



CITY OF

PORTLAND, OREGON

OFFICIAL
MINUTES

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 3RD DAY OF JUNE, 1992 AT 9:30 A.M.

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

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

Agenda Nos. 988 and 1030 were pulled from Consent. On a Y-4 roll call, the balance of the Consent Agenda was adopted as follows:

CONSENT AGENDA - NO DISCUSSION

- 989** Accept quote of Ingersoll-Rand Equipment Sales for furnishing two double drum vibratory compactors for \$40,000 (Purchasing Report - Informal)

Disposition: Accepted; prepare contract.

- 990** Accept bid of Parker Northwest Paving Company for improvement of SW 49th Avenue, from SW Vermont Street to approximately 550 feet south for \$54,303 (Purchasing Report - Bid C-9784)

Disposition: Accepted; prepare contract.

- 991** Accept bid of Hollinger Construction, Inc., for Whitwood Pump Station replacement and Springville Pump Station rehabilitation for \$798,224 (Purchasing Report - Bid 124)

Disposition: Accepted; prepare contract.

- 992** Accept bid of Eagle-Elsner, Inc., for improvement of SW Terwilliger Boulevard, SW Homestead Drive to SW Sam Jackson Park Road for \$199,950 (Purchasing Report - Bid 140)

Disposition: Accepted; prepare contract.

June 3, 1992

- 993** Accept bid of Gresham Transfer, Inc., for sludge transportation for Triangle Lake Sludge Lagoon at the Columbia Boulevard Wastewater Treatment Plant for \$4,264,500 (Purchasing Report - Bid 150)

Disposition: Accepted; prepare contract.

- 994** Accept bid of McCoy Electric Company for Twin Ornamental Series Conversion, SW Alder and West Burnside for \$247,018 (Purchasing Report - Bid 152)

Disposition: Accepted; prepare contract.

- 995** Accept bid of Clearwater Construction Company for Hayden Island Sewer and Lotus Isle Pump Station for \$836,736 (Purchasing Report - Bid 156)

Disposition: Accepted; prepare contract.

- 996** Accept bid of Starplex Corporation for furnishing security services for various parks for \$53,250 (Purchasing Report - Bid 157)

Disposition: Accepted; prepare contract.

- 997** Accept bid of Copenhagen Inc., for remodel of Swan Island Pump Station for \$453,367 (Purchasing Report - Bid 158)

Disposition: Accepted; prepare contract.

- 998** Accept bid of A.C. Schommer & Sons, Inc., for automation improvements at Tryon Creek Wastewater Treatment Plant for \$725,460 (Purchasing Report - Bid 159)

Disposition: Accepted; prepare contract.

- 999** Accept bid of Todd Hess Building Company for City Skate for \$85,380 (Purchasing Report - Bid 161)

Disposition: Accepted; prepare contract.

- 1000** Accept bid of Commercial Affiliates, Inc./Carpet Resource Center for Justice Center, 1st and 15th floor carpet installation for \$56,856 (Purchasing Report - Bid 163)

Disposition: Accepted; prepare contract.

June 3, 1992

- 1001** Accept bid of Landry's Commercial Floor Coverings, Inc., for Portland Building, 15th floor carpet replacement for \$38,000 (Purchasing Report - Bid 164)

Disposition: Accepted; prepare contract.

- 1002** Accept bid of Williamsen and Bleid, Inc., for Portland Building exterior painting project for \$76,650 (Purchasing Report - Bid 167)

Disposition: Accepted; prepare contract.

- 1003** Accept bid of S-2 Contractors, Inc., for 12" water main connecting Whitwood and Springville Pump Stations for \$237,349 (Purchasing Report - Bid 168)

Disposition: Accepted; prepare contract.

- 1004** Accept bid of Werbin West Contracting for 8" and 6" water mains in NE Alberta, 75th Avenue and SE Malden Street for \$181,900 (Purchasing Report - Bid 169)

Disposition: Accepted; prepare contract.

- 1005** Accept bid of S-2 Contractors for Sump Upgrade Project Phase I for \$294,797 (Purchasing Report - Bid 170)

Disposition: Accepted; prepare contract.

- 1006** Accept bid of Brattain International Trucks, Inc., for furnishing one 21,000 GVW truck with hydraulic power source and service body for \$63,976 (Purchasing Report - Bid 172)

Disposition: Accepted; prepare contract.

- 1007** Accept bid of Hessel Tractor for furnishing one four wheel drive tractor backhoe loader for \$62,438 (Purchasing Report - Bid 173)

Disposition: Accepted; prepare contract.

- 1008** Accept bid of GFA Corporation for furnishing one vertical collator with finisher for \$58,785 (Purchasing Report - Bid 175)

Disposition: Accepted; prepare contract.

June 3, 1992

- 1009** Accept bid of United Telephone Northwest for furnishing telephones for \$55,970 (Purchasing Report - Bid 176)

Disposition: Accepted; prepare contract.

- 1010** Accept bid of Dennis Harding Painters for watershed dams valve & equipment recoating for \$48,693 (Purchasing Report - Bid 178)

Disposition: Accepted; prepare contract.

- 1011** Accept bid of The Antenna Specialists Company for furnishing transmitter combiners for \$148,200 (Purchasing Report - Bid 179)

Disposition: Accepted; prepare contract.

Mayor J. E. Bud Clark

- 1012** Appoint Carla U. Kelley to the Civil Service Board (Report)

Disposition: Confirmed.

- 1013** Authorize City Attorney to take an appeal from the award of attorney fees in Mattie Holland and Dan Holland v. Daren Roeser and City of Portland, United States District Court Civil No. 92-74 JO (Resolution)

Disposition: Resolution No. 34998. (Y-4)

- *1014** Agreement with Si-Lloyd Associates not to exceed \$13,296 for enhanced police services to the Lloyd Center (Ordinance)

Disposition: Ordinance No. 165489. (Y-4)

- *1015** Amend agreement with Cushman & Wakefield of Oregon, Inc., for the leasing of the 3rd & Alder Parking Garage (Ordinance; amend Agreement No. 27346)

Disposition: Ordinance No. 165490. (Y-4)

- *1016** Apply for grant from the National Institute of Justice in the amount of \$350,000 to conduct an assessment of Community Policing (Ordinance)

Disposition: Ordinance No. 165491. (Y-4)

June 3, 1992

- *1017** Ratify a Memorandum of Agreement which modifies the Labor Agreement between the City and the Portland Police Association relating to terms and conditions of vacation selection (Ordinance)

Disposition: Ordinance No. 165492. (Y-4)

- *1018** Restore forfeited vacation and compensatory time off to the accounts of 36 Police Bureau employees (Ordinance)

Disposition: Ordinance No. 165493. (Y-4)

- *1019** Authorize Police Bureau to enter into Memorandums of Understanding with the Federal Bureau of Investigation to coordinate the planning and deployment of resources needed for joint investigations of specified criminal activity (Ordinance)

Disposition: Ordinance No. 165494. (Y-4)

Commissioner Earl Blumenauer

- *1020** Memorandum of Understanding between the Office of Transportation, the Metropolitan Service District, the Oregon Department of Transportation, Tri-Met and the Oregon Arena Corporation regarding future I-5 and light rail operations and construction adjacent to the Oregon Arena Project (Ordinance)

Disposition: Ordinance No. 165495. (Y-4)

- *1021** Contract with James M. Wood to provide vibration analysis and mechanical consulting in machinery installation or to correct machinery's on-line performance at the Wastewater Treatment Branch and provide for payment (Previous Agenda 970)

Disposition: Ordinance No. 165496. (Y-4)

- 1022** Contract with North American Soils, Inc., for the exclusive rights of marketing and distribution of compost (Second Reading Agenda 967)

Disposition: Ordinance No. 165497. (Y-4)

- *1023** Consent to transfer of Dollowitch Disposal franchise to Baldwin Sanitary Service (Ordinance)

Disposition: Ordinance No. 165498. (Y-4)

June 3, 1992

- *1024** Release the City's interest in a portion of a certain sewer easement, near SW Salmon Street between SW 20th and SW 21st Avenues, recorded June 12, 1891 (Ordinance)

Disposition: Ordinance No. 165499. (Y-4)

- *1025** Waive City Code for the SE 18th Avenue HCD Local Improvement District (Ordinance; Waive Section 17.08.080(b); C-9782)

Disposition: Ordinance No. 165500. (Y-4)

- *1026** Authorize use of Purchase Order as a contract with VISCO (Valley Iron and Steel Company) for painted ornamental poles and luminaires for the Bureau of Traffic Management at the estimated cost of \$41,135, without advertising for bids, provide for payment and waive performance bond requirement (Ordinance)

Disposition: Ordinance No. 165501. (Y-4)

Commissioner Gretchen Kafoury

- *1027** Contract with the Oregon Trail Chapter of the American Red Cross for \$58,000 for operation of the Emergency Housing Voucher Program and provide for payment (Ordinance)

Disposition: Ordinance No. 165502. (Y-4)

Commissioner Mike Lindberg

- 1028** Accept terrace restoration of Pittock Mansion as complete and pay Diamaco, Inc., \$2,880 (Report; Contract No. 27616)

Disposition: Accepted.

- 1029** Accept contract with Werbin West Contracting, Inc., for N Hayden Island Drive water main as complete and authorize final payment of \$18,536 (Report; Contract No. 27703)

Disposition: Accepted.

June 3, 1992

- *1031** Contract with Oregon Athletic Club, USA, Inc., for use of their aquatic facilities by Park Bureau Aquatic Section, commencing June 13, 1992 through June 12, 1993 (Ordinance)

Disposition: Ordinance No. 165503. (Y-4)

- *1032** Amend contract with James M. Montgomery Consulting Engineers, Inc., for \$22,000 for revised engineering services for the Water Treatment Pilot Study and provide for payment (Ordinance; amend Contract No. 25626)

Disposition: Ordinance No. 165504. (Y-4)

- 1033** Change City Code provisions relating to Historic Trees (Ordinance; repeal and replace Code Section 20.40.150)

Disposition: Passed to Second Reading

REGULAR AGENDA

- 988** Accept bid of Alliance Corporation for Irvington Sanitary Sewer System for \$3,847,745 (Previous Agenda No 951)

Discussion: Carleton Chayer, Purchasing Agent, said Dorfman Construction Company, the second lowest bidder, has requested that the bid of Alliance Corporation be rejected because they bid four items at a unit price of one cent. Dorfman contends this is an unbalanced bid since the low bidder did not bid all the costs for each item.

Mr. Chayer said he reviewed the bid specifications and similar bids on past projects and, after conferring with the Bureau of Environmental Services and City Attorney, has concluded that the low bid of Alliance Corporation is the most advantageous bid.

Jerry Dorfman, President, Dorfman Construction, 18085 Lake Encino Dr., Encino, California, said Alliance's bid is non responsive. He said the specifications require bidders to fully cost each item of work set forth in the bid. He said Alliance, by bidding a penny, did not do that and therefore their bid is non-responsive, detrimental to the taxpayers and unfair to other bidders. Alliance, in its letter of explanation, said they do not anticipate or place in their bid any monies for imported granular trench backfill. Mr. Dorfman contended that Alliance does not have the right to do that since the City asked that each item be costed fully. He said he inflated his bid by \$200,000 in order to meet the

June 3, 1992

specifications even though, based on his experience in Oregon, he believed the import would not be necessary.

Commissioner Lindberg asked him why he inflated his bid.

Mr. Dorfman said he believed he had to cost each item. He said Alliance bid four items at one penny apiece because it thought the work would not be performed, while all the other bidders bid what they thought the cost would be to perform the work.

Karen Kramer, Manager of the Mid-County Sewer Project, said each of the bidders responded based on their own understanding of soil conditions in the area. She said unbalanced bids are commonly used, particularly in underground utility construction where there are lots of uncertainties, to accommodate those uncertainties by making adjustments in their unit prices. She said Council must determine if the bid is so unbalanced that it violates the principle of a fair and competitive bid process and needs to be rebid.

Kim Matson, Project Manager, said Dorfman, the second lowest bidder, bid about \$30,000 more than Alliance.

Mr. Chayer said Mr. Dorfman is arguing that if he deducted the four items that will not be used, then his company's bid would be the lowest. However, Mr. Chayer said, every bidder comes to the bid differently and comes up with different prices which it is impossible for him to second guess. He said the City must assume the quantities in the bid documents are reasonable.

Commissioner Bogle asked if Mr. Chayer thought that Alliance included the entire cost of each item of work set forth in the bid.

Mr. Chayer said yes.

Commissioner Lindberg asked if it would be acceptable in the future to cost items at one penny.

Mr. Chayer said yes, adding that one of the other bidders bid one penny on an item on this project.

Commissioner Blumenauer noted that the bidder is responsible for delivering at those prices if the item is required.

June 3, 1992

Mr. Chayer said different bidders approach bids differently and one cannot presume that they are colluding or deceiving the City in any way.

Commissioner Lindberg said the item bids represent a gamble, which the contractor must absorb if they are wrong.

Commissioner Bogle said Alliance has already gambled by deciding that they would not respond to everything required in the bid.

Nancy Ayres, Deputy City Attorney, said the City has allowed unbalanced bids in the past and it is not illegal unless fraud or collusion are involved. She said what Alliance is saying is that the items in question will be non-cost items for them.

Mr. Dorfman said the point is that Alliance arbitrarily said it was not going to supply imported backfill to the job. He said that is for the City to decide, not the bidder, and is not responsive to what the City asked for.

Bill Tharp, Attorney for Alliance Corporation said their bid was made on the basis of their method of operation, which involves a commitment to reuse all the native backfill they excavate and that is why they show no cost for imported backfill. He said there is no evidence of frontloading in the one penny bid, which is not improper even if it is an unbalanced bid.

Commissioner Blumenauer moved to accept the recommendation of the Purchasing Agent to award the bid to Alliance. Commissioner Lindberg seconded.

Commissioner Blumenauer said prior to issuing unbalanced bids in the future, the Purchasing Agent and City Attorney should clarify City policy regarding penny bids so that everyone has the same information.

Disposition: Accepted; prepare contract. (Y-4; N-1, Bogle)

S-1030 Conditional disapproval of the FY 1992-93 Metropolitan Exposition/Recreation Commission approved budget pursuant to Intergovernmental Consolidation Agreement No. 25921 (Resolution)

Discussion: Cay Kershner, Clerk of the Council, said a substitute had been filed. Commissioner Lindberg moved the substitute; Commissioner Kafoury seconded and the motion carried. (Y-5)

June 3, 1992

Commissioner Lindberg said the substitution is based on advice from the City Attorney recommending disapproval by Council of the MERC budget unless certain conditions are met. He noted that the ordinance originally submitted approved the budget but the City Attorney felt that the City lost all leverage in getting its conditions met in this case. He said the issues relate to the consolidation agreement to transfer the Coliseum back to the City, the strategic plan, and how the reserves are treated.

Kathleen Johnson-Kuhn, Commissioner Lindberg's assistant, said Metro has 20 days to respond to this.

Disposition: Substitute Resolution 34999. (Y-5)

- 1034** Accept bid of Pacific Utility Equipment Company for furnishing one 5 cubic yard catch basin cleaner and sewer cleaner for \$177,115 (Purchasing Report - Bid 125)

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

Mayor J. E. Bud Clark

- 1035** Resubmit the Portland Development Commission's approved FY 1992-93 budget (Report)

Discussion: Sandra Laubenthal, Portland Development Commission (PDC) budget officer, said their presentation today concerns the effect of the Tax Court's decision on tax increment financing because of the major impact it could have on the 92-93 budget.

Doug McGregor, PDC Chair, said the unfavorable Tax Court decision puts collection repayment of urban renewal bonds in direct competition with resources for local governments under Measure 5's property tax limits. He said PDC has taken several actions in response to the decision, including eliminating 16.9 million dollars in unspecified urban renewal projects and programs, or 40 percent of the planned 43.2 million dollar urban renewal budget for next year. A hiring freeze was also implemented. It has pledged not to interrupt the general fund revenues in servicing the urban renewal debt.

Mayor Clark said what this does is make the PDC budget a general fund item in competition with Fire and Police.

June 3, 1992

Patrick LaCrosse, PDC Director, described efforts to clarify with the Attorney General and the Legislature the effects of Measure 5 and the City's decision to initiate litigation which they now plan to carry to the Supreme Court. He said they have asked the Supreme Court to hear this on an accelerated basis in the hope of getting a decision by September.

Mr. LaCrosse briefed Council on the presumptions PDC will operate under, noting that because of the decision, it will not be able to do the short term financing as anticipated. In addition it plans to reserve debt service for two years, which is projected to be approximately 9 million dollars per year. He reviewed the effect on each urban renewal project, noting that as of July 1, no budget is projected for the Convention Center, and cuts of 40 percent for the South Park district and 50 percent for the Downtown Waterfront district are projected.

Mr. LaCrosse described the categories that have been established to determine spending priorities and the factors that will be used to determine which projects should be continued and which deferred or canceled. He said the first priority will be to continue projects already under construction or where legal commitments have already been made.

Commissioner Kafoury asked about the timing.

Mr. LaCrosse said they would prefer not to make any decisions until July 1 when they find out if the Supreme Court will hear their case on an accelerated basis. With regard to the Oregon Arena project, he said that although they will be prevented from spending any additional money for consultants as of July 1, they are examining other funding alternatives so that the negotiations will not falter.

Commissioner Lindberg asked why, if you have 21.2 million dollars less in resources, the budget reduction shown is only 16.9 million dollars.

Jean Staehli, PDC Director of Finance, explained that they are proposing to use part of the contingency in the fund balances they had originally intended to carry forward.

Steve Bauer, Director, Office of Finance and Administration, described possible effects on the City's general fund balance. He said a major short term issue the general fund faces is how to meet the outstanding debt service, about 9 million per year. Long term, he said, if a constitutional or court solution is not found,

June 3, 1992

the question becomes how to continue these programs. Another issue is whether the City accepts all the proposed cuts or whether it chooses to fund some projects from the general fund.

Disposition: Approved. (Y-5)

- *1036** Exempt improvements, property and services identified in the proposed Oregon Arena Development Agreement and related agreements from the requirements of competitive bidding; and authorize the Portland Development Commission to negotiate with the Oregon Arena Corporation for finalization of those agreements. (Ordinance)

Discussion: The Clerk noted that the City Attorney had requested that this and the following item be continued to Thursday, June 4. She said there was a request from a citizen to testify today.

Dave Rouwe, Executive Director, Associated Builders and Contractors, opposed exempting the Oregon Arena project from the competitive bidding process. He said his organization, which represents exclusively open shop contractors, believes the removal of competition from the market could be costly to the taxpayers and gives the appearance of impropriety and favoritism. He asked what safeguards are in place and for PDC findings which substantiate claims that this agreement will result in substantial savings in time and public money. He said he had heard that all subcontractors associated with the project must become signatory to organized labor and contended that taxpayer money cannot be used in this fashion. He said if the exemption is granted his organization is prepared to legally challenge it.

Commissioner Lindberg asked that a presentation on the implications of minority and female business enterprises (MBE and FBE) be included when this is heard by Council on Thursday.

Jeff Rogers, City Attorney, said representatives from his office, PDC and the Oregon Arena Corporation, plan to make a full presentation then.

Disposition: Continued to June 4, 1992 at 2:00 p.m.

June 3, 1992

- *1037** Authorize execution of agreement of Indemnification with Oregon Arena Corporation relating to exemption of improvements, property and services identified in the proposed Oregon Arena Development Agreement and related agreements from the requirements of competitive bidding (Ordinance)

Disposition: Continued to June 4, 1992 at 2:00 p.m.

- *1038** Contract with Motorola Communications and Electronics, Inc., to obtain a complete 800 MHz Trunking Radio System and provide for payment (Ordinance)

Disposition: Ordinance No. 165505. (Y-5)

Commissioner Gretchen Kafoury

- *1039** Contract with Oregon Community Foundation through the Neighborhood Partnership Fund for \$100,000 to administer a technical assistance program for community development corporations and provide for payment (Ordinance)

Disposition: Ordinance No. 165506. (Y-5)

- *1040** Contract with the Portland Development Commission for the Northeast Workforce Center project in the amount of \$115,000 and provide for payment (Ordinance)

Discussion: Commissioner Kafoury said one of the key aspects of this program is that it provides employment opportunities for adults, not just summer jobs for youth.

Disposition: Ordinance No. 165507. (Y-5)

- 1041** Amend Code to increase plumbing permit fees (Second Reading Agenda 983)

Disposition: Ordinance No. 165508 as amended.

Commissioner Mike Lindberg

- 1042** Support the efforts of the United Nations Conference on Environment and Development (Earth Summit) and encourage President Bush to agree to a treaty to set a target and date for greenhouse gas reduction (Resolution)

June 3, 1992

Discussion: Commissioner Lindberg said the bottom line of this resolution is one City speaking up and encouraging the President to actually agree to some specific targets to reduce emissions, as dozens of other countries have already done.

Disposition: Resolution No. 35000. (Y-5)

City Auditor Barbara Clark

- 1043** Assess property for sewer system development charges through April 1992
(Second Reading Agenda 986; Z0154, Z0155)

Disposition: Ordinance No. 165509. (Y-5)

At 11:00 a.m., Council recessed.

June 3, 1992

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 3RD DAY OF JUNE, 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; Ruth Spetter, Senior Deputy City Attorney; and Officer Sheridan Grippen, Sergeant at Arms.

- 1044 TIME CERTAIN: 2:00 PM** - Appeal of Glisan Street Associates, Ltd., applicant, against Hearing Officer's decision to impose certain conditions in approving a request to change a nonconforming use in order to remove the existing building and construct a new one at 2301 NW Glisan Street (Hearing; 91-00786 NU)

Jessica Richman, Bureau of Planning, said this is a request for a change of a nonconforming use in a residential zone on NW 23rd between Glisan and Hoyt, formerly the site of the Boys and Girls Aid Society. She said the western portion is zoned R1 (residential) while the rest is CS (Storefront Commercial). She said applicant originally proposed to construct a retail building with stacked parking but has now modified its plan considerably.

Ms. Richman said in 1968 the portion that is now R1 was zoned to permit parking but with adoption of the Comprehensive Plan in 1980 the parking overlay was eliminated and the property rezoned to R1, at which point parking in that zone became a nonconforming use.

Ms. Richman said the Hearings Officer recommended approval with conditions and eliminated the stacked parking, finding that if something is prohibited in the zone where the use was established it would still be prohibited under a change in nonconforming use. Based on that interpretation, he approved 32 spaces in the R1 portion for a total of 50, instead of 84 as was proposed. He also put limits on use and hours, called for submission of a new site plan to the NWDA Planning and Transportation Committees and retained jurisdiction to ensure continued compliance with the approval criteria. This is one of the conditions applicant is appealing.

Mr. Richman noted appellant's belief that stacked parking would have been allowed under the previous zoning and that such a change is allowed under the current Code. Appellant also requests additional parking spaces, removal of the site plan review called for by the Hearings Officer and a correction in the legal description.

June 3, 1992

Rich Michaelson, 906 NW 23rd Ave., representing Glisan Street Associates, said after hearing neighborhood concerns they modified their original plan and applied for nonconforming use review for a stacked parking lot with 84 spaces. He noted that the Hearings Officer suggested a total of 48 spaces and subsequently applicant submitted a site plan for the 48-space lot to the Northwest District Neighborhood Association (NWDA) for its review. Following that the site plan was further modified to add internal landscaping and additional trees. He said they are seek affirmation by Council of the Hearings Officer's decision with some adjustment in the conditions. He asked Council to make a final decision on the site plan today, deleting Conditions A 3 and 4 calling for neighborhood association site plan review. Mr. Michaelson also asked for clarification that fees may be charged for residential parking.

Commissioner Lindberg asked if they would have the same number of parking spaces as the previous occupant.

Mr. Michaelson said Boys and Girls Aid had closer to 60, while they are requesting 48, 32 of which are in the residential zone and 16 in the commercial.

Marjorie Newhouse, NWDA Planning Committee Chair, said this project has occasioned an incredible amount of public input. She said NWDA opposed applicant's initial request for a zone change from residential and commercial unless housing was made a component of the project but that did not pan out, at least for now.

Ms. Newhouse said the second proposal for a nonconforming use was approved by the Committee with conditions to protect the residents. The Committee agrees that clarification was needed regarding grading, fee-paid residential parking and correction of the legal description. She said NWDA supports the site plan with recommendations for additional tree plantings, denial of any request for on-street time-limited parking in the R1 zone, signage limitations and curb-cut placement. She reviewed other neighborhood requests which the NWDA considered and opposes.

She said they are very frustrated about street tree issues because there is no public review. She said street trees are essential in keeping high density areas liveable.

June 3, 1992

Individuals speaking in favor of the Glisan Street proposal included:

Alan Kinsel, 522 NW 23rd Ave.

Phil Geffner, Escape from New York Pizza, NW 23rd

Jim Bourdin, 2734 NE 39th, a past president, Nob Hill Business Association

Davita Yoelin, 728 NW 23rd, president of the Nob Hill Business Association

Dennis Batke, 1122 NW Summit Ave.

Anne Boggess, 12521 SW Iron Mountain Blvd., President Boys and Girls Aid Society

Ron Emmerson, 1495 SW Clifton, owner of Kitchen Kaboodle building

John Whisler, co-owner of Kitchen Kaboodle and longtime NW resident

Pam Maxon, 2566 SW Marshall

Robert Scherzer, 2248 NW Hoyt

Dan Weber, 2353 NW Hoyt

Sharon Porter, 2257 NW Irving

John Stafford, NW 21st Avenue business owner

Don Beazely, 5750 SW Hewett Blvd., immediate past chair of the Nob Hill Business Association

Jennifer Templeton, NW resident and business owner

Dick Wolf, salon owner on NW 23rd

Geri Minor, 3325 SW Viewplace and owner of a business at 534 NW 23rd

Proponents of the Glisan Street project said off-street parking is badly needed and will prevent further encroachments into residential areas by people who cannot find parking spaces. Many noted that other commercial uses have been added nearby without provision for additional parking. Several also objected to the way opponents had used the process to raise arcane minutiae in the Zoning Code to halt the project.

Jana Zeedyk, 2366 and 2386 NW Glisan, expressed concern about the quality of the interior landscaping. She also objected to the removal of several mature street trees on 23rd which was not revealed until very late in the process and asked that the remaining oaks on Glisan be left in place.

Tom Reid, 2324 NW Hoyt, supported the Hearing Officer's decision eliminating stacked parking and mandating use of R1 lots for residents during the evening hours.

Bill Duncan, 506 SW College, speaking on behalf of Brian Perry, an abutting property owner, argued that this proposal should be considered a conditional use, not a nonconforming use proceeding. He cited a 1981 ordinance which stated that any use to which a structure was lawfully put at or after July 1, 1959 that is

June 3, 1992

a listed conditional use in the zone in which it is located shall be granted automatic conditional use status. Mr. Duncan said since institutional accessory parking was permitted by right as a conditional use within the R1 zone it is thus a conforming use. He asserted that applicant should go through a general plan process to change the Comprehensive Plan and accommodate neighborhood and City goals found therein.

Ms. Richman said current Zoning Code defines nonconforming use as a use that was allowed by right when established, or a use which obtained required land-use approval when established but that subsequently, due to a change in zoning regulations, is now prohibited in the zone. She said zoning on the current site allowed parking until 1980, when the zoning was changed to R1. Under the current Code it is thus a legal nonconforming use.

Brian Perry, co-owner of a triplex at 2343-2347 NW Glisan, said he has spent four years rehabbing his property and opposes putting commercial parking in a residential zone. He contended that the 1981 Code granted automatic conditional use status to any change from one zone to another for any use to which a structure, building or land was lawfully put at and after July 1, 1959.

Yoko Perry, co-owner of the above triplex, said she believes a parking lot is inappropriate in an area of mature trees and old homes.

Steve Fosler, 2308 NW Lovejoy and member of NWDA Transportation Committee, urged adoption of the revised site plan, noting the exhaustive review that has occurred. He said he believes the number of parking spaces will have relatively low impact and will be consistent with neighborhood goals. He said the problem is not too little parking but too many automobiles.

Geoffrey Silver, 2326 NW Hoyt, said he had been a strong opponent of the project but believes the Hearings Officer balanced the impacts fairly. He called for a ban on staff parking and for establishment of no-pay residential parking in the evenings.

Mr. Michaelson said they agreed with Planning staff regarding the nonconforming use issue. He said applicants have agreed to the conditions NWDA has proposed and have reinforced the foundations of the retail building to allow for future housing. He said the City forester and the Street Trees Commission recommended replacement of the street trees in question but, after hearing neighborhood concerns, all existing street trees on Glisan and Hoyt will be preserved.

June 3, 1992

Commissioner Kafoury moved to substitute pages 13 and 14 of the Hearings Officer's decision to incorporate the changes proposed by the applicant. Commissioner Blumenauer seconded. Commissioner Kafoury then moved to add, on page A2, after Lots 5 and 8, the words "and east 10 feet of Lot 9. Commissioner Blumenauer noted that this corrected the mapping error. He seconded the motion and the motion carried. (Y-5) Roll was then called on the motion to incorporate the changes into the original decision. (Y-5)

Commissioner Kafoury then moved to tentatively uphold the Hearings Officer's decision as amended. Commissioner Bogle seconded. (Y-5)

Commissioner Blumenauer said people may wish to revisit the issue of parking lot utilization at some point but he is willing to accept the compromise that has been reached now.

Mayor Clark said he would vote aye even though he believes the reason the commercial areas work so well is because of the residential foundation there, which should not be eroded. He said he agreed that there are not too few parking spaces, but too many cars.

Disposition: Tentatively approve Hearings Officer's decision as amended; prepare findings for July 1, at 2 p.m. (Y-5)

At 3:15 p.m., Council recessed.

June 4, 1992

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 4TH DAY OF JUNE, 1992 AT 2:00 P.M.

THOSE PRESENT WERE: Mayor Clark, Presiding; Commissioners Blumenauer (late), Bogle (left prior to adjournment), Kafoury and Lindberg, 5.

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

Commissioner Dick Bogle

- 1045** Liquor license application for Sandy Lanes, Inc., dba Sandy Lanes, 5241 NE Sandy Boulevard, restaurant license, new outlet, favorable recommendation (Report)

Discussion: Henry Emrich, License Bureau, said this is an application for a restaurant liquor license. He said neighbors have expressed some concern about how it will affect their neighborhood but the licensee has demonstrated in the past an ability and willingness to deal with troublemakers and the liquor license is very incidental to the rest of the services offered.

George Walker, Rose City Park Neighborhood Association, said the Board voted approval of the application. He said the applicant, who has been in business at this site for 29 years with no complaints, proposes to have liquor only in order to remain competitive with the rest of Portland area alleys.

Disposition: Favorably recommended. (Y-5)

- 1046** Liquor license application for John E. Zweben, dba l'Etoile, 4627 NE Fremont, restaurant license, new outlet, favorable recommendation (Report)

Discussion: Henry Emrich, License Bureau, said neighbors are concerned with the number of liquor outlets in the area but the Bureau shows no record of problems with any of them. He recommended a favorable recommendation, based on the limited operating hours and small size of this specialty restaurant, as well as the fact that there are no liquor sales to go.

Disposition: Favorably recommended (Y-5)

June 4, 1992

S-*1036 Exempt improvements, property and services identified in the proposed Oregon Arena Development Agreement and related agreements from the requirements of competitive bidding; and authorize the Portland Development Commission to negotiate with the Oregon Arena Corporation for finalization of those agreements. (Ordinance)

Discussion: Larry Dully, Portland Development Commission, said the Council adopted a memo of understanding in November, 1991 which proposed a public/private partnership to build the new arena and related site improvements. The memo contemplated that Oregon Arena Corporation would act as the master developer for the entire site, including the public improvements which would normally be subject to public bidding statutes. However, because the arena project is unique and close coordination is needed in order to meet the September, 1994 completion target, OAC requested an exemption to normal public bidding requirements. In order to grant such an exemption, Council must find that it is unlikely that the exemption will encourage favoritism in the award of public portions of the contract or substantially diminish the competition. It must also find that granting such an exemption will result in substantial cost savings.

Mr. Dully said PDC staff and the City Attorney's office have worked with OAC to develop an alternative bidding procedure which they believe will result in open competition for the project's public construction components and which protects the City's minority subcontracting and hiring policies. He said they expect that the use of one contractor will result in a construction cost savings of about 5 percent, or 1.475 million dollars. There will be additional cost savings in the operation of Memorial Coliseum, in that OAC will guarantee that the Coliseum will suffer no business losses from its operations and that a reserve fund for future capital improvements will be set aside. Finally, there are substantial cost savings in the award of a management contract for the public parking garages to OAC because it has agreed to charge no overhead for its services to insulate the City from operational losses.

Cay Kershner, Clerk of the Council, noted that a substitute had been filed. Commissioner Blumenauer moved to accept it; Commissioner Bogle seconded and the motion carried. (Y-5)

Mike Silvey, Attorney for the Trailblazers, referred to the issue raised by David Rouwe on behalf of the Associated Builders and Contractors on whether the public portions of this contract would be tied to a union-exclusive show. He assured Council that open shop contractors will have an equal opportunity to compete for the public improvements work. He cited a letter from David L.

June 4, 1992

Brenneman, Project Director for Drake Turner, noting that bidders need not be signatories to collective bargaining agreements.

Mr. Silvey described the alternative bidