



CITY OF

**PORTLAND, OREGON**

**OFFICIAL  
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 18TH DAY OF DECEMBER, 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; Pete Kasting, Senior Deputy City Attorney; and Officer Sheridan Grippen, Sergeant at Arms.

Commissioner Lindberg and Portland businessman John Russell introduced San Francisco architect Lawrence Halpern, designer of the Ira Keller Fountain.

Agenda Nos. 2011 and 2033 were pulled from Consent. On a Y-5 roll call, the balance of the Consent Agenda was adopted as follows:

**CONSENT AGENDA - NO DISCUSSION**

**2012** Accept bid of Houston Well Screen Company for screen assemblies for Reservoirs No. 4 and 6 for \$103,364 (Purchasing Report - Bid 25)

**Disposition:** Accepted; prepare contract.

**2013** Accept bid of Flexible Video Systems for one high cube van mounted TV inspection system for \$122,000 (Purchasing Report - Bid 33)

**Disposition:** Accepted; prepare contract.

**2014** Accept bid of Portland Motorcycle Company, Inc., for furnishing seven Police motorcycles for \$50,936 (Purchasing Report - Bid 35)

**Disposition:** Accepted; prepare contract.

**2015** Accept bid of Wentworth Chevrolet for furnishing seven compact pickup flatbed dumps for \$91,133 (Purchasing Report - Bid 36)

**Disposition:** Accepted; prepare contract.

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2016 Accept bid of Schlumberger Industries for furnishing large service meters for \$67,284 (Purchasing Report - Bid 40A)

**Disposition:** Accepted; prepare contract.

2017 Vacate a certain portion of NW Westover Road, under certain conditions (Second Reading Agenda 1963)

**Disposition:** Ordinance No. 164900. (Y-5)

2018 Approve Council Minutes for July 3, 1991 through October 31, 1991 (Report)

**Disposition:** Placed on file.

2019 Accept the HCD street improvement project of SE 67th Avenue from SE Tolman Street to SE Woodstock Boulevard, make final payment and release retainage (Report; Contract No. C-9741)

**Disposition:** Accepted.

**Mayor J. E. Bud Clark**

2020 Authorize advance refunding plans for Refundable Bonds (Resolution)

**Disposition:** Resolution No. 34925. (Y-5)

2021 Confirm reappointment of Jerry Goldsby, Grant Watkin and Larry Westling to the Fire Code Board of Appeals (Report)

**Disposition:** Confirmed.

\*2022 Pay claim of Carol Wilkinson (Ordinance)

**Disposition:** Ordinance No. 164901. (Y-5)

2023 Authorize agreement with Multnomah County for the conveyance of property near Forest Park to the Bureau of Parks and Recreation, authorize acceptance of deeds and authorize payment of expenses (Previous Agenda 1993)

**Disposition:** Ordinance No. 164902. (Y-5)

\*2024 Contract with KPFF Consulting Engineers for \$15,000 for structural engineering services for seismic analysis of 3rd & Alder Garage, waive consultant selection procedures and provide for payment (Ordinance)

**Disposition:** Ordinance No. 164903. (Y-5)

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- \*2025** Authorize an agreement with the Friends of the Children's Museum to provide increased program staff at the Children's Museum in the amount of \$256,633 (Ordinance)

**Disposition:** Ordinance No. 164904. (Y-5)

**Commissioner Earl Blumenauer**

- \*2026** Accept a street deed, permanent slope easement and public walkway and utility easement for the Forest Heights Phase I Street Improvement Project, granted by Nauru Phosphate Royalties (Portland), Inc., at no cost to the city (Ordinance)

**Disposition:** Ordinance No. 164905. (Y-5)

- \*2027** Amend contract with Pacific Development, Inc. (Ordinance; amend Contract No. 26989)

**Disposition:** Ordinance No. 164906. (Y-5)

- \*2028** Allow carryover of more than two years vacation accrual for three employees of the Bureau of Environmental Services and waive Code Section 4.16.040 (Ordinance)

**Disposition:** Ordinance No. 164907. (Y-5)

- \*2029** Call for bids for the NE 60th Avenue/NE Emerson Street Stormwater Sumps, authorize a contract and provide for payment (Ordinance)

**Disposition:** Ordinance No. 164908. (Y-5)

- \*2030** Authorize a contract with RABANCO Regional Landfill Company for transportation and beneficial use of stored sewage sludge from the Wastewater Treatment Branch (Ordinance)

**Disposition:** Ordinance No. 164909. (Y-5)

- \*2031** Revocable permit to Portland Saturday Market, Inc., to close part of W Burnside Street under the Burnside Bridge for additional market operations, between December 18, 1991 and December 24, 1991 (Ordinance)

**Disposition:** Ordinance No. 164910. (Y-5)

- \*2032** Call for bids for furnishing all materials, equipment and labor for the construction of the SW Orchard Place and SE Sun Crest Drive Storm Sewer Extension, authorize a contract and provide for payment (Ordinance)

**Disposition:** Ordinance No. 164911. (Y-5)

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**Commissioner Mike Lindberg**

**\*2034** Authorize an agreement with Larry Kirkland, Artist, to execute and install a work of art in Waterfront Park (Ordinance)

**Disposition:** Ordinance No. 164912. (Y-5)

**Regular Agenda**

**2011** Accept proposal of Rosenbluth Travel Agency, Inc., for furnishing annual travel management services (Purchasing Report - Bid 10-A)

**Discussion:** Charles Geoffroy, majority owner of a travel agency located at 1001 SW 5th, said the City should promote small businesses in the City instead of giving its business to a mega-agency in Philadelphia.

