



CITY OF

PORTLAND, OREGON

OFFICIAL
MINUTES

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 5TH DAY OF FEBRUARY, 1992 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; Harry Auerbach, Deputy City Attorney; and Officer Sheridan Grippen, Sergeant at Arms.

Mayor Clark declared the month of February as Black History Month.

Agenda Nos. 203 and 212 were pulled from Consent. On a Y-5 roll call, the balance of the Consent Agenda was adopted as follows:

CONSENT AGENDA - NO DISCUSSION

- 204** Accept bid of Industrial Laundry Service for uniform laundry service for \$160,000 (Purchasing Report - Bid 48A)

Disposition: Accepted; prepare contract.

- 205** Accept bid of Western Paper Company for annual supply of roll paper stock for \$54,664 (Purchasing Report - Bid 49A)

Disposition: Accepted; prepare contract.

- 206** Accept bid of Hessel Tractor for furnishing a 50-ton equipment trailer for \$42,328 (Purchasing Report - Bid 58)

Disposition: Accepted; prepare contract.

- 207** Accept bid of Albany Electric, Inc., for traffic Signal at 4800 NE 122nd Avenue for \$38,980 (Purchasing Report - Bid 61)

Disposition: Accepted; prepare contract.

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Mayor J. E. Bud Clark

- 208** Confirm appointment of Douglas V. Van Dyk and the reappointment of W. Richard Cooley and Vivian V. Parker to the Portland Planning Commission (Report)

Disposition: Confirmed.

- 209** Approve amended Personnel Rule concerning the reinstatement of former probationary employees (Resolution)

Disposition: Resolution No. 34944. (Y-5)

- 210** Affirm City Council's policy that all programs, services and activities provided by the City are accessible to people with disabilities (Resolution)

Disposition: Resolution No. 34945. (Y-5)

- *211** Pay claim of Alan and Michelle Hines (Ordinance)

Disposition: Ordinance No. 165032. (Y-5)

- *213** Amend agreement with Multnomah County for a Community Health Nurse for Iris Court Project (Ordinance; amend Contract No. 26826)

Disposition: Ordinance No. 165033. (Y-5)

- *214** Amend agreement with Campbell Resources, Inc. to extend the ending date (Ordinance; amend Contract No. 26759)

Disposition: Ordinance No. 165034. (Y-5)

- *215** Authorize Special Assessment Improvement Bond (Ordinance)

Disposition: Ordinance No. 165035. (Y-5)

- *216** Authorize General Obligation Water Refunding Bonds, Series 1992 (Ordinance)

Disposition: Ordinance No. 165036. (Y-5)

- *217** Authorize General Obligation Improvement Refunding Bonds, Series 1992 (Ordinance)

Disposition: Ordinance No. 165037. (Y-5)

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- *218** Authorize Parking Revenue Refunding Bonds, Series 1992 (Ordinance)

Disposition: Ordinance No. 165038. (Y-5)

Commissioner Earl Blumenauer

- 219** Accept petition and adopt Resolution to improve NE Russell Street from NE 111th Avenue to the easterly terminus (approximately 515 feet) and to construct sumps (Report)

Disposition: Accepted.

- 220** Direct the City Engineer to prepare plans, specifications and cost estimates for the improvement of NE Russell Street, from NE 111th Avenue to the easterly terminus (approximately 515 feet) and to construction of sumps (Resolution)

Disposition: Resolution No. 34946. (Y-5)

- 221** Accept petition and adopt Resolution to improve SW 7th Avenue from SW Alice Street to SW Lobelia Street and SW Orchid Street from SW Terwilliger Boulevard to SW 8th Avenue and construct a storm sewer system (Report)

Disposition: Accepted.

- 222** Direct the City Engineer to prepare plans, specifications and cost estimates for the Improvement of SW 7th Avenue from SW Alice Street to SW Lobelia Street and SW Orchid Street from SW Terwilliger Boulevard to SW 8th Avenue and construction of a storm sewer system (Resolution)

Disposition: Resolution No. 34947. (Y-5)

- *223** Amend a contract with W & H Pacific to provide for additional final design services on the N Marine Drive, Rivergate to Interstate 5 Project (Ordinance; amend Contract No. 25845)

Disposition: Ordinance No. 165039. (Y-5)

- *224** Amend a contract with W & H Pacific to provide additional design and environmental services on the N Marine Drive, Rivergate to Interstate 5 Project (Ordinance; amend Contract No. 25845)

Disposition: Ordinance No. 165040. (Y-5)

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- *225** Call for bids to complete Maintenance Oil/Gravel Project 1992, authorize a contract and provide for payment (Ordinance)

Disposition: Ordinance No. 165041. (Y-5)

- *226** Call for bids for the Columbia Boulevard Wastewater Treatment secondary lighting project, authorize a contract and payment (Ordinance)

Disposition: Ordinance No. 165042. (Y-5)

- *227** Call for bids for the Columbia Boulevard Wastewater Treatment Plant primary emergency generator installation, authorize a contract and payment (Ordinance)

Disposition: Ordinance No. 165043. (Y-5)

- *228** Authorize an Intergovernmental Agreement with the Peninsula Drainage District No. 1 to provide for a removable stop log closure structure for flood control in connection with the N Marine Drive Project (Ordinance)

Disposition: Ordinance No. 165044. (Y-5)

- *229** Revocable permit to Julie Lawrence, Alex Schlesinger, Edward McReynolds and Anita Grinich for an existing garage in SW 16th Avenue (Ordinance; repeals No. 147908)

Disposition: Ordinance No. 165045. (Y-5)

- *230** Grant revocable permit to the Parker Properties, Inc., for a sign at 13908 N Lombard Street (Ordinance)

Disposition: Ordinance No. 165046. (Y-5)

- *231** Revocable permit to Portland Opera to maintain banners on street light poles from March 16 through April 10, 1992 (Ordinance)

Disposition: Ordinance No. 165047. (Y-5)

- *232** Revocable permit to SOLV IT (Stop Oregon Litter and Vandalism) to maintain banners on street light poles from March 16 through April 12, 1992 (Ordinance)

Disposition: Ordinance No. 165048. (Y-5)

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- 233** Enter into a Wholesale Sewage Treatment and Disposal Agreement with the City of Tualatin regarding industries in Tualatin that discharge wastewater to Portland's Tryon Creek Wastewater Treatment Plant (Ordinance)

Disposition: Passed to second reading February 12, 1992 at 2:00 p.m..

