (Y-5)

- 250 Declare the purpose and intention of the City of Portland to construct water and sanitary sewer systems in the NE Airport Way water and sanitary sewer Phase II Local Improvement District (Resolution; C-9704)

Discussion: Paul Shirey, Project Coordinator, Portland Development Commission, said passage of this resolution will signal approval of the City Engineer's preliminary plans and cost estimates and direct the Auditor to notify property owners of their individual cost estimates. He said a meeting has been scheduled with affected property owners who will have until March 7 to file objections to the LID. The matter will return to Council for a public hearing on March 20.

Mr. Shirey said PDC and the Bureaus of Water and Environmental Services spent over two years putting this project together and are convinced these services are necessary to the Airport Way project. He said they have tried to meet property owner concerns about costs and bring the current estimate more in line with the original estimate made when the LID was formed in 1988. He said they are working on a safety net program for four farmers within the project who are worried about losing their property. Action on the safety net program will take place on March 13.

Bernard Galitzki, Bit-Tel Investment Company, a property owner in Columbia South Shore, said they support the improvements but are concerned with paying twice for the same water and sewer services. He said they had applied for deletion of a portion of the water services. He also requested that the City bear a larger share of the cost of putting in the sewer and water lines to lessen the cost to property owners.

Allen Kirk, 6303 SW 40th, area property owner also representing Tom Trapold Farms, said the costs of the improvements are so excessive that they will result in confiscation of certain properties, particularly those that are long and narrow. He said the cost, 57 cents per square foot, is considerably more than the 37-39 cents originally estimated. He labeled the proposed safety net figures completely unreasonable and asked Council to find a way to allow affected property owners a decent return from their properties.

Amil Spada, 4939 NE 158th, said his share of the sewer will cost \$382,000. He said the land cannot support these kinds of costs and that they are farmers who do not wish to sell. He said now they cannot afford to keep

the land or to sell it because there is also a Greenbelt fee on it that is now \$312,000. Between that and the improvements, the cost approaches \$800,000, which no one will want to pay.

Mayor Clark asked how many acres net he had now.

Mr. Spada said it was right at twenty.

Mayor Clark said he would look into it. He agreed with Mr. Spada that it was no longer a lucrative area for farming, which is why they want to transfer it into an industrial area.

Mr. Spada said he just could not afford all of the good things the City is doing for him.

Disposition: Resolution No. 34815. (Y-5)

Commissioner Mike Lindberg

- *251** Lease agreement with Charles E. Faries and James D. Fulwiler for approximately 15,000 square feet of property along Macadam Avenue (Previous Agenda 206)

Discussion: Mayor Clark said his concern about increasing the yearly lease amount at a rate that reflected the Consumer Price Index had been met.

Commissioner Blumenauer said that, because of his concern about tying up the property for 50 years, he would like to add an escape clause so the City could get the property back if it wished.

Mayor Clark suggested adding a clause that would return the property to the City after giving a year's notice.

Disposition: Continued to February 20, 1991 at 9:30 a.m.

- *252** Authorize the Purchasing Agent to sign a Purchase Order as a contract between the City of Portland, Bureau of Water Works and CH2M Hill for professional services (Ordinance)

Disposition: Ordinance No. 163873. (Y-5)

At noon, Council recessed.

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 13TH DAY OF FEBRUARY, 1991 AT 2:00 P.M.

THOSE PRESENT WERE: Mayor Clark, Presiding; Commissioners Blumenauer, Bogle, Kafoury and Lindberg, 5.

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

- 253 TIME CERTAIN: 2:00 PM** - Appeal of Ardenwald-Johnson Creek Neighborhood Association, Eastmoreland Neighborhood Association and Eastmoreland Racquet Club Homeowners Association, against decision to approve application of Eastmoreland Tennis Corp. for a conditional use to expand an existing building at 3015 SE Berkeley (Hearing; CU 90-90)

Discussion: Steve Gerber, Planning Bureau staff, said the appellants and applicants have asked for deferral to a later date to allow time for negotiations.

Disposition: Continued to April 3, 1991 at 2:00 p.m.