Mayor Clark said he had been told by a Portland travel agent that awarding all the City's travel business to one agency would save lots of money. He said when it was put out to bid, the lowest bid came from outside the City and that Council's first responsibility is to the taxpayers.

Mr. Geoffroy said the criteria was unclear and objected to last minute notification to the other bidders.

Carlton Chayer, Purchasing Agency, said the criteria was very clear and all the bidders knew what they would be scored on. As far as late notification, he said normally the City does not notify bidders until after the bid has been awarded and that the letter was sent simply as a courtesy. He explained the formal bid process used to select a travel agent, noting that six proposals were received and scored individually by the 15-member committee which selected Rosenbluth. The bid is only for one year.

Shirley Keltner, Paulsen Travel Agency, said at the meetings with travel agents they were asked for special ideas which should have been presented individually not in a group because they involve business secrets. She said she was offended with the way the City handled the proposal.

Mr. Chayer said no special consideration was given Rosenbluth. He said all bidders had an opportunity to offer special provisions in their written proposals, which were kept confidential.

Commissioner Blumenauer asked if those documents remained confidential.

Pete Kasting, Chief Deputy City Attorney, said they remain confidential if they contain trade secrets or if the public body has obligated to retain that information in confidence.

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Carol Pinnel, owner of Journey's Travel, said mega-agencies are sometimes not as aware of cost savings as local travel agencies are. She asked if any travel community representatives were on the selection committee who could analyze the proposals.

Commissioner Bogle said he has always been against selecting a single provider because it shuts out minorities and local small business owners.

Commissioner Blumenauer said people bid on this in good faith and while this bid meets the legal requirements, perhaps we can do better next time.

Commissioner Lindberg cited the savings of \$74,000. He said he is sorry this is not going to a local business but commented that the City is always being asked to operate as a business and look at cost savings.

Mayor Clark said change is always difficult and the City has tried to be fair in this process.

**Disposition:** Accepted; prepare contract. (Y-3; N-2, Bogle & Kafoury)

**Commissioner Gretchen Kafoury**

**\*2033** Amend contract with Portland Community Reinvestment Initiatives, Inc. (PCRI), to continue pursuing the acquisition of properties associated with the Dominion Capital bankruptcy proceedings and provide for payment (Ordinance; amend Contract No. 27027)

**Discussion:** Commissioner Kafoury said the bankruptcy court's first duty is to protect the investors and no one, unfortunately, is charged with protecting the consumers. She said the Attorney General's office should be representing the renters and owners of these properties but it has chosen not to get involved in any substantial way. She said the City's offer on the bulk of the properties has been rejected. Additional money is needed now to keep paying for legal fees. She said they are discouraged but have not given up and are preparing another bid for the remaining 258 properties.

**Disposition:** Ordinance No. 164913. (Y-5)

**\*2037** Create a sister city relationship between the City of Mutare, Zimbabwe and the City of Portland, Oregon; incorporate the Portland-Mutare Sister City Association, Inc. (Ordinance)

**Discussion:** Cliff Walker, representing the Portland-Mutare Sister City Association, said he hoped that the Council is as excited as they are about this venture.

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Mayor Clark said he is pleased to have a sister city in Africa, especially in Zimbabwe.

**Disposition:** Ordinance No. 164914. (Y-5)

**2007 TIME CERTAIN: 9:30 AM** - Establish the Public Works Construction Trades Intern Program (Resolution introduced by Mayor Clark)

**Discussion:** David Kish, Mayor Clark's Executive staffperson, said this resolution provides for a pre-apprentice construction program which calls for socially and economically disadvantaged individuals to work with City bureaus for a year before moving into an apprenticeship program. He said bureaus have identified up to 27 such intern positions. He said \$150,000 was budgeted for this fiscal year to begin the program, which would allow for 10 interns. He said a target level of 20 interns is recommended for next year, which would cost the City about \$377,000. He said the intent is to fund this by assessing a small percentage of the total cost on every construction project in the City. The exact percentage would be fixed when the City's capital construction budget is set.

Commissioner Blumenauer said he supports the program but believes it is inappropriate to commit to a larger project now without knowing the specific budget impact.

Mayor Clark agreed that this should be a part of the budget process because there are so many suggestions about ways the City should spend its money.