- *234** Contract with ASCG Incorporated for professional engineering services and provide for payment (Ordinance)

Disposition: Ordinance No. 165049. (Y-5)

- *235** Contract with Wallis Engineering for professional engineering services and provide for payment (Ordinance)

Disposition: Ordinance No. 165050. (Y-5)

- 236** Revise City Code to clarify processes for appeals to the Code Hearings Officer from administrative enforcement actions and issuance of industrial wastewater discharge permits (Ordinance; revise Chapter 17.34)

Disposition: Passed to second reading February 12, 1992 at 2:00 p.m.

Commissioner Dick Bogle

- *237** Authorize Intergovernmental Agreement with the State of Oregon to extend existing Regional Hazardous Materials Emergency Response Team contract (Ordinance)

Disposition: Ordinance No. 165051. (Y-5)

Commissioner Gretchen Kafoury

- *238** Amend Ordinance No. 129787, which granted a Zone Change from R7 to A2.5 on property located near SW Vermont and Bertha Boulevard with conditions, in order to amend Condition A and add conditions (Ordinance; 91-00766 ZC)

Disposition: Ordinance No. 165052. (Y-5)

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Commissioner Mike Lindberg

- 239** Approve Change Orders No. 1 and 2 and accept as complete contract with Russell Construction, Inc., for women's shower and restroom, Water Bureau, Interstate Yard (Report; Contract No. 27146)

Disposition: Accepted.

- *240** Authorize an increase in the petty cash funds of the Water Bureau Finance fund to \$4,000 (Ordinance; amend No. 15321)

Disposition: Ordinance No. 165053. (Y-5)

- *241** Authorize an agreement with The Wasserberger Benson Partnership, Architects, PC for \$50,781.50 to provide design and consulting services for the second phase of renovations to the Matt Dishman Community Center (Ordinance)

Disposition: Ordinance No. 165054. (Y-5)

- *242** Change City Code provisions relating to park concessions (Ordinance; repeal and replace Code Section 5.32.070)

Disposition: Ordinance No. 165055. (Y-5)

- *243** Execute a deed vesting title to certain City park lands to Oregon State Department of Transportation to allow construction of improvements to Interstate Highway 5 (Ordinance)

Disposition: Ordinance No. 165056. (Y-5)

- *244** Authorize a contract with Interstate Mobilephone Company leasing to them a portion of the Patton Tank Site for a monthly fee and other consideration (Ordinance)

Disposition: Ordinance No. 165057. (Y-5)

- *245** Call for bids for an automated irrigation system at Westmoreland Park (Ordinance)

Disposition: Ordinance No. 165058. (Y-5)

City Auditor Barbara Clark

- 246** Appoint Lawrence Al Siebert, Ph.D. to the Police Internal Investigations Auditing Committee (Report)

Disposition: Confirmed.

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REGULAR AGENDA

- 203** Accept bid of Russell Construction Inc., for Portland Building lobby renovation (rebid) for \$297,924 (Previous Agenda 154)

Discussion: Norm Locke, Chair of the Portland Building Corporation Board, said this is basically a maintenance upgrade and redesign of the lobby. Money in Construction Fund to improve the lobby is available and is part of the original building fund held back for these purposes and no new money is needed. The Corporation Board, a voluntary group of citizens, believes the project should go forward. Mr. Locke described various components of the project and asked for Council approval.

Bill Naito, 5 NW Front, said redesigning this basically depressing lobby is badly needed and should pay for itself very quickly in terms of increased employee morale.

Disposition: Accepted; prepare contract. (Y-5)

- 212** Ratify Sharlene M. Giard as a new appointment to the Housing Authority of Portland (Resolution)

Discussion: Commissioner Kafoury said Ms. Giard is the nominee of the City of Gresham and reflects the decision to include representatives from the County to broaden HAP membership.

Disposition: Resolution No. 34948. (Y-5)

- 201** **TIME CERTAIN: 9:30 AM** - Adopt Arts Plan 2000+'s Action Plan for Portland, Oregon Metropolitan Region (Resolution introduced by Commissioner Lindberg)

Discussion: Commissioner Lindberg said many arts organizations are in serious financial difficulty and ways must be found to increase public and private funding. He stressed the importance of arts funding for kids and said the entire Arts Plan could be implemented for the cost of a single movie ticket for each person in the region.

Bing Sheldon, Committee Chair, 123 NW 2nd, said one of the surprising results is the emerging consensus that arts planning must be done on a regional basis. He said investment in the cultural infrastructure is necessary to a vital community and is supported by the vast majority of citizens.

Other committee members addressed specific chapters of the Plan.

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Joseph Wyatt, Arts Education, said arts education can plant the seeds for success for all children.

Bruce Chalmers, Access to the Arts, said the main problems are lack of information and access, particularly for the disabled and underserved. He said Portland's support for the arts is deplorable and if nothing is done about it, the City's image will be significantly eroded.