- 254** Tentatively deny appeal of Stephen P. Arel against decision to approve application of Stewart Dean and Mary Jones for variances to reduce lot size and width in order to build a single family residence at 3700 SW Hillside Drive (Findings; VZ 100-90)

Discussion: Adrienne Brockman, Deputy City Attorney, said both parties have informed her they were told they would have an opportunity to comment on the findings today. While the new Zoning Code does not provide for this, Ms. Brockman recommended that their comments be allowed into the record tentatively and, if there is an appeal, it can be decided then if they should be allowed into the record.

Peggy Hennessey, attorney for the appellant, said they have submitted some written comments on the applicant's findings. Basically, she said, the findings do not support a conclusion that the subject property qualifies for the narrow exception called for in City Code Section 33.22.050 (g). Moreover, the findings do not support a variance decision with regard to the lot area or width. Therefore, Ms. Hennessey asked that the findings be revised to state the City's position on whether the narrow exception of subsection (g) applies and, if not, to specifically address findings for the lot area and width variances.

Ms. Brockman said the new Code provides that, if the prevailing side is represented by legal counsel, they prepare the findings. Their legal counsel has done so and her recommendation is to adopt the findings submitted by them.

Carolyn Wells, attorney for applicants Stewart Dean and Mary Jones, said she had submitted revised findings which modified those she had received from Planning staffperson Suzanne Searle. The modifications are indicated in parentheses. She said she understood that Council does not consider this to be a platted lot that is grandfathered in, but has just used the criteria for platted lots as a bench mark.

Cay Kershner, Clerk of the Council, asked if Council should adopt both sets of findings, those submitted by the Planning Bureau plus the ones Ms. Wells submitted.

Ms. Brockman said they could adopt both or the one the attorney submitted, and that it is always safe to adopt both, unless there is a conflict.

Ms. Wells said the findings they submitted to Council are basically the same as those they received from the Planning Bureau. The only variation that is not simply an addition concerns the garage setback, which was not a subject of the appeal. The change occurs in Section 3 (Page 3) in the sentence describing the site distance of the garage from the corner and substitutes the words "will have no affect on" for the words "leaves adequate" in the site distance from the corner.

Ms. Brockman asked her if she recommended that both the staff and her findings be adopted, or just her findings.

Ms. Wells proposed that her findings be adopted.

Mayor Clark clarified that Council was adopting only the findings prepared by the applicants' attorney.

Disposition: Applicants' findings Adopted. (Y-5)

255 Tentatively deny appeal of Barry A. Edwards against decision of the Planning Commission to uphold the Planning Director's interpretation of the zoning code on height, setbacks and stories on a single family dwelling at 264 NW Macleay Blvd. (Findings; Int 3-90)

Discussion: The Clerk of the Council said a memo from Kathryn Imperati, Senior Deputy City Attorney, had been distributed requesting a continuation to March 6.

Disposition: Continued to March 6, 1991 at 2:00 p.m.

Commissioner Dick Bogle

256 Liquor license application for H.F. Markets, Inc., dba Handy Food Mart, 729 N. Portland Blvd., package store liquor license, renewal; favorable with letter of warning recommendation (Report)

Discussion: Henry Emrich, License Bureau, said this is a renewal application for a package store liquor license. He said when Handy Mart first applied for a license in 1988 there was considerable concern from neighbors and Police that the store would become a magnet for criminal activity and liquor-related problems. He said there is some indication that these concerns have been realized but the Bureau does not feel there is sufficient evidence to support denial at this time. Rather, they hope that measures agreed upon by the licensee and the agencies will address the problems. If no improvement is shown, monitoring during the coming year will provide the basis for denial at the next renewal. The License and Police Bureaus therefore propose that a favorable recommendation be forwarded to OLCC and a letter of warning be sent to the applicant.

Betsy Radigan, co-chair, Piedmont Neighborhood Association and co-founder of the Piedmont Food Patrol, asked Council to vote against the favorable recommendation and the renewal of the liquor license. She said three years ago, when Handy Mart took over this historically-troubled location, the neighbors were told that things would be different under new management. She said they were asked to take a "wait and see" position but have seen little change.

