



CITY OF

PORTLAND, OREGON

**OFFICIAL
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 16TH DAY OF OCTOBER, 1991 AT 9:30 A.M.

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

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

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

CONSENT AGENDA - NO DISCUSSION

- 1721** Accept bid of Taylor Electric Supply, Inc., for furnishing HPSV street lighting luminaries for \$374,108 (Purchasing Report - Bid No. 21-A)

Disposition: Adopted; prepare contract.

Mayor J. E. Bud Clark

- 1722** Accept Rivergate Vehicle Storage Facility work as complete, accept Change Order No. 3, waive retainage and pay contractor (Report; Contract No. 26827)

Disposition: Adopted.

- 1723** Adopt the Portland Future Focus Strategic Plan and pledge Council efforts to accomplish goals, and direct city bureaus to review (Resolution; Previous Agenda 1661)

Note: To be set over to 2 PM Time Certain October 17, 1991

Disposition: Continued to October 17, 1991 at 2:00 p.m. Time Certain.

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- *1724** Increase contract with DGS General Construction by \$9,998 for Printing and Distribution tenant improvements (Ordinance; Contract No. 27129)

Disposition: Ordinance No. 164728. (Y-4)

- *1725** Settle the workers' compensation claims of Dorothy Pillard (Ordinance)

Disposition: Ordinance No. 164729. (Y-4)

- *1726** Pay claim of Walter Anderson (Ordinance)

Disposition: Ordinance No. 164730. (Y-4)

Commissioner Earl Blumenauer

- 1727** Accept petition and adopt the following Resolution to improve SE 18th Avenue from SE Clinton Street to SE Division Street, and to construct sump (Report; C-9782)

Disposition: Accepted.

- 1728** Direct the City Engineer to prepare plans, specifications, and cost estimates for the HCD street improvement project of SE 18th Avenue from SE Clinton Street to SE Division Street, and construction of sumps (Resolution; C-9782)

Disposition: Resolution No. 34903. (Y-4)

- *1729** Grant revocable permit to Portland Mennonite Church to hang a banner across SE Hawthorne Boulevard at SE 35th Place from October 24th to November 11th, 1991 (Ordinance)

Disposition: Ordinance No. 164731. (Y-4)

- *1730** Revocable permit to the Portland Association of Building Owners and Managers for commemorative plaques on the Transit Mall (Ordinance)

Disposition: Ordinance No. 164732. (Y-4)

- *1731** Amend an Intergovernmental Agreement with the Port of Portland to provide sand for the N. Marine Drive Project (Ordinance; amend Agreement No. 25064)

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- *1732** Modify a utility easement in the vacation of NE 69th, 70th, and 71st Avenues between NE Fremont Street and NE Sandy Boulevard (Ordinance; amend Ordinance No. 164411)

Disposition: Ordinance No. 164734. (Y-4)

- *1733** Authorize an agreement with the Port of Portland for construction of improvements at N Rivergate Boulevard\N Lombard Street intersection and the closure of the N Ramsey Boulevard rail crossing (Ordinance)

Disposition: Ordinance No. 164735. (Y-4)

- *1734** Accept a sewer easement for the Adventist (No. 20) Sanitary Sewer Project, granted by Jong K. Koh and Im-Hwa-Koh; authorize payment of \$100 (Ordinance; C-9743)

Disposition: Ordinance No. 164736. (Y-4)

- *1735** Authorize a short term loan of up to \$9,500,000 from the Sewer Project Rate Stabilization Fund (Fund No. 632) to the Sewer System Operating Fund (Fund No. 151) (Ordinance)

Disposition: Ordinance No. 164737. (Y-4)

- *1736** Authorize execution of an agreement with Marathon U.S. Properties, Inc., for implementation of DEQ Consent Order (Ordinance)

Disposition: Ordinance No. 164738. (Y-4)

- *1737** Authorize a lease agreement between the City of Portland and Rogers Construction Inc., for 2,552 square feet of office space (Ordinance)

Disposition: Ordinance No. 164739. (Y-4)

- 1738** Authorize the Mayor to amend an Intergovernmental Agreement with the Metropolitan Service District (Metro) for a project to set up and evaluate recycling systems in multi-family residences (Ordinance)

Disposition: Passed to second reading October 23, 1991 at 9:30 a.m.

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Commissioner Dick Bogle

***1739** Consent to Pacific Power & Light Company and Portland General Electric Company Agreement exchanging property within the City (Ordinance)

Disposition: Ordinance No. 164740. (Y-4)

1740 Amend City Code relating to public utility privilege taxes (Ordinance; amend Code Chapter 7.12)

Disposition: Passed to second reading October 23, 1991 at 9:30 a.m.

Commissioner Gretchen Kafoury

***1741** Authorize premium pay for Director of the Bureau of Buildings, Margaret M. Mahoney (Ordinance)

Disposition: Ordinance No. 164741. (Y-4)

Commissioner Mike Lindberg

1742 Accept contract with Krueger's Associated Landscape and Supply Inc., as complete and authorize final payment (Report; Contract No. 27018)

Disposition: Accepted.

***1743** Donate certain City-owned property for a permanent slope easement along SW Barbur Boulevard and SW 3rd Avenue (Ordinance)

Disposition: Ordinance No. 164742. (Y-4)

***1744** Authorize the acceptance of a Warranty Deed for two parcels of land, and the drawing and delivery of a warrant (Ordinance)

Disposition: Ordinance No. 164743. (Y-4)

***1745** Authorize Change Order No. 5 for \$1,820 to Contract No. 26364 for additional work on the Regional Water Demand Study (Ordinance)

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Disposition: Ordinance No. 164744. (Y-4)

- *1746** Authorize payment of funds to Department of Environmental Quality to produce groundwater model (Ordinance)

Disposition: Ordinance No. 164745. (Y-4)

City Auditor Barbara Clark

- 1747** Amend Ordinance No. 164598 and adjust assessments for sewer development charges (Ordinance)

Disposition: Passed to second reading October 23, 1991 at 9:30 a.m.

REGULAR AGENDA

- 1719** **TIME CERTAIN: 9:30 AM** - Transmit report from Citizens Advisory Committee on street lights levy replacement (Report; Introduced by Commissioner Blumenauer)

Discussion: Commissioner Blumenauer said the City has gone from having one of the worst to having one of the best street lighting systems in the nation because of citizen-based efforts which resulted in the passage of a series of tax levies.

Catherine Sohm, Chair of the Citizens Advisory Committee on Street Light Levy Replacement, said the Committee looked at seven alternatives for providing a permanent funding source for street lights. While all the options proposed had difficulties, the Committee unanimously agreed that the user fee mechanism is the most equitable. Ms. Sohm said a number of policy decisions beyond the scope of the committee will have to be made by Council if this option is selected.

Ms. Sohm also noted the failure of Council to implement its agreed-upon policy calling for the allocation of 28% of utility franchise fees to fund City transportation needs. She said currently the Office of Transportation's share of franchise fees has shrunk to 5.077%.

Ms. Sohm said the committee recommends that a "trip generation" method

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be the basis of the user fee so that the more streets are used, the more the user would pay. She described how the amount charged a customer would

be derived, adding that all residential users would pay the same rate. She asked Council to adopt the report and hire a consultant to develop a user fee schedule.

Commissioner Blumenauer noted that Measure 5 now compels the City to replace the current street lighting levy. He said the underlying assumption about financing street lights through a levy needs to be challenged and asked OFA and the Office of Transportation to look at what would happen if street lighting costs were absorbed into the general fund, the existing utility franchise and other resources.

Steve Bauer, Director, OFA, said serious contingency planning needs to be done in view of the many unknowns regarding the economy and future state funding of local government programs. He advocated moving ahead with the consultant's study even while other funding alternatives are examined so that Council will have the information it needs if it decides this is an option it wishes to explore.

Mayor Clark said he was appreciative of the work of the Committee and said he believes it is important to get off the three-year cycle of maintaining street lights.

Disposition: Accepted. (Y-4)

Commissioner Gretchen Kafoury

***1752** Contract with Northeast Community Development Corporation (NECDC) for \$250,000 for the Nehemiah Housing Opportunity Program and provide for payment (Ordinance)

Discussion: Commissioner Kafoury congratulated Jaki Walker, the new Director of NECDC, for the progress that has been made in the last six months.

George Richardson, Chair of the NECDC Board, expressed gratitude for Council's continuing support for affordable housing in inner Northeast.

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Jaki Walker, NECDC Executive Director, said in order to jump-start the Nehemiah project they are testing their ability, through the Adopt A Block program, to revitalize an entire block as opposed to doing one or two houses.

She described special efforts to increase participation among women and minority contractors.

Mayor Clark said the Adopt A Block program will help get properties back on the tax rolls.

Commissioner Kafoury noted the appointment of Margaret Mahony, Director of the Bureau of Buildings, as temporary head of the Bureau of Housing and Community Development.

Disposition: Ordinance No. 164746. (Y-4)

Mayor J.E. Bud Clark

***1748** Enter into sublease for space at Security Pacific Plaza, 1001 SW 5th, Portland Oregon, to be occupied by multiple bureau divisions (Ordinance; Previous Agenda 1672)

Discussion: Cay Kershner, Clerk of the Council, noted a request that this item be referred back to the Mayor's Office.

Disposition: Referred to the Commissioner of Finance and Administration.

Commissioner Dick Bogle

1749 Transmit report on Franchising Costs from the Office of Cable Communication and Franchise Management (Report)

Discussion: David Olson, Director, Office of Cable Communication and Franchise Management, said they wish to continue with the present policy but reduce the up-front deposit paid by franchisees from \$10,000 to \$5,000.

Donnie Griffin, Director of Corporate Communications, US West, opposed the report in general and specifically Resolution No. 34592 regarding prefranchise fees. He said they believe requiring prefranchise fees is unfair. He asked

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that the Office of Cable Communications and Franchise Management meet with other utilities not subject to that fee to look at some alternatives to this process.

Mayor Clark asked if US West's fees were reduced.

Mr. Griffin said he did not believe so but that the real impact on his company would occur during renegotiation.

Mr. Olson said the City is not currently in franchise negotiation with the utility. He said utilities would be subject to the deposit requirement but the resolution Council passed two years ago indicated the deposit requirement is discussable and could be waived or modified depending on the nature of the negotiation.

Commissioner Bogle said what is before Council today is fiscally less onerous than what is already in place.

Disposition: Accepted. (Y-4)

1750 Grant a franchise to Chevron Pipe Line Company for a period of 13 years (Ordinance; Second Reading Agenda 1567)

Disposition: Ordinance No. 164747. (Y-4)

1751 Grant a franchise to Chevron USA for a period of 13 years (Ordinance; Second Reading Agenda 1568)

Disposition: Ordinance No. 164748. (Y-4)

Commissioner Mike Lindberg

***1753** Amend contract with EMA Services, Inc., for professional services in an additional amount not to exceed \$205,000 for design and construction services for the Water Control Center and a Water Quality Laboratory Building and provide for payment (Ordinance; amend Contract No. 21428)

Disposition: Ordinance No. 164749. (Y-4)

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City Auditor Barbara Clark

***1754** Update fees and charges related to improvement districts and assessment financing (Ordinance; amend City Code Title 17)

Disposition: Ordinance No. 164750. (Y-4)

1720 TIME CERTAIN: 10:30 AM - Endorse relocation of North Precinct Headquarters (Resolution; Introduced by Mayor Clark)

Discussion: Commissioner Blumenauer introduced amendments to clarify Council's intent in regard to the St. John's facility. He said he had been struck by the fact that there is general support for an enhanced police presence on King Blvd. He said he offered these amendments after consultation with Rep. Mike Burton to make it clear that what is being done on King Blvd. is for a precinct and leaves options open as to what happens in St. Johns.

State Representative Mike Burton, 6937 N. Fiske, supported passage of the amendments proposed by Commissioner Blumenauer. He said the real issue is one of public safety generally and how Police forces should be deployed. He added that St. Johns' residents know that the City has very limited resources and that Northeast Portland has a significant crime problem that must be ameliorated but believe Council should recognize the emotional factor resulting from the presence of a police facility in St. Johns since 1917. He said he was surprised to find that the Police Bureau had no planning function and encouraged Council to see if the Planning Bureau could assist the Police in this area.

Commissioner Blumenauer said he fully supports the Mayor's efforts to place a precinct on King Blvd. He said the intent of his amendments is to make the process as positive as possible when dealing with difficult questions about police facilities and staffing. He moved the amendments. Commissioner Kafoury seconded. (Y-4)

State Rep. Avel Gordly, 1915 NE 16th, #3, spokesperson for the Chief's Forum, said the Forum supports the move of North Precinct to a more central location with more room. She said the Forum believes the process should be slowed down to make sure St. Johns does not feel abandoned. The Forum

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also expressed hope that remodeling work be contracted with minority employers and with surrounding businesses at both locations.

Tom Potter, Chief of Police, said while there is no planning unit in the Police Bureau there is a planning function which has resulted in a 5-year transition plan. He said the resources of the Bureau are stretched thin and must be placed at optimum locations. He said with the advent of community policing, community contact offices have been added which serve as mini precincts.

Chief Potter said North Precinct was not now in an optimum location to meet the needs of all its residents. He said approval of this resolution will allow them to begin negotiations for the property at King Blvd., negotiate with the Portland Development Commission for loans, and continue a study of the options. He supported the amendments proposed by Commissioner Blumenauer.

Captain Charles Moose, Commander of North Precinct, stressed the necessity of improving the work space for those currently working at the precinct. He said he needs to deploy his resources according to neighborhood need, not neighborhood clout. He said the police officers who work in St. Johns now will continue to work there and that no neighborhood will be abandoned.

Individuals speaking in support of the amended resolution included:

Tom Stubblefield, 8336 N. Ivanhoe
Larry Hollibauth, 8006 N. Oswego
Darrell L. Fransen, 7116 N. Lombard
Austin L. Brown, 9846 N. Syracuse
Simone Tyler, 9310 N. St. Johns Ave.

Supporters of the amended resolution proposed formation of a committee to review options that could keep the St. Johns facility open while at the same time opening a precinct on Martin Luther King Jr. Blvd. One possibility suggested was creation of a fourth precinct. A petition in support of keeping the St. Johns facility open was presented to Council.

Individuals speaking in support of moving North Precinct to the new location on King Blvd. included:

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Daryl Tukufu, Executive Director, Urban League of Portland
Jordis Jenson, Alameda Community Association.
David Schlatter, North-Northeast Business Association
Stanley Jackson, 5420 NE 6th
Martha Burnett, 976 NE Oneonta
Howard Hannon, Secretary, Woodlawn Neighborhood Association, 855 NE
Portland Blvd.
Charles Ford, 4012 N. Commercial, NE Coalition of Neighborhoods
Betsy Radigan, Piedmont Foot Patrol, 37 NE Morgan
Charles Flake, NE Coalition of Neighborhoods
Paul Knauls, 1928 NE Bryant

Supporters of the move said relocation of the precinct would give Police greater visibility in the area, act as a deterrent to crime, and help revitalize King Blvd.

Patrick Donaldson, Executive Director, Citizens Crime Commission, supported the relocation and the addition of the amendments proposed by Commissioner Blumenauer.

Chad Debnam, 5215 NE Mallory, suggested that General Services and PDC establish criteria for the commercial portion of the proposed development on King Blvd. to mesh with the economic agenda developed by community leaders and create some real jobs and new businesses.

Rep. Burton said he hopes they can avoid use of the terms "move" and "relocation." He said no one in North Portland denies the necessity of a police presence in Northeast Portland but that the same arguments also apply to North Portland.

Commissioner Kafoury proposed an amendment to deal with a concern raised by the Bureau of Community Development regarding use of Section 108 funds. She said they need to find out for sure if the North Precinct relocation is an eligible use of Community Development money.

She proposed broadening the resolution language so it does not reference the 108 money and said she would come back to Council with a proposed policy about use of 108 loan money. She moved the replacement language proposed in her memo to Council of October 16, 1991 which directs the Bureau of General Services, the Bureau of Community Development and PDC to identify various options for funding improvements to the MLK property. Commissioner Bogle seconded and the motion carried.

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Commissioner Bogle said Commissioner Blumenauer's amendments have turned a controversial proposal into a "win-win" situation. He said he agreed about the development of 35,000 feet of space for commercial use and that he would add specific goals later to ensure participation of female and minority contractors and suppliers.

Mayor Clark said he appreciated everyone's involvement.

Commissioner Blumenauer said the resolution confirms that there will be a new facility on King Blvd. but also reflects Council recognition that residents in St. Johns want a full range of choices examined. He said the amended resolution gives Council a better understanding of the hard choices that must be made.

Disposition: Resolution No. 34904 as amended. (Y-4)

At 11:55 a.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 16TH DAY OF OCTOBER, 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; Ruth Spetter, Senior Deputy City Attorney; and Officer Sheridan Grippe, Sergeant at Arms.

1755 TIME CERTAIN: 2:00 PM - Appeal of Allen and Barbara Willard et. al. against Hearings Officer's decision to approve application of Multnomah School of the Bible for a conditional use review of the master plan to include construction of an apartment complex and additional parking at 8435 NE Glisan Street (Hearing; 91-00157 CU)

Discussion: Sheila Fugoli, Planning Bureau, said this is a conditional use review of a master plan for expansion of an existing college, Multnomah School of the Bible. Future development plans include a 48-unit student housing complex, new classroom space and 250 on-campus parking spaces. The Hearings Officer approved the plan with modifications, including prohibition of non-residential uses east of 87th Avenue and requirements for a parking study, further traffic analysis and full street improvements along NE 90th. Appellants contend that the Hearings Officer misapplied regulations approving the master plan without showing that the transportation system was capable of fully supporting the proposed uses.

Ms. Fugoli described the master plan, noting that the area east of 87th, where low-density student housing is proposed, is of most interest to the appellants. She added that the Hearings Officer had not approved inclusion in the plan of a proposal for graduate student building on the east side of 87th. Appellants are also concerned with the addition of student housing on the northernmost section of the campus which would involve demolishing existing single-family dwellings.

Ms. Fugoli said the School and the appellants have come to an agreement on most of the appeal issues. She said the Planning Bureau and Transportation have reviewed the proposed new conditions and find them satisfactory.

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Greg Winterowd, planning consultant with Mitchell Nelson Group, representing Park Terrace Taxpayers Association, said appellants have reached agreement on five conditions of approval to mitigate the development's impact on the neighborhood. He said while the School had contacted the Montavilla Neighborhood Association, no one had contacted neighbors on NE Pacific. He said both sides finally agreed on four conditions of approval relating primarily to the buildings on 87th. They also agreed to a memorandum of understanding about how the neighbors and School would deal with such issues in the future. However, at the last minute the School's Board said they could not live with all the agreements made by staff. Rather than continue this appeal again, a fifth condition is proposed requiring that all the previous conditions relating to separation of the School from the neighborhood remain in force until the revised memorandum of understanding is mutually agreed upon. When that is accomplished, previous conditions which are not a part of the master plan will be lifted.

David Fisher, Architect representing Multnomah School of the Bible, described their efforts to inform neighbors of their plans through the Montavilla Neighborhood Association. He noted that while there had been a breakdown in getting all the necessary sign-offs from school officials, the School is in total agreement with the five conditions proposed by Mr. Winterowd. He said the fifth condition is a hammer over the school's head to see that agreement is reached. He added that there will be further opportunities to review the plan, including Design Review.

Neva H. Floyd, 8315 NE Pacific, said they were disappointed when agreement could not be reached but believe that things will be worked out and that their concerns about traffic and parking will be addressed.

Delores Berard, 2301 SE 77th, land-use contact person for Montavilla Community Association, described the notification process she used to inform neighbors about the meeting on this plan.

Jim Bennett, 837 NE 90th, said it is important to appreciate the dangerous effect of the increased traffic flow that will come with the addition of apartments and new facilities at the School.

Commissioner Blumenauer moved to approve the application with the addition of the five conditions agreed upon by both parties. Commissioner Kafoury seconded and the motion carried. (Y-4)

Disposition: Application approved with conditions. (Y-4)

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1756 Appeal of Homer G. Williams, HGW, Inc., against Condition "E" imposed by the Hearings Officer in approving application for a zone change and a 59-lot subdivision located at NW Cornell Road (Hearing; 91-00373 ZC SU)

Discussion: Steve Gerber, Planning Bureau, said appellant disputes the necessity and the legality of imposing Condition E which requires construction of a travel lane, a bicycle lane and a five-foot sidewalk on Cornell Road. Appellants believe Condition E is unlawful because it is not supported by the record and because it does not ensure conformance to the applicable criteria or the enforcement of other City regulations.

Mr. Gerber said the zone change approval criteria requires that there be adequate services. He said 33.800.070 states that one reason a condition can be applied is to ensure enforcement of other regulations. Title 17 gives the Office of Transportation the right to require such improvements on adjacent streets. The appellant believes that the improvement, which would require widening of streets and slope filling, will damage the natural area by displacing the existing vegetation. The Office of Transportation has prepared a plan of its own to show how the improvements can be provided without such a significant impact to the natural area or the use of expensive retaining walls.

Mayor Clark asked if there was a sidewalk requirement on Skyline.

Mr. Gerber said no, but there were street waivers on Skyline that would require sidewalks if development occurred. He said they are requiring sidewalks on Cornell in order to connect sidewalks in Washington County and the Forest Heights development to a proposed commercial area at Skyline and Cornell.

Glen Pierce, Office of Transportation, said they believe that Title 17, the Public Improvements code, applies in this case as it states that the City Engineer may, as a condition on a zone change or subdivision, require improvements to any street adjacent to the property used as access if it is not now improved to City standards. He said NW Cornell west of Skyline is an area where significant development is occurring, increasing the need for the improvements. He said lane width is inadequate for joint use with bicycles and pedestrian facilities do not currently exist.

Mr. Pierce disputed contentions that the widening will negatively impact the natural area or require the removal of significant number of trees. He said

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Transportation believes that alternative construction techniques for fill slopes can be used to minimize the cost and ensure that no significant evergreen trees are eliminated. He said Title 17 provides the necessary Code authority to require the proposed bicycle and pedestrian improvements.

Commissioner Blumenauer asked about the difference between Skyline and Cornell.

Mr. Pierce said Skyline is a scenic corridor and because of the number of curves and steep slopes it was their judgment that improvements to Skyline would need to be done in a more cohesive fashion. On Cornell Road, he said there is a direct connection to what is happening at Forest Heights and further west in Washington County.

Steve Janik, attorney representing HGW, Inc., said Condition "E" does not make any sense. He said the developer is being asked to put in a bikeway and sidewalks that could possibly intrude 75 feet into the natural area because of the amount of fill it will take to support the road widening. He said this is a true forest and they estimate that approximately 1,000 trees would be cut in order to put in the huge cuts, fills and retaining walls tht will be required.

Mr. Janik said there is no legal justification for the condition, which will be very costly to comply with. He said Code Section 33.800.070 says that the only basis to impose a condition of approval is if it is necessary to ensure compliance with other approval criteria. He said there is no approval criteria in the Code to justify this condition as it is not reasonably related to the impacts of the project. He said it will be a lot safer for pedestrians to use the interior walkway.

Mr. Janik said Transportation wants these improvements as a matter of convenience and there is no evidence that the project will add to bicycle or pedestrian traffic. Mr. Janik read parts of a report by David J. Newton & Associates which stated that the widening of Cornell is feasible but will be expensive and intrusive. He also contended that Title 17 does not apply because the lots in the project access off Skyline, not off Cornell. He said the public should pay for these improvements if they are so desirable.

Commissioner Kafoury asked if the interior pedestrian walkway could be used for bicycles too.

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Mr. Janik said yes, adding that it connected with the commercial node at one end and Forest Heights at the other.

Commissioner Bogle asked about the applicability of Title 17.

Adrienne Brockman, Deputy City Attorney, said the City Attorney's office has concluded that the City does have the authority to impose the condition. One of the sources of authority is Section 17.88.010. She said the issue is whether there is enough evidence in the record to support the condition.

Mr. Janik said if the City is correct they should not be able to waive it for Skyline either.

Pat Sheens, 8020 NW Cornell, said she does not support the loss of trees this improvement would require. She supported inclusion of the bike path which she said could be done without widening the road or backfilling.

Nancy Rosenlund, 5830 NW Cornell, supported the appellant. She said the proposed bike path is on the wrong side of the road. She said the whole area is wetland and wilderness area, adding that it would be absurd to put in a sidewalk because it would go nowhere and would be used by no one.

Commissioner Blumenauer said he is interested in splitting the issue to determine first, the applicability of Section 17, and then, whether it should be applied in this case.

Ms. Brockman said they believe the City does have the authority to impose the condition. She said this application involves a zone change and subdivision which requires that one show that all needed facilities are there. If this property creates a need for a bike path, then you could require that as part of the zone change. A second approach would be under 17.88.010 which does not specify bike paths but does mention sidewalks. Since this condition is for a combination bike path and sidewalk, it would be applicable. She said the Code allows the City Engineer discretion as to where 17.88.010 applies.

Ms. Brockman said the second consideration is whether there are facts in the record which support the need for this particular improvement. She said she had not reviewed the record and could not give an opinion on this point.

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Commissioner Blumenauer said he believes this condition may not be the best public policy for the same reasons as apply on Skyline. He urged clarification of Title 33 and 17 to eliminate any ambiguity. He said perhaps Cornell could be treated the same as Skyline in regard to waivers so that Council could retain its authority to have an LID (Local Improvement District) there in the future.

Ms. Brockman said LIDs can not be used for regional improvements because in order to have a LID you would have to show that abutting property directly benefitted from the improvement. She said because of the open space on Cornell, this makes it harder to show. She said there is no case law in Oregon about the legality of waivers and the right to remonstrate. She said the City Attorney believes they are legal but cannot guarantee that this is a workable alternative.

Don Gardner, Office of Transportation, said they are working with the Planning Bureau to clarify the current ambiguities. He added that they have used 17.88.010 over a number of years as the Code authority for improvements to adjacent property. He said waivers are an option which they believe can be used for improvements. He said they have tried to minimize the impacts on Cornell and had no intention of encroaching into the reserve zone but wish only to provide the minimum level of improvements needed to provide a safe bicycle and pedestrian way there.

Commissioner Kafoury said she does not question Council authority to require the condition but does not believe it is needed.

Commissioner Bogle agreed, stating his belief that the project is in keeping with protecting urban natural areas.

Commissioner Bogle moved to uphold the appeal of HGW, Inc. on Condition E.

Mayor Clark asked about the waiver rights.

Commissioner Kafoury said she would be interested in obtaining them as a protection.

Ms. Brockman suggested that Council uphold the appeal but add a condition of approval that the applicant sign a waiver of non-remonstrance against the formation of an LID for the purposes of constructing a pedestrian/bicycle way.

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Commissioner Bogle so moved. Commissioner Kafoury seconded and the motion carried. (Y-4)

Commissioner Blumenauer said he believes the City does have the authority even though it needs to be clarified. He said it is more a question of whether the City wants to do it and based on the record here, he said he believes it better not to. By requiring a waiver, the public's right to make future improvements is protected.

Disposition: Appeal granted with condition. (Y-4)

Commissioner Dick Bogle

1757 Liquor license application for Robert D. Bennett, dba Beer Nutz, 6526 SE Foster Road, Retail Malt Beverage liquor license (renewal); unfavorable recommendation (Report)

Discussion: John Werneken, License Bureau, outlined a history of continuing drug and alcohol-related problems under other ownerships at this location. He said last year Mr. Bennett, the current owner, assured the City that the former clientele would not be allowed to return to this location and that he would not allow nude entertainment. Mr. Werneken said these things have happened, however, and noted neighbors' complaints about noise, drunkenness and drugs. He said both the Police and neighbors are telling the License Bureau that this facility is a major source of problems. He described problems with the OLCC, including the presence of a minor lingering on the premises, and failure to abide by terms of a compliance plan.

Chuck Bolliger, Police Bureau, said Mr. Werneken's testimony and the staff report speak for themselves.

Robert Bennett, owner of Beer Nutz, said the report is full of half-truths and innuendos. He said to date there have been no arrests or police citations at Beer Nutz, adding that the violation concerning a minor refers to an 18-year old dancer who is allowed by law to be on the premises. He contended that the building caused more problems when it sat empty and that he is adhering to the compliance plan. He noted some of the improvements made, including cleaning up drug paraphernalia, repainting and patrolling the nearby area.

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David Wagstaff, Co-Chair of Mt. Scott/Arleta Neighborhood Association, said they have heard many complaints about this tavern, primarily related to alcohol and drug use, public exposure and prostitution. The Association requests that Council deny the license renewal.

Andy Manwell, 4809 SE 66th, a neighbor and onetime bouncer at Beer Nutz, said not one of the drug arrests cited in the report have been close to Beer Nutz. He said a lot of this report is bull and the bar is a big improvement over what was there before.

Gale Genness, 4723 SE 66, said he does not believe the tavern needs to be closed, only policed. He said he believes Mr. Bennett has gone out of his way in trying to resolve the problems. He said he visited the three taverns in the area and felt Mr. Bennett's had the best operation.

Commissioner Kafoury asked Mr. Werneken about a statement in his report stating that Mr. Bennett never implemented any portion of the compliance plan.

Mr. Werneken said he has taken some of the steps required in the plan but not taken a good number of others, including banning table dancing which has not stopped.

Commissioner Kafoury said the report should reflect the actual conditions rather than making a blanket statement that none of the conditions had been complied with.

Commissioner Blumenauer said it seemed that while some elements of the plan were complied with, in totality the plan had not be observed.

Commissioner Bogle asked Office Bolliger about the number of calls to Police and the number of arrests on the premises.

Mr. Bolliger said to his knowledge there have been no arrests. He said there were two calls where Police reports were written and 17 police dispatches to that area between July 10, 1990 and June 18, 1991.

Disposition: Unfavorable recommendation. (Y-4)

At 4:00 p.m., Council recessed.

October 17, 1991

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 17TH DAY OF OCTOBER, 1991 AT 2:00 P.M.

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

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

1758 TIME CERTAIN: 2:00 PM - Adopt the Portland Future Focus Strategic Plan and pledge Council efforts to accomplish goals, and direct city bureaus to review (Resolution; Previous Agenda 1723)

Discussion: Hardy Meyers, Chair of Future Focus Project, said the first phase has now been completed and it is time now for the second phase, implementation. He said one of major responsibilities will be to enlist the participation of those groups identified as responsible parties and seek alternatives where that can not be accomplished.

Nohad Toulon, Dean of the School of Urban and Public Affairs at Portland State University, said this is the best document a planner could have in order to start a successful regional planning effort. He said it is very important now to draw in participants from the whole region, not just those within the City.

Bill Naito, 5 NW Front, praised the document and said the whole community was brought together in preparing the plan.

Ned Look, 1703 SW Myrtle, and a member of the Portland Future Focus policy committee, said he has one great concern -- the participation of all groups to make this work. He said the lack of interest shown by the business community concerns him and that it would be a shame if this plan, which has received national recognition, was ignored locally.

Don Rocks, representing Metro Executive Officer Rema Cusma, said Metro applauds this effort, understands the regional implications, and are ready, willing and able to help implement the vision contained therein.

October 17, 1991

Commissioner Kafoury moved an amendment changing the date when bureau managers are to make their reports to December 1 and calling for a copy of the Future Focus report to be attached to the resolution. Commissioner Bogle seconded and the motion carried. (Y-4)

Disposition: Resolution No. 34905 as amended. (Y-4)

At 2:25 p.m., Council adjourned.

BARBARA CLARK
Auditor of the City of Portland

Cay Kershner

By Cay Kershner
Clerk of the Council