Clark Worth, Diversity, noted that people of color make up 17 percent of population but only 5 percent of audiences.

Joyce Ashmanskas, Regional Coordination, said the only way the Arts Plan will work is through regional planning, coordination and funding. She said the arts need to be taken to the four counties, but cautioned that if the counties pay they definitely are going to want to play too.

Laura Ross Paul, Artists, outlined the five proposals to help artists, including helping them find low cost working spaces.

Bob Van Brocklin, Arts Organizations, said 12 of the 15 largest are running growing deficits while a number of others have already gone under. He called for an increased level of public support for local arts organizations, noting that Portland's support is \$1.41 per capita compared to a national average of \$4.00. He also cautioned against increasing user fees for these groups.

William Jamison, Public Art, stated that jurisdictions other than Portland must be encouraged to adopt public arts programs. He also recommended expansion of the definition of public art to include the performing arts.

Glenda Durham, Facilities, described her efforts to involve the Indian community and other minorities in the plan.

Cliff Carlsen, Chair of the Metro Facilities Study, said the Committee concluded that the responsibility for public facilities is a regional one. They also concluded, in some cases, that tickets and rents should not be so high and that the facilities can be better used. He said public facilities cannot pay for themselves and funding must be provided if they are to survive.

David Knowles, Finance Subcommittee Chair, said MERC needs to adopt a business plan since it has never had a coherent overall strategy for running the facilities. He said the Committee believes the merger of MERC into Metro has not produced the savings anticipated and additional steps need to be taken to consolidate operations. However, Mr. Knowles said, no matter how efficiently the facilities are run, they will not pay for themselves and approximately 2.2 million dollars will be

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needed annually by 1995 to keep them open and provide for capital improvements. An additional 4.6 million is needed for other kinds of facilities, particularly to implement Arts Plan 2000+.

Mr. Knowles said the Committee had determined that an admissions tax and a lodging tax were the most feasible funding options. It recommends two specific options: 1) a 6 percent admissions tax to yield about 1.2 million a year with a general obligation bond for the remaining million dollars to fund capital improvements; 2) a combination of a regional lodging tax and an admission tax for a total of 4.4 million dollars in revenues. He said the next step is to form a Task Force to achieve regional consensus about these options.

Mr. Sheldon said the Arts Plan asks Portland to make a small investment to put the arts on a recovery path and challenge regional governments and the private sector to share in this investment. He said the Committee believes this small increase in public support could leverage up to \$35,000,000 in private support. He said a regional, corporate leadership group is being formed to build support from the private sector.

Commissioner Blumenauer said the analogy linking support for the arts to infrastructure is appropriate and he also appreciates the focus on regionalism and targeted audiences.

Commissioner Bogle said arts programs should not only be saved but enhanced, particularly through a growing appreciation of cultural diversity.

Commissioner Kafoury said she will personally make sure these recommendations are incorporated within Future Focus.

Commissioner Lindberg noted that the plan has been dedicated to Selina Ottum, former director of the Portland Arts Commission.

Mayor Clark emphasized the need for building consensus.

Disposition: Resolution No. 34949. (Y-5)

202

TIME CERTAIN: 9:30 AM - Joint Resolution between the City of Portland and Metropolitan Service District to work together to develop long term funding for regional arts and entertainment facilities and programs (Resolution introduced by Commissioner Lindberg)

Disposition: Resolution No. 34950. (Y-5)

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Mayor J. E. Bud Clark

- 247** File annexation case in Hazelwood with the Portland Metropolitan Area Local Government Boundary Commission (Resolution; Case No. A-1-92)

Discussion: Scott Thomas, 204 SE 134th Place, supported the annexation of the area bounded by 130th and 141st between Stark and Burnside. He said he believes the City will do a good job in developing the light rail corridor there.

Disposition: Resolution No. 34951. (Y-5)

- 248** File annexation case in Hazelwood with the Portland Area Local Government Boundary Commission (Resolution; Case No. A-2-92)

Disposition: Resolution No. 34952. (Y-5)

- 249** Authorize application for amendment to the boundaries of the North/Northeast Portland Enterprise Zone (Resolution)

Disposition: Referred to Commissioner of Finance and Administration.

- 250** Recommend approval of Oregon Business Development Loan Fund Project for Metro Plastics, Inc. (Resolution)

Disposition: Resolution No. 34953. (Y-5)

Commissioner Earl Blumenauer

- 251** Rename and expand membership of the Citizens Bicycle and Pedestrian Advisory Committee, adopt bylaws and direct the Office of Transportation to create a new Pedestrian Advisory Committee (Resolution)

Discussion: Commissioner Blumenauer said the City has renewed its commitment to expand alternative modes of transportation, including both cycling and pedestrian activity.

Jeff Smith, Bureau of Traffic Management Bicycle and Pedestrian Program, said when the City's bicycle and pedestrian program was initiated in 1971, the orientation was towards bicycling issues with the implicit assumption that improvements for bicyclists would also benefit pedestrians. However, since then it has become clear that there can be serious conflicts between them and that each mode has distinct needs. He said the prime function of the current Committee is creation of a

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bikeway network in Portland and the improvement of City streets for biking. He said passage of this resolution will allow both pedestrians and bicylists to be better served.

Mayor Clark announced that he had to leave and Commissioner Blumenauer as President of Council, assumed the Chair.

Commissioner Bogle asked that the Committee address the issue of bicycle messengers also.

Ron Kernan, 2343 NE 38th, current Chair of the Citizens Bicycle and Pedestrian Advisory Committee, supported renaming the current Committee and forming a separate pedestrian one, noting that the current committee has done little for pedestrians.