Commissioner Blumenauer said the resolution should be amended to state that we will proceed with the 10 positions that are budgeted now and that we will deal with the funding mechanism for the next fiscal year in the budget process. He suggested returning to Council this afternoon with new language.

Mr. Kish said you could amend the resolution to change it to 10 interns since the higher number is not due to go into effect until March 1.

Commissioner Blumenauer said he is concerned about how much of the funding would be collected from the Mid-Co sewer and other LIDS. He said he can not go along with a fixed percentage against all construction projects until he knows all the implications.

Commissioner Lindberg asked what percentage would be charged.

Mr. Kish said it would depend on the size of the capital budget. The percentage would be based on what it takes to get the specified \$377,000.

**Disposition:** Continued to December 18 at 2:00 p.m.

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- \*2008** Establish a part-time Personnel Analyst I position and a salary rate for a new classification of Construction Trade Intern (Ordinance introduced by Mayor Clark)

**Disposition:** Ordinance No. 164915. (Y-5)

- \*S-2009 TIME CERTAIN: 9:45 AM** - Amend Title 17 of the City Code to adopt regulations concerning the collection of residential solid waste, recyclable materials and yard debris in the City and repeal all Code sections in conflict with this Ordinance (Ordinance introduced by Commissioner Blumenauer)

**Discussion:** Cay Kershner, Clerk of the Council, said a substitute ordinance had been distributed. Commissioner Kafoury moved the substitute. Commissioner Blumenauer seconded and the motion carried. (Y-5)

Commissioner Blumenauer said this Code calls for an actual reduction of 10 percent in the amount of solid waste generated and sets a 60 percent recycling goal by 1997.

Susan Keil, Environmental Services, said this is the tail end of a 20-month process. This particular ordinance addresses some of the issues raised earlier by environmental groups. She said the 60 percent recycling goal is very aggressive and represents a doubling of the City's current status.

Sarah Frewing, League of Women Voters, supported both the waste reduction and recycling goals. She requested a change in the wording of Goal 8 from "enhance" to "maximize" recycling on Page 2 (Declaration of Policy).

Estle Harlan, Tri-County Council of Waste Haulers, said meeting these goals will require a massive effort which will change Portland and the way things are done here.

Jeanne Roy, Recycling Advocates, said she is proud of the 60 percent recycling goal and would like to see the waste reduction goal affirmed. She asked that Council establish garbage rates that reward those who have the least amount of waste and provide more composting education.

Lauri Aunan, OSPIRG, said she was very happy with the aggressive waste reduction and recycling goals but that the City will need to get involved in marketing.

Dan Kearns, Oregon Environmental Council, said he anticipates a lot of fine tuning during the review process involving allocation of service options, adoption of a weight-based, rather than volume-based, garbage rate, and the addition of new materials to be recycled.

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Pat Merkle, Chair, Environmental Services Budget Advisory Committee, said the work produced by Staff in the last year has been incredible. She said one thing to look at in the future is mandatory services.

John Gardfalo, Sunflower Recycling, expressed concern with the inequity of the franchising process. Noting that Sunflower was the first recycler in the City, he objected to having franchises determined on the basis of how much garbage was generated per customer. In future evaluations, he asked Council to consider what kind of tonnage is being displaced and what incentives are offered those who increase their recycling efforts.

Commissioner Blumenauer expressed his appreciation to the staff and to the environmental advocates who helped shape this program.

Ms. Keil said she appreciated the solidarity of those who stayed the course.

Commissioner Blumenauer said an adjustment needs to be made to change the effective date to February 1, 1992.

Pete Kasting, Chief Deputy City Attorney, said the replacement chapter works in conjunction with the franchise collection system, which is not scheduled to go into effect until February 3. He said there would be a gap if Council repealed the existing Code and put this in place before the franchising system actually goes into effect.

Commissioner Blumenauer moved to amend the emergency clause to change the effective date to February 1, 1992. Commissioner Lindberg seconded and the motion carried. (Y-5)

Commissioner Blumenauer said a subcommittee of the Bureau's Budget Advisory Committee was being formed to allow continued citizen involvement and oversight.

**Disposition:** Substitute Ordinance No. 164916 as amended. (Y-5)

**\*2010** Apply to Metro for a \$450,000 matching grant for half of the costs for 300,000 curbside recycling bins for single-family and up to 4-plex multi-family units who receive garbage service within the Urban Service Boundary of the City of Portland (Ordinance introduced by Commissioner Blumenauer)

**Discussion:** Susan Keil, Environmental Services, said this is an application for the money Metro is giving the City to pay half the cost of the containers.