Ms. Radigan said their chief complaint is Handy Mart's "I don't care" attitude towards the problems they help create, such as drinking in the parks and loitering by gang members in front of their store. She said the neighborhood association has little confidence in the good neighbor agreement and believe management is agreeing to do too little much too late. They said they want Handy Mart to stop selling all malt liquors, patrol the park for public drinking, patrol for litter on Albina and Portland Boulevard and set closing hours at 12:30 a.m.

Stephen Allen Smith, attorney representing Gerald Dewald of Handy Mart, said police incident reports for 1990 are 20 percent lower than at the time the store was under the previous management. He contended that management has done a lot, including posting the premises so that anyone entering the store knows it is illegal to drink in the park, and cooperating with the OLCC and the Police. He said management has devised an electronic locking system in order to keep alcoholic beverages under lock and key so that only those qualified to purchase them are allowed access.

Commissioner Blumenauer asked Mr. Smith if Handy Mart was willing to meet the neighborhood association requests to stop selling alcohol at 12:30 a.m. and not sell malt liquor.

Mr. Smith said he would have to talk to management about that.

Commissioner Bogle said he would like to see those questions put directly to the manager.

Glen Dewald, Handy Mart manager, said they maintain the legal hours.

Commissioner Blumenauer asked if he would consider shortening them.

Mr. Dewald said he would not be willing to shorten his hours.

Commissioner Blumenauer asked him if he would be willing to restrict sale of the higher octane stuff.

Mr. Dewald said there was a lot of myth about malt liquor having a higher percentage of alcohol, adding that the difference was more in taste than alcohol levels. He contended that lots of those who prefer malt beverages are not gang members and that gang members are not the major portion of the store's customers. He said he understood most gang members are under the age of 20 and would be precluded from such purchases anyway.

Mayor Clark asked if he sold fortified wines.

Mr. Dewald said yes, but not much, about two cases a week. They are kept behind the counter and the prices are high.

The Mayor asked how late they stayed open.

Mr. Dewald said from 6:30 a.m. to 2:30 a.m.

Commissioner Kafoury asked if the liquor impact area ordinance coming to Council would not accomplish some of these things, such as prohibiting sale of the high octane stuff.

Gary McGrew, License Bureau, said the ordinance will not specifically restrict all stores in the area but gives the City a better process to deal with those where the restrictions are needed. He said several grocery stores in the impact area have already voluntarily agreed to stop selling alcoholic beverages at 12:30 a.m. because the late hours directly impact the liveability of the neighborhood.

Commissioner Blumenauer said he did not think the neighborhood request to restrict the hours was unrealistic and said he would vote against the license.

Commissioner Bogle voted no, based on the cavalier attitude shown towards the neighborhood association.

Commissioner Kafoury said she is not impressed with the willingness of the owner to work with the neighborhood.

Council voted N-4 against the favorable recommendation.

Commissioner Bogle asked if there was some legal requirement calling for them to go further than just a no vote.

Mr. McGrew said it might make Council intentions clearer to the OLCC if a motion was made to change the recommendation from favorable to unfavorable.

Commissioner Blumenauer moved to forward an unfavorable recommendation and note in our letter of transmittal that Council believes the neighborhood association was not making unreasonable requests and that management should be willing to meet the neighborhood halfway. Commissioner Bogle seconded the motion.

Roll was called and the motion was approved. (Y-5)

Disposition: Unfavorably recommended. (Y-5)

At 2:30 p.m., Council adjourned.

BARBARA CLARK
Auditor of the City of Portland

Cay Kershner

By Cay Kershner
Clerk of the Council

FEBRUARY 14, 1991

BUDGET SESSIONS

Beginning Monday, February 4 through Friday, February 22, Council will hold hearings on the FY 1991-92 Budget on Mondays, Tuesdays, Thursdays and Fridays. Regular Council business will be conducted on Wednesdays.

A schedule of budget hearings is available from the Office of Finance and Administration, 1120 SW 5th Avenue, Room 1250; 796-5288.

BARBARA CLARK
Auditor of the City of Portland