Douglas Klotz, 3339 SE 10th Avenue, President of the Willamette Pedestrian Coalition, said adoption of this will go a long way in making Portland a pedestrian-friendly City. He also read a statement in support from Don MacGillvray, 2339 SE Yamhill.

Geoff Sanders, 4826 SE Lincoln, a nominee for the proposed Citizens Bicycle Advisory Committee, said alternative transportation modes are critical if the infrastructure and the environment are not to be overtaxed.

Tom Walsh, Manager Tri-Met, said creating a pedestrian-friendly environment is very important to Tri-Met as its ridership grows.

Steve Matheson, 2945 NE 38th Avenue, urged support of the restructured committees to allow broader consideration of the issues and increased participation.

Commissioner Blumenauer said this program has languished a bit in the past but it is now time to expand the vision and make more rapid progress. He said they appreciate Tri-Met's partnership.

Disposition: Resolution No. 34954. (Y-4)

252

Accept petition and adopt Resolution for the improvement as a District of SW Vacuna and Vesta Streets, and SW 37th Avenue, and construction of a storm and sanitary sewer system (Report)

Discussion: Cay Kershner, Clerk of the Council, said a request had been made to refer this and the following resolution back for additional work.

Disposition: Referred to Commissioner of Public Works.

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- 253** Direct City Engineer to prepare plans, specifications and costs estimates for the improvement as a District, of SW Vacuna and Vesta Streets and SW 37th Avenue, and construction of a storm and sanitary sewer system (Resolution)

Disposition: Referred to Commissioner of Public Works.

- 254** Set hearing date, 9:30 a.m., Wednesday, March 11, 1992, to initiate the vacation of a portion of N Ramsey Boulevard and N Leadbetter Road south of Marine Drive, within the plat of Rivergate Industrial Park (Resolution)

Disposition: Resolution No. 34955. (Y-4)

- *255** Authorize City Engineer to accept right-of-way dedications, easements and other real property interests required for public improvements, and provide for payment (Ordinance)

Discussion: Commissioner Blumenauer said this will help save about \$10,000 in paper work annually.

Disposition: Ordinance No. 165059. (Y-4)

- *256** Authorize payment of \$60,000 to Oregon Association of Clean Water Agencies to help finance Willamette River Basin Quality Study (Ordinance)

Disposition: Ordinance No. 165060. (Y-4)

Commissioner Gretchen Kafoury

- *257** Amend contract with Portland Development Commission to provide funds for a loan to 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. 27169)

Discussion: Commissioner Kafoury said this is a totally different financing mechanism which does not involve getting loans against community development block grants. This will allow private financing with the banks and individual financing arrangements with each household.

Disposition: Ordinance No. 165061. (Y-4)

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Commissioner Mike Lindberg

- 258** Direct the Bureau of Parks and Recreation to pursue a Planned Giving Program (Resolution)

Discussion: Commissioner Lindberg said if Council agrees, the Parks Bureau will begin this planned giving program to help provide long term funding for City parks. He said other cities have successfully used such a program to encourage contributions from private individuals. He said the program would be housed in the offices of the Oregon Community Foundation and would use the services of an expert to facilitate it.

Disposition: Resolution No. 34956. (Y-4)

- *259** Authorize a contract with the Oregon Housing and Community Services Department for \$26,950 to implement training for leveraging landlord resources (Ordinance)

Discussion: Sue Anderson, Energy Office, said the goal of all these contracts is to help provide weatherization of multifamily dwellings. She said these contracts, combined, will pay the Energy Office about \$140,000 for its work and will effectively leverage about a \$1,000,000 in private funds.

Gordon McDonald, Portland General Electric, said everyone involved in this program is a winner. He said they believe the Energy Office markets this program at a low cost, based on each unit weatherized.

Disposition: Ordinance No. 165062. (Y-5)

- *260** Authorize a performance-based contract with Pacific Corp dba Pacific Power and Light to augment the Low-income, Multi-family Weatherization Assistance Program (Ordinance)

Disposition: Ordinance No. 165063. (Y-4)

- *261** Authorize a performance-based agreement with Portland General Electric to augment the Multi-family Weatherization Assistance Program (Ordinance)

Disposition: Ordinance No. 165064. (Y-4)

- *262** Authorize a performance-based Intergovernmental Agreement with the Oregon Department of Energy to augment the Multi-family Weatherization Assistance Program (Ordinance)

Disposition: Ordinance No. 165065. (Y-4)

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City Auditor Barbara Clark

- 263** Create the NW Skyline Boulevard Water Main (Hearing; Ordinance; Water; C-9761)

Discussion: Clarence Hilbrick, Water Bureau, said four years ago citizens asked that water service be provided on NW Skyline. The plans and specifications were drawn up and the estimates were forwarded to affected property owners in January, 1992. Several citizens have remonstrated on a number of different issues. The Bureau recommends continuing this to March 11 in order to address legal issues regarding the assessment of those within the plan district who do not reside within the City.

Clark Hanson, 3200 NW Skyline Blvd., said some individuals are being asked to pay enormous amounts for only one hookup.

Commissioner Lindberg asked him to return to testify about his concerns in March.

Disposition: Continued to March 11, 1992 at 9:30 a.m.

- 264** Assess property for sidewalk maintenance through October 13, 1991 (Ordinance)

Disposition: Passed to second reading February 12, 1992 at 9:30 a.m.

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 5TH DAY OF FEBRUARY, 1992 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.

- 266** Appeal of Jim Breslin Properties against Hearings Officer's decision to impose Conditions A and F in approving a request to amend a previously approved zone change in order to use for parking purposes property located north of NE Halsey Street between 34th and 35th Avenues (Previous Agenda 197)

Discussion: Tom Bizeau, Planning Bureau, said an agreement had been reached on the parking issues with the neighbors, the applicant and the Office of Traffic Management. He said he has prepared findings and recommendations for Council approval today and urged their adoption with the addition of a sentence to subcondition 4. The sentence states that the Parking Plan will be implemented prior to use of Parking Area 2. He said there was consensus on the addition.

Commissioner Kafoury moved that the findings be amended to include that sentence. Commissioner Bogle seconded and the motion carried. (Y-5)

Disposition: Appeal granted with added conditions; Findings adopted as amended. (Y-4; Lindberg absent)

- 267** Tentatively deny appeal of Ann and Steven Adler against Hearings Officer's denial of a conditional use to operate a bed and breakfast in an R7 zone located at 5420 SW Westwood View (Findings; Previous Agenda 77)

Discussion: Cay Kershner, Clerk of the Council, said a request had been made by Richard Forester, attorney for the Adlers, to reopen and reconsider this case. She said it would be up to Council to decide.

Mayor Clark said it would take three votes to reopen this.

Commissioner Kafoury said she thought each side had the right to speak for five minutes on the findings.

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Pete Kasting, City Attorney, said he understood there were a variety of issues people are interested in raising. He said one consequence of opening the record is that if new evidence or arguments are introduced by one side, then the other side must be allowed time to respond.

Commissioner Bogle moved to reopen this case and hear it later since this is the first bed and breakfast case to come to Council under the new zoning Code. Commissioner Kafoury seconded.

Commissioner Blumenauer said no new evidence has been introduced. He said the findings stage is not the time to reopen it and come in with a new, modified plan. He said then it becomes the equivalent of a new hearing.

Commissioner Bogle said perhaps something would be presented that would allow the appellant and the neighbors to work things out.

Commissioner Kafoury said she thought in the past people were given five minutes to make comments on the findings.

Mr. Kasting said under the old Code Council had the right to comment on the findings but were not allowed to bring in new evidence or arguments. Under the new Code, the right to comment is at the discretion of Council. If Council allows new evidence to be submitted, then under State law it must allow other sides to respond to new issues.

Commissioner Kafoury said she is concerned that Council make clear in the findings that this is a site-specific denial and not a precedent for others.

Commissioner Bogle said his concern is that the applicant may be proposing a modification that would be acceptable to the neighbors.

Mr. Kasting said the appellants could reapply and there is no waiting period between a denial and a new application.

Commissioner Kafoury said she wants to make clear that on-street parking is not in and of itself grounds for denial although in this case she believes the site is inappropriate for a bed and breakfast, whether there are one or five cars on the street.

Mayor Clark said he intends to vote no on reopening it. He said he believes every bed and breakfasts must be site specific and that no one has a right to put one in except at the discretion of the neighborhood.

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On the motion to reopen the hearing to allow comments, the vote was Y-1, Bogle; N-4).

Commissioner Kafoury moved to adopt the findings.

Disposition: Findings Adopted. (Y-4; Bogle abstained)

- 268** Tentatively deny appeal of Wilson Neighborhood Association and uphold, with conditions, Hearings Officer's decision to approve the Tpplication of the Housing Authority of Portland for a conditional use for a 31-unit apartment building to provide short-term housing and support for homeless families at SW Bertha Boulevard (Findings; Previous Agenda 76)

Discussion: Commissioner Kafoury said there was confusion about whether the second page of Mr. Houck's letter was entered into the record. She recommended allowing each side five minutes to comment, on the second page of Mike Houck's letter only.

Mr. Kasting said in this case the letter from Mr. Houck submitted to the Council Clerk did not contain all three pages, although the entire document was received by some Commissioners. He said to keep the record clean, the missing page should be entered into the official City Council record and, because that is new information, the other parties should be allowed time to respond.

Commissioner Blumenauer moved to allow testimony of up to 5 minutes per side to respond to the information on Page 2 of Michael Houck's letter. Commissioner Bogle seconded. The motion carried on a roll call vote. (Y-5)

Robert Simon, attorney for the Wilson Park Neighborhood Association, said Wilson Park believes this is not a proper site for the housing project and also believes a zone change should have been sought because of the project's density. He said Mr. Houck's letter says he is opposed to this site but if it is going to be used, it should be done in an environmentally sensitive manner that mitigates any damages that may happen. He said Wilson Park does not believe the City has had any control over selection of this site or what is being built and, for this reason, Council cannot implement any of Mr. Houck's suggestions. Wilson Park urged Council to regain control by requiring that this project be sent through a site and design review process.

Mr. Simon objected to not receiving a copy of the findings as attorney of record and asked for a seven days continuance in order to respond to the new evidence in Mr. Houck's letter.

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Ms. Richman said as soon as the findings were filed, she asked Mr. Risher, the President of Wilson Park Neighborhood Association, whether she should send a copy to Mr. Simon. Mr. Risher said he would pick them up. In any case, she said, the findings were available by noon on Friday.

Richard Brownstein, General Consul for the Housing Authority, said the conditions Council added to the findings already take into consideration statements made in the second page of Mr. Houck's letter. He said whether or not Council had the second page before it, he believes the outcome would be substantially the same.

Mr. Kasting, responding to the request for a setover, said a setover is in order if additional documents in support of the application are received. In this case the letter was not submitted in support of the application and thus would not trigger a setover.

Commissioner Kafoury said she does not believe this is a choice between housing the homeless and protecting the environment. She said she feels strongly that the wetland area will actually be enhanced.