**Disposition:** Ordinance No. 164917. (Y-5)



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REGULAR AGENDA

**2035** Consider vacating a portion of SW 23rd Avenue between SW Multnomah Boulevard and SW Barbur Boulevard and a portion of SW Hume Court between SW 23rd Avenue and SW 24th Avenue at the request of Shurgard Capital Group (Hearing; C-9762)

**Discussion:** Mark Whitlow, attorney representing Shurgard Capital Group, said this vacation is tied to approval of the comprehensive map and zone change requested by Shurgard which passed Council last week. He said these changes are necessary to develop a self-service storage facility. He added that the same adequacy of service issues were examined by the Planning staff for the map and zone change and by the City Engineer in his report on the street vacation.

Doyle Dickenson, 8449 SW Barbur Boulevard, said the whole project came forth in secrecy and that he was never notified about what was happening. He objected to closing off the street and said he fears his business will be stuck with the cost of the improvements.

Kay Durtschi, 2230 SW Caldew, former chair of the Multnomah Neighborhood Association, said she remembers numerous notifications of this action going out and had observed Mr. Dickenson in attendance when this matter was heard by the Hearings Officer.

**Disposition:** Approved. City Engineer Prepare Ordinance. (Y-5)

**Mayor J. E. Bud Clark**

**\*2036** Authorize the Mayor and Auditor to execute a labor agreement between the City of Portland and the City of Portland Planning and Engineering Employees Association relating to terms and conditions of employment of represented personnel (Ordinance)

**Discussion:** Gail Washington Johnson, Bureau of Personnel, said they believe this negotiated settlement meets Council directives for bargaining goals and objectives. She said the two-year agreement meets the same criteria as other bargaining units for 85 percent of the Consumer Price Index and clarifies contract language in a number of areas such as comp time and performance evaluations. She said COPPEA has already ratified it.

**Disposition:** Ordinance No. 164918. (Y-5)

**\*2038** Transfer proceeds of the Portland Public Heliport Trust Fund to the Northwest Rotocraft Association (NWRA) and provide for expenditure of these funds (Ordinance)

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**Discussion:** David Kish, Director of the Bureau of General Services, said NWRA is operating and maintaining the heliport for free, saving the City about \$30,000 a year.

Betsy Johnson, President, Transwestern Helicopter, was introduced as one of the key individuals responsible for the heliport.

Steve Rosen, attorney for the NWRA, said Portland's heliport is looked at as a model by many other cities.

Mayor Clark asked about use of the heliport by the the President and Vice President they visit.

John Helm, President, Northwest Rotocraft Association, said information was provided to them and that the heliport could handle presidential parties.

**Disposition:** Ordinance No. 164919. (Y-5)

**Commissioner Earl Blumenauer**

**2039** Amend Title 17 of the City Code to adopt certain residential solid waste and recycling rates and charges (Second Reading Agenda 1996)

**Discussion:** Commissioner Blumenauer asked that this be referred back to his office.

**Disposition:** Referred to Commissioner of Public Works.

**\*2040** Authorize the purchase of computer software, hardware, training and maintenance from Intergraph Corporation (Ordinance)

**Disposition:** Ordinance No. 164920. (Y-5)

**\*2041** Authorize a contract with Black & Veatch to conduct a feasibility study and pre-design concept for the use of a wetland treatment system in the area of Ramsey Lake for combined sewer overflows (Ordinance)

**Discussion:** Commissioner Blumenauer said this is an alternative to straight separation and may be more cost effective.

**Disposition:** Ordinance No. 164921. (Y-5)

At 11:25 a.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 18TH DAY OF DECEMBER, 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; Pete Kasting, Chief Deputy City Attorney; and Officer Sheridan Grippen, Sergeant at Arms.

**S-2007** Establish the Public Works Construction Trades Intern Program (Resolution introduced by Mayor Clark; continued from 9:30 a.m. session)

**Discussion:** Cay Kershner, Clerk of the Council, said a substitute had been distributed changing the number of interns to 10. Commissioner Blumenauer moved the substitute. Commissioner Lindberg seconded and the motion carried.

Commissioner Blumenauer said he appreciated the Mayor's office doing this so it can be dealt with during the budget process.

**Disposition:** Substitute Resolution No. 34926. (Y-5)

**2045** Volunteers of America proposal for revision of the design and size of the required open space for a residential care facility located at 2400-2422 NE Martin Luther King, Jr. Boulevard (Previous Agenda 2003)

**Discussion:** Commissioner Kafoury said while there is no agreement between the neighborhood and the VOA, she hopes this could be the beginning of an ongoing dialogue between VOA and neighborhood.

George Fleerlage, representing VOA, said both groups met and exchanged information and pledged to continue to meet even though no item of substance was agreed upon. He said VOA is willing to discuss items of security, parking and aesthetics and hopes to be a responsible and responsive neighbor.

Steve Rogers, Eliot Neighborhood Association, said once again VOA refused to allow a member of the Eliot Neighborhood Association to serve on the screening committee. He said the two sides could not agree about the parking lot, the amount of time allowed for design review, or the security threat that walkaways pose to the neighborhood. He asserted that the Police would not be called if there were walkaways. He said because of the changes the current proposal should be remanded back to the Hearings Officer. He proposed additional conditions if the proposal is approved.

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Mr. Flerlage entered information about VOA's security policy into the record. He said when VOA moves into the new facility, it will call the Police as promised. He said the VOA proposal meets all the conditional use criteria.

Commissioner Bogle said he thinks Police should be instructed to respond to calls about walkaways.

Commissioner Kafoury moved to tentatively approve the proposal and consider the findings in two weeks. Commissioner Bogle seconded.

Commissioner Kafoury said she believes fears about public safety can be allayed and hopes that VOA will continue its conversations with the neighborhood.

**Disposition:** Proposal approved tentatively. Prepare findings for January 2, 1992 at 2:00 p.m.

2042 **TIME CERTAIN: 2:00 PM** - Appeal of Ann and Steven Adler against Hearings Officer's decision to deny application for a conditional use to operate a bed and breakfast in an R7 zone located at 5420 SW Westwood View (Hearing; 91-00460 CU)

**Discussion:** Laurie Wall, Planning Bureau, reviewed Code regulations regarding this request for a conditional use to operate a bed and breakfast. She said the Hearings Officer denied the request based on the inadequacy of the transportation services. However, the Office of Transportation disagreed, contending that the services are adequate. The Planning Commission then voted to advise Council that there is no automatic parking requirement for bed and breakfast facilities, noting that the intent of the Code is to examine the impact of on-street parking of such facilities on a case by case basis. Planning Staff has recommended approval of a significantly downscaled version with a maximum of four guest rooms and a maximum of two parking spaces in addition to the garage.

Mayor Clark said he was interested that the Planning Commission believes bed and breakfasts should be looked at case by case.

Paul Norr, attorney representing the appellants, asked Council to reverse the Hearings Officers decision and approve the bed and breakfast, noting Staff disagreement and the Planning Commission's statement that there is no specified parking requirement. He noted that accessory uses are not proposed and the impact would not be more than what is allowed under normal household use which permits anyone to have up to five unrelated persons living in their home. He said not one City bureau, including Transportation, Traffic Management, and Fire, found anything wrong with the proposal.

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Mr. Norr said the number of guest vehicles is not significant and the Adlers believe the impact will be marginal. He objected to the condition imposed by the Hearings Officer prohibiting transfer of conditional use rights to subsequent property owners and asked that the Adlers be allowed to retain those rights.

Ed Sullivan, attorney representing a group of neighbors, said they believe the Hearings Officer correctly denied this proposal because of the parking but that it also could have been denied based on the physical characteristics of the neighborhood itself and the negative impact such a use would have. He said this area is already parking deficient and noted that the Hearings Officer found that five parking spaces were needed to support this use. He urged a review of the Staff-proposed conditions regarding access and parking and questioned the enforceability of these conditions.

Since this case is the first bed and breakfast case to be heard under the new Code, Mr. Sullivan said if this is approved then any bed and breakfast application should be approved. He said the impacts could not be mitigated and the Hearings Officer's decision should be affirmed.

Lois Janzer, 5429 SW Westwood View, urged denial because of the special conditions on Westwood Drive. She said there are only six public right-of-way parking spaces to serve the 11 houses on a steep street with parking on one side only. She said it would be unfair for the Adlers to take 50 percent of the public spaces. She said the establishment of a commercial use would damage the residential nature of the neighborhood and the added cars would make access by service and emergency vehicles very difficult.

Gary Roberts, 1108 SW Westwood Drive, said the site-specific criteria are misguided. He said neighbors are very concerned about the intensified parking situation and the impact on neighborhood liveability. He maintained that the use of public transportation is highly unlikely and the steep grades and blind intersections require special care to navigate.

Individuals testifying in opposition to the proposal included:

Corinne Paulson, 992 SW Westwood Dr.  
Mel Ball, 1122 SW Westwood Dr.  
William Mangels, 5410 SW Westwood View  
Valeria Underwood, 1089 SW Westwood Drive  
Norman Janzer, 5429 SW Westwood View  
Norman Griffith, 1733 SW Westwood Dr.  
Gordon Thompson, 5432 SW Westwood View Dr.  
Doris Atkeson, 1675 SW Westwood Dr.  
Beverlee Smith, 5500 SW 14th  
Joyce Hall, 5325 SW Westwood View

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Dick Carter, 5303 SW Westwood View  
John Gregory, 1059 SW Westwood Dr.  
Gary Roberts, 1108 SW Westwood Dr.  
Jaymee Delaney, 5180 SW Westwood Dr.

Barbara Devine, President, Southwest Hills Residential League, said the SWIRL board officially opposed this conditional use.

Opponents cited the scarcity of parking spaces on a narrow street as well as safety and neighborhood liveability issues as reasons for upholding the Hearings Officer's decision. They contended that a dangerous traffic situation already exists and that the increased noise and invasion of privacy resulting from this use was an unfair burden for the neighbors to bear. They noted that 168 neighbors have indicated their opposition.

In rebuttal, Mr. Norr said neighbors have acknowledged the availability of six parking spaces on the Adler's property which would be the absolute peak number used. Regarding privacy, the Hearings Officer stated that these issues are not serious and the use would not make the situation any more acute. He said safety in general and traffic safety in particular will not be affected. Mr. Norr said the guts of the opposition is that they want this in some other neighborhood. He said it was his idea and not the Adlers to pass the use on to subsequent owners and they are happy to have it restricted to their use only.

Commissioner Blumenauer asked about the assertion made by one opponent that no building permits were sought for major remodeling projects at the Adler residence.

Stephen Adler, SW Westwood View, said they have done no remodeling that required permits.

Commissioner Blumenauer asked the City Attorney about the Planning Commission memo expressing its concern with the Hearings Officer's interpretation that there is a parking requirement.

Pete Kasting, Chief Deputy City Attorney, said in the conditional use section of the Code the parking issue only comes up where the approval criteria refers to public services, one of which is that the transportation system is capable of safely supporting the proposed use. It does not establish any quantitative standards. However, the Hearings Officer refers to 33.212.050 (site related standards) which says structural alterations are not allowed which make the dwelling appear less residential. Examples include installation of more than three parking spaces. The Hearings Officer concluded from this example that the intent of the Code was that installation of more than three parking spaces would result in an unacceptable alteration. However, he said that is not the same thing as a development standard relating to parking.

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Commissioner Blumenauer said he is troubled at the way the Hearings Officer framed this and the precedent it sets.

Commissioner Lindberg said Council should develop different findings if it denies the appeal.

Mr. Kasting said regardless of which way Council decides, new findings are needed.

Commissioner Kafoury moved to tentatively reject the appeal and affirm the Hearings Officer's decision but ask staff to prepare revised findings to reflect the Council's basis for its decision regarding traffic and parking impacts.

Commissioner Blumenauer seconded the motion. He said the implication that there is an automatic parking requirement is not in the Code and he does not agree with Hearings Officer's conclusion. He said he would like the findings to reflect that there are half a dozen spaces to serve 11 homes which in totality makes this site awkward at best, probably dangerous and incompatible with the neighborhood.

Mr. Kasting agreed that it was an overstatement of the Code to say that Section 33.212.050 imposes a flat limitation on the installation of more than three parking spaces. That is just listed as an example.

Commissioner Kafoury said she fully believes in the ability of people to have this use but thinks public safety is not assured in this location.

Commissioner Lindberg said someone's right to establish a commercial endeavor is a lesser right than of neighborhood residents to preserve their safety and parking.

Mayor Clark said this is an incursion of economic development in a residential area. He said bed and breakfasts are fine when they are invisible and should be basically at the discretion of the neighborhood.

**Disposition:** Tentatively deny appeal. Prepare findings for January 8, 1992 at 2:00 p.m.

### **Commissioner Gretchen Kafoury**

**2043** Transmit Planning Commission Report and Recommendation on Cully Neighborhood Plan (Report)

**Discussion:** Nancy Weisser, Planning staff, said the Cully neighborhood covers four square miles. She described the makeup of the area and the mixed industrial, commercial and residential uses found there. Ms. Weiser said there is a need to establish a bit more of a neighborhood identity.

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Cully has been identified as a park deficient area and development of the Columbia Slough for recreational use is recommended.

Ms. Weisser said a major concern for the neighborhood, which is undergoing sewer installation, is the cost of sidewalk and street improvements. There are many strip improvement streets and unimproved streets that need attention.

Ms. Weisser said the ordinance should be corrected to show 50 feet instead of 10 feet on Page 4 (g). The Master Plan will come to Council in two months.

Barbara Fritz, 4705 NE Ainsworth, objected to the cost of the proposed sewer assessments.

Helen Gredt, Vice-Chair of the Cully Neighborhood, said the sewer costs must be minimized and encouraged the City to seek federal and state funds to pay for them. She also asked that street and sidewalk improvement costs not be imposed upon residents.

Louise Hunter, 5260 NE 74th, read a poem about Mother Earth.

Simon Stanich, 5437 NE Jessup, thanked those who had been involved in this process.

Ronald Paddock, 2615 NE 60th, said in the past this area had been known as Dogpatch and this plan will help Cully move into the future comfortably.

Gordon Hunter, 5260 NE 74th, founding chair of the neighborhood association, said while the plan is a set of compromises, it is a positive plan which gives them a focus.

Mark Whitlow, attorney representing Albertsons, Inc., said the store at NE Cully and Prescott was going to be closed but, because of increased business due to the Fred Meyer closures, they now plan to build a new, expanded store.

Steven Yett, 5949 NE Cully, said this Plan is flexible and meets the needs of the neighborhood.

**Disposition:** Placed on File.

**\*2044** Adopt the Planning Commission Report and Cully Neighborhood Plan, amend Comprehensive Plan Policy 3.6 (Neighborhood Plan) and amend the Comprehensive Plan map and the official zoning (Ordinance)



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**Discussion:** Commissioner Kafoury moved to amend page 4 of the ordinance to change the 10 feet cited there to 50 feet. Commissioner Blumenauer seconded and the motion carried.

**Disposition:** Ordinance No. 164922 as amended. (Y-5)

At 4:35 p.m., Council recessed.

**December 19, 1991**

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

Commissioner Bogle moved Suspension of the Rules in order to consider an ordinance on a marijuana eradication project. Commissioner Lindberg seconded and the motion carried. (Y-5)

**2045-1** Letter of understanding with the Oregon Department of Justice to participate in the Marijuana Eradication Project (Ordinance)

**Disposition:** Ordinance No. 164923. (Y-5)

**2046** **TIME CERTAIN: 2:00 PM** - Appeal of Stuart Parsons against Hearings Officer's decision to deny a request to modify certain sections of previously approved subdivision, as well as the additional conditions imposed for this development at SW 34th Avenue, south of Stephenson (Report)

**Discussion:** Tom McGuire, Planning staff, outlined the conditions imposed on this development. He explained that the applicant, after receiving initial approval, presented a revised master plan which the Hearings Officer then denied, on the basis that the grading plan did not meet conditions of approval. Mr. McGuire said that subsequently, when the applicant filed a new application in 1991, the project became subject to interim resource review under the new Code. Staff recommended approval of some of the requested modifications in the new application but denial of others, including the interim resource review. The Hearings Officer agreed with Staff but modified some of the additional conditions and added a tree preservation plan and performance guarantee.

Mr. McGuire said the appellant maintains that the costs to meet the added restrictions are too great and questions the designation and significance of the water feature. He cited a memo from Al Burns, Planning staff, noting that additions were made to the water features map when the new Code was adopted in January, 1991.

Commissioner Kafoury said this is confusing.

Mr. McGuire said there were requests to modify the conditions of the approval and the interim resource review.

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Commissioner Kafoury asked if there was a policy for those who were proceeding under the old Code in good faith.

Mr. McGuire said in this case the subdivision had been initially approved but it was decided at final plat review that it did not meet the original conditions of approval.

Commissioner Blumenauer said it sounded like the City gave the applicant conflicting information and when he tried to fix what the City had inappropriately told him to do, he had to go back under the new Code.

Mr. McGuire said no, he understood that they were given options and could have changed their grading plan to meet the conditions of approval or filed a new application to change the approval conditions under the new Code. He said the only conflict on the original conditions of approval concerned use of open space in Tract A where there is also a drainage reserve.

Commissioner Lindberg said he understood that regulations in effect when the application was filed stay with that application throughout. He said in this case it appears that new regulations were put in during the process which applicant was required to comply with.

Linda Meng, City Attorney, said there is a Code provision (33.731.140) that says if you apply for a change in the conditions of approval it will be processed using the current procedure and approval criteria.

Stuart Parsons, applicant/appellant, said the conflict in conditions concerned the appropriate slope for the street. He said the waters feature map they used did not show the stream going through the property; the water feature was added later. He said he did not hear about the change in the drainage way until he returned to seek a clarification and was told that interim resource protection review was now required.

Commissioner Lindberg said assuming that is true there is something wrong with the process.

Ryan O'Brien, land-use consultant for Mr. Parsons, said the whole issue regards the 50 foot drainage preserve area. He said everyone interpreted access way to mean the street but there was a conflicting condition about the grading in the tract. He said in order to comply with the condition imposed by the Hearings Officer they will have to build an 18-foot-high retaining wall, which is too expensive. He said they had all their other approvals and it was only when they went in for final plat approval that Planning told them they could not grade in the open space area. They returned to the Hearings Officer for a clarification and were then told they could only grade in right-of-way.

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Linda Tipton, 11948 SW 34th Ave., said when Mr. Parsons applied in September, 1990 to build a subdivision, he was told he could only grade in the road access and the building pads. In the meantime, the City extended its waterway map to include smaller drainages in order to meet interim resource protection goals. She said the water feature is the heart of it and contended that interim resource protection review does apply. This summer, when the applicant came through with his final plat, it showed the entire two acres in Tract A either as cleared, graded or stock-piled. She said the neighbors oppose this.

Mayor Clark said there is no doubt that the rules were changed.

Ms. Meng said she was not entirely clear on the factual issue that brought applicant back.

Commissioner Blumenauer said applicant was caught during final plat review when staff found a conflict between two of the conditions.

Mr. O'Brien said that was not entirely true, citing a letter from Tom McGuire. He said a grading plan was not required for preliminary approval but there was an assumption that the site would be graded.

Mr. Parsons said he does not believe the interim resource protection plan applies. He said there are many problems with a retaining wall, including the fact that Transportation does not want one because it will be a maintenance problem. He said a natural vegetative slope would do just as well and be more cost effective. He also objected to adding a new requirement for a tree preservation bond at a cost of \$1200 per tree. Instead of saying no grading was allowed in Tract A, the original approval should have said there was no grading except for street grading.

Mr. O'Brien maintained that the property, the last undeveloped land in the area, is not a natural area. He said an 18-foot high retaining wall is a bad idea, inappropriate and very expensive. He said the bonding is too expensive and will exceed the cost of the whole subdivision.

Linda Tipton, representing Nordhill Neighborhood, objected to the destruction of natural resources. She said the applicant did not meet the original grading plan requirement and that is why, when he got his modification denied in 1991, he had to return. She said the modification was actually a totally new plan which called for excessive grading and tree cutting.

Commissioner Lindberg asked what percentage of the wooded area would be logged and cleared.

Ms. Tipton said 90 percent under the new grading plan.

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Kay O'Dea, 11956 SW 34th, described extensive water damage caused to nearby homes by alteration of the stream underground springs due to construction in the area. She asked that water feature be left in its natural state.

Jill Inahara, 11952 SW 34th, asked for retention of the tree bond. She said the bond will not cost the applicant a penny if he adheres to the preservation plan. She also described the grading plan as inaccurate.

Mark Fujii, 11948 SW 34th, said there was no contradiction in Hearings Officer's original requirements and the developer only assumed he could build a road anywhere he wanted. He said there are other options, including making it into a private road or building a shorter retaining wall or a bridge.

Michael Tipton, 11948 SW 34th, said three of the neighbors entered into an agreement to purchase Lot 1 in order to preserve it. He said both Planning and the Hearings Officer found the final plan environmentally unsound and denied approval.

Sarah Rosenberg, attorney for Nordhill Neighbors, 5319 SW Westgate Dr., said there are numerous inaccuracies in information submitted by the developer which was why the Hearings Officer added the requirement for the tree bond.

Lori Meuser, Arnold Creek Neighborhood Association, said the neighborhood association strongly opposed this appeal. She said strict requirements about tree preservation and the grading plan are needed.

Leonard Wynkoop, 6443 SW Beaverton-Hillsdate Highway, one of the owners of the property being developed, objected to the excessive tree preservation requirements. He said they destroy the value of land classified as residential.

Commissioner Kafoury asked that this be referred back to the Planning Bureau for help in understanding the issues. Commissioner Blumenauer seconded.

Commissioner Blumenauer said this had been approved for development twice by the City. He said a rational approach needs to be taken to the issues of grading and preservation to balance the cost and come up with a reasonable solution.

Commissioner Lindberg said the grading and tree removal seem excessive. He said the potential impact on other properties seems devastating and there is evidence that the tree plans are not being complied with.

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Commissioner Bogle agreed with sending this back for another look and to resolve the discrepancy between what appears on the maps and what is in the report.

Mayor Clark said there is a need for equity, noting that other people need to have the right to develop their property also.

Mr. McGuire asked about balancing preservation with development. He said he is limited by this application and the previous subdivision approval.

Commissioner Blumenauer said some due process issues have arisen and proposed working with City Attorney on those. He suggested looking at what makes sense in terms of the site rather than requiring things like massive retaining walls which the City does not want.

Al Burns, Long Range Planning, said this is also part of SW Hills Study and the Planning Commission is recommending an environmental conservation overlay zone for this area which has more reasonable standards than the interim standards. He agreed that it is confusing for this to occur at the same time.

**Disposition:** Continued to January 2, 1992 at 2:00 p.m.

## **REGULAR AGENDA**

### **Mayor J. E. Bud Clark**

**2047** Adopt FY 1992-93 through FY 1996-97 General Fund Financial Forecast (Resolution)

**Discussion:** Tim Grewe, Director of Financial Planning, said this forecast is substantially the same as the one presented to Council in December with one big exception -- the \$1,000,000 set aside for animal control has been removed per Council direction.

Commissioner Blumenauer said the first claim on the utility franchise fee should be street lights. Second, the utility franchise fee projected for Environmental Services should be stepped down to conform with the step down in property taxes. Third, if more money than projected is raised by the franchise fees, it should go towards solving the Mid- County and CSO sewer problems. He said the forecast seems too high because of significant claims on the utility franchise fees.

Mayor Clark emphasized that these are not firm figures and there is a lot of uncertainty.

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Mr. Grewe said the Office of Finance and Administration will update this forecast three times during the budget process.

**Disposition:** Resolution No. 34927. (Y-5)

**\*2048** Adopt a Supplemental Budget for FY 1991-92 of \$30,604,981; increase resources and requirements in various City funds and make appropriations (Ordinance)

**Disposition:** Ordinance No. 164924. (Y-5)

Cay Kershner, Clerk of the Council, said a new President of Council needed to be elected for a term beginning January 1, 1992.

Commissioner Lindberg nominated Commissioner Blumenauer. Commissioner Bogle seconded and the motion carried. (Y-5)

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

BARBARA CLARK  
Auditor of the City of Portland

*Cay Kershner*

By Cay Kershner  
Clerk of the Council