Disposition: Findings Adopted. (Y-5)

Commissioner Gretchen Kafoury

- 269** Amend Comprehensive Plan Policy 3.6 (Neighborhood Plan) by adding the Brentwood Darlington Neighborhood Plan to the list of neighborhood plans adopted by the City Council (Ordinance)

Disposition: Passed to second reading February 12, 1992 at 2:00 p.m.

- 270** Amend the Comprehensive Plan Map and Official Zoning Maps for areas within the boundaries of the Brentwood Darlington Neighborhood, a portion of the Lents Neighborhood and several properties in Clackamas County (Ordinance)

Disposition: Passed to second reading February 12, 1992 at 2:00 p.m..

- 265** **TIME CERTAIN: 2:00 PM** - Appeal of Oskar Hess and Howard Dietz et al., against the Hearings Officer's decision to deny application for a comprehensive plan map amendment and a zone change from R3, Townhouse Dwelling, to CG, General Commercial for an area on the north side of SE Division between SE 87th and SE 92nd Avenues (Hearing; 91-00606 CP ZC)

Discussion: Jessica Richman, said this is a request from Oskar Hess, Howard Dietz and 11 others for a change from residential to commercial on property on the north side of SE Division. She said the original

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proposal included 16 lots and 14 ownerships, although one of the lot owners has since withdrawn her consent. She said the area is mixed commercial and residential. She noted that Mr. Hess is building a duplex on property that he indicates is to be used in conjunction with his business.

Ms. Richman said of the 16 lots, eight are in residential use, one is vacant and seven are in business use. She said the criteria for approving a Comprehensive Plan change are that on balance the requested commercial designation is equally or more supportive of the Plan as a whole than the current plan. Other factors to consider are no-net housing loss, the Hazelwood Community Plan and the adequacy of public services. Both staff and the Hearings Officers recommended denial. Ms. Richman described the six Comprehensive Plan goals that the Hearings Officer found in conflict with this request. She cited goals calling for a mix of commercial and residential in order to retain housing and discourage strip development. She said there is also conflict with the Hazelwood Community Plan.

Ms. Richman said appellants maintain that the requested designation is equally or more supportive of the Comprehensive Plan than the current designation and therefore should be granted.

Milford Ford, attorney for Oskar Hess and Howard Dietz, disputed the characterization of the neighborhood as mixed commercial and residential as presented by Ms. Richman. He described the many commercial establishments in the area proposed for the zone change.

Others speaking in support of the zone change included:

Oscar Hess, owners of Ditchmasters
Todd Bernasconi, 8955 SE Division
Helen MacComber Moore, 2314 SE 87th
Faisal Saad, 594 Elm Street, Jefferson
Sam Elkhail, 3815 SE 133
Jim Choi, 8797 SE Division
John Denny, Portland Greenhouse
Marvin Bridge, Bridge & Associates, 8979 SE Division

Supporters said most of these properties have already been converted to commercial use and denial of the zone change will put them out of business. They said Division is too busy a street for high density housing.

Vern Bowers, representing the Montavilla Community Association, said the Association supports the zone change. He said businesses need to survive and these are small and fit well in the neighborhood. He said they also meet the scope and intent of the reconfiguration of commercial

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and mixed use development areas addressed in the community planning program now in process as part of the Southeast District Plan. He said the Hazelwood Community Association recommends that the North side of Division be relinquished to Montavilla.

Grover Sparkman, Foster Area Businesses, said the property was downzoned to residential when the freeway came in and was to be reconsidered later. He said it is too bad some accommodation cannot be found, at least until the district neighborhood plan is completed, to prevent people in this area from going out of business. He said it does not make good sense for it to be residential.

Mr. Ford said this strip provides a buffer to residential neighborhoods and Division itself. He said the rationale of designating south Division as CG except for this strip does not make sense. He said the area is non-conforming now and the reality is that the designation of Division between 87th and 97th as commercial reflects what it has been historically and supports what the Comprehensive Goals should be.

Commissioner Kafoury said this request does not meet the criteria for a change. She said there are problems here which the City will be examining in the next few months on a broader base than just this small strip of land.

Commissioner Kafoury moved to uphold the Hearings Officer decision. Commissioner Blumenauer seconded.

Commissioner Blumenauer said most of the properties have residential activities going on now, including current construction of a duplex. He said he is willing to look at the issue later in a broader context.

Mayor Clark said strip development regulations always upset people because they think if commercial creeps into an area then it should automatically be zoned commercial. He said we have strict land use planning in Portland in order to prevent that kind of creeping. However, he said people need to have certainty about what their zoning will be and what they can do on their property when they buy it.

Commissioner Bogle said he looks forward to the development of the district plan since it appears that the housing potential has not been realized.

Commissioner Kafoury noted that the planning effort of which this area is a part is the Outer Southeast District Plan.

Disposition: Appeal Denied. (Y-5)

At 3:30 p.m., Council recessed.

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A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 6TH DAY OF FEBRUARY, 1992 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; Linda Meng, Senior Deputy City Attorney; and Officer Sheridan Grippen, Sergeant at Arms.

REGULAR AGENDA

Commissioner Dick Bogle

- 272** Liquor license application for Pamela Miller, dba My Office/Harbor Restaurant, 8723-27 N Lombard, Dispenser Class A liquor license (renewal); favorable recommendation (Report)

Discussion: Mayor Clark asked if anyone was present to speak on this application. No one responded.

Disposition: Favorably recommended. (Y-4; N-1, Blumenauer)

Cay Kershner, Clerk of the Council noted that an emergency ordinance had been filed under the Four Fifths Agenda. Commissioner Blumenauer moved consideration of the Four Fifths item; Commissioner Lindberg seconded and the motion carried.

FOUR FIFTHS AGENDA

- *273** Pay claim of Deborah L. Beahm. (Ordinance introduced by Mayor Clark)

Disposition: Ordinance No. 165066. (Y-5)

- 271** **TIME CERTAIN 2:00 PM** - Establish an implementation framework for a revised financial program to expand the sewer cost assistance program for owners of eligible properties in the State-Mandated Portland Mid-County Sewer Project area (Previous Agenda 148)

Discussion: Commissioner Blumenauer said his Nine Point Plan would cut typical sewer assessments by approximately \$2,200, a 36 percent reduction over current prices. It also includes a partial assessment deferral for large lots, a \$500 cesspool credit, new loan programs and other financial assistance. He said amendments will be

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proposed that will give homeowners six more months to pay a reduced assessment, eliminate interest on liens for safety net loans and further delay sewer bills for the property owners in the Boyles district. Additional amendments are being proposed by other Council members.

Commissioner Blumenauer said he believes the utility franchise fund could be used to hold the costs down and supports a sewer rate stabilization and capital construction fund. He said he is willing to wait and deal with these issues during the budget process. He said they are committed to move forward on a study of equity issues concerned with overall system financing.

Steve Bauer, Director of Office of Finance and Administration, said his office has determined that the cost of the project, if applied to all residential properties in Mid-County, would be 84.7 million dollars. If confined to City residents, the cost is 66 million, and if extended to City residents and those who consent to annexation, the cost is 75 million. Ultimately, 18 million could be recovered as vacant land is developed. They looked at the impact on rates and use of utility franchise fees.

Mr. Bauer said OFA looked at two ways of paying for the Plan, immediate payment and payments over time. He said OFA's recommendation is to use the "up front" money to pay for start-up costs rather than buying down rates, and that the balance go to reduce the capital cost. He said they also examined the use of utility franchise fees to buy rates down and described what would happen to the general fund if these dollars are no longer available for programs.

Mr. Bauer outlined three broad issues regarding utility franchise fee use: 1) the binding and long term (27 years) effects; 2) competing demands for general fund resources in the immediate future and; 3) future uncertainties facing the City under Measure 5. He urged Council to refrain from dedicating utility franchise fees to pay for the cost of the Nine Point Plan.

Commissioner Blumenauer moved to Suspend the Rules to consider the ordinance on the Boyles Sanitary Sewer (271-1). Commissioner Lindberg seconded and the motion carried. (Y-5)

***271-1** Continue to delay imposing open lien interest, penalties and collections costs for special assessments for the Boyles Sanitary Sewer Local Improvement District (Ordinance; Sewers' C-9695)

Discussion: Commissioner Blumenauer said the intent here is to extend this to April 19, 1992 so that all the assessment bills can go out at once.

Disposition: Ordinance No. 165067. (Y-5)

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Testimony on Item 271 then continued.

Sharron Kelley, Multnomah County Commission, read a letter from the County objecting to the proposed amendment to exclude non-City residents from the definition of eligible property owners for the proposed financial assistance program. She said fundamental fairness requires removal of this issue

Individuals testifying with concerns about the proposal included:

Helen Kleczyuski, 8648 SE Foster Road
Roselle Prescott, 8801 NE Davis
Pat Leedlawn
Scott Wilson
Barbara Fritz, 4705 NE Ainsworth
Melvin Brannon, 4609 NE Simpson
Pat Mattsen, 5417 SE 108th
Ron Thrasher, 9318 SE Hawthorne
Chris Dwyer, 7010 NE Wygant
Karen Jenkins, 10034 SE Steele
Tom Cropper, PO Box 18025, 97218
Wilbert Parker, 4339 NE Shaver
Dick Vliek, 4423 NE Failing
Dorothy Macleod, 13737 SE Mall
Bobi Magill, 6125 NE 42nd
Twila Phipps, 1910 NE 106th

Most opposed confining the new program to City residents and called for relief for large lot owners. Many also asked for a maximum cap and private plumbing hookup credits.

Individuals supporting a means test for determining sewer charges included:

John Foster, 7933 NE 81st
Beverly Moffet, representing SERGE

Marti Staehley, 1937 SE 42nd, recommended that a Portland Development Commission loan program, based on household income and financial resources, be used to help pay the sewer costs.

Dennis Schacky, 4135 NE 79th, objected to the impact on the handicapped.

Greg Lutke, 12840 SE Mill, requested a modification to allow Bancroft liens to be automatically subordinated to a new trustee when a house is sold, rather than having the amount of the lien taken out of the owner's equity.

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Joyce Classen, 4334 NE 77th, expressed concern about the buy-in issue and whether money from sewer purchasers would be placed in escrow rather than making a profit for the City.

Linda Riley, representing the Portland Organizing Project, thanked Council members for their time and work.

Chris Kresek, also speaking for POP, said they support most of the proposal but strongly oppose placing liens on large lot owners, about 61 percent of property owners in the Mid-County area. They also oppose a requirement that property owners annex to the City in order to benefit from the cost reductions.

Teresa Ascemi, 11816 SE Bush, said charges for the Richardson sewer are outrageous.

David Nelson, Mid-County Sewer Cost Alternatives Task Force, said the use of franchise fees should be limited to the cost of sewer services, which would provide a mechanism to pay for the proposed plan. He applauded the Goebel report, which shows that the Mid-county project will generate enormous revenues for the City. He also supported limiting the benefits to City residents.

Ella Roggow, 5634 NE Killingsworth, protested buying property for use as green space and then having it sewerred.

Commissioner Lindberg asked if it were possible to defer sewer costs on large lots until they are sub-divided or developed. He acknowledged that OFA and Auditor's Office believe this is poor precedent to set.

Mayor Clark said he is concerned about what happens on lots between 7,000 and 10,000 square feet that will never be developed.

Dan Vizzini, Auditor's Office, said the issue is how far Council wants to go in underwriting the cost of sewer construction on large lots. He said under current zoning laws, it is unlikely that lots under 10,000 could be developed except as they are accumulated. He said one critical question is whether the the deferral should be extended until the time the property is developed or until it is sold.

Mr. Vizzini recommended using a lien to secure the deferral rather than a deed restriction. He asked Council to find a balance between the interests of large lot owners and the rate payers who will have to carry these costs.

Commissioner Blumenauer asked for clarification that the cost of the deferral is 2.5 million.

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Mr. Bauer said the 2.5 million cost is based on the assumption that 50 percent of property owners would seek a deferral. If outright exemptions are given, the cost would probably double.

Commissioner Blumenauer asked what the effect would be if a substitute was found for the lien, to be repaid at the time of development.

Mr. Bauer said early payments are used to repay bonds and the ability to do that is part of what makes the City more attractive to the bond market.

Mr. Vizzini said if the large lot program is secured by deed restriction, the pace of repayment is assumed to be longer than if it were a lien.

Mr. Bauer said they cannot state how much more than 2.5 million it will cost, noting that the assumptions made are built on an extremely complex model.

Commissioner Lindberg asked what the estimates on revenue payback were for the 2.5 million.

Gordon Wilson, Office of Finance and Administration, said the 2.5 million is just an outflow number and does not assume any money coming back in. Because of the number of large lots just barely over 7,000 feet, it was assumed that half the people eligible would not bother to defer. If a flat cap was offered instead of a deferral it is assumed that all those eligible would take advantage of it so the cost would be five million dollars.

Commissioner Lindberg said it did not look to him like there would be much redevelopment in the affected areas.

Mr. Vizzini said they do expect redevelopment, based on what is happening in the Boyles project area. He noted that the City has already passed assessing ordinances on 13 projects and borrowed money to finance loans on those projects. He said application of the large lot program will have to be different for these projects because the City must honor its bond covenants.

Commissioner Kafoury said the amendment dealing with City residents was based on the fact that utility franchise fees are only paid by City residents. However, if the City moves to a rate-based system for the financing, then perhaps no distinction needs to be made between City and non-City residents.

Mr. Wilson said the question is whether you could limit the program to City residents if the source of funding is rates rather than the general

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fund. He said OFA assumes that if funding comes from rates there would have to be some kind of split rates between residents and non-residents who would not be eligible for Mid-County assistance.

Pete Kasting, Deputy City Attorney, said an important issue in this whole program is that different revenue streams, with different policy and legal considerations, can be used for funding different parts of the program. The choice of revenue streams will affect the selection and structure of the benefits. He said Council needs to make sure that the financing analysis occurs in conjunction with the finalization of the structure.

Commissioner Kafoury said she wanted to make it clear that it is not that simple to decide whether to do something for just City residents or for all residents. It relates to what revenue source is used.

Mr. Bauer said today's models indicate what the cost will be if the program is funded out of rates and what will happen to the utility franchise fees if a portion of them is used to buy down those rates. Council first needs to make the policy decision and then OFA can determine what the cost will be. No assumptions have been made about paying for it yet. He added that the equity issues are very difficult to assess.

Commissioner Lindberg noted that because the additional customers affect capacity it may necessitate expanding treatment plants or building new ones.

Commissioner Blumenauer said the notion that there is no cost to the central sewer system by adding 53,000 customers is ludicrous. He said that is why an equity study is needed.

Mr. Bauer said until Council formally declares a policy direction, it is impossible for staff to prepare specifics on how to implement it. He recommended that rates be relied on as much as possible and that the utility franchise fees be used only if it becomes necessary.

Commissioner Blumenauer moved technical amendments (#1 and #5 on the list of proposed amendments) offered by the Auditor's Office. seconded and the motion carried. (Y-5)

Commissioner Kafoury suggested deferring amendment #2 regarding confining benefits to City residents because of the need to determine the financing method first.

Commissioner Blumenauer said if the benefits are going to come from those in the City, then they should be limited to City residents.

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Commissioner Blumenauer moved to approve amendment #3 extending the rate offer until the end of the calendar year. Commissioner Kafoury seconded and the motion carried. (Y-5)

Commissioner Blumenauer moved amendment #4 extending the safety net to low income as well as those over age 62. Commissioner Kafoury seconded and the motion carried. (Y-5)

Mayor Clark said he cannot approve use of utility franchise fees for financial assistance, unless there is a surplus. He said financing should be confined to the sewer funds capital program. He said there are already too many demands on the general fund and asked for an amendment (#6) to direct that financing be done through the sewer rates. He said he also believes the benefits of any assistance program should be offered only to homeowners within the City, unless those in the project areas consent to annex.

Commissioner Lindberg moved amendment #6 and Commissioner Kafoury seconded.

Commissioner Blumenauer said he does not feel comfortable writing off use of utility franchise fees and putting all the burden on the rates but is willing to pursue this concept during the budget process. He said his preference is to be silent on this issue until OFA comes back with a financing plan.

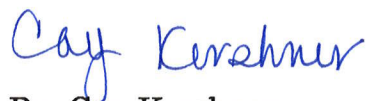
Commissioner Lindberg said he agrees this issue should be looked at during the budget process. However, this amendment assures that there is a funding source and the impacts on sewer rates seem to be acceptable.

Roll was called on amendment #6 and the motion carried. (Y-4; N-1, Blumenauer)

Disposition: Resolution No. 34957 as amended. (Y-5).

At 4:40 p.m., Council adjourned.

BARBARA CLARK
Auditor of the City of Portland


By Cay Kershner
Clerk of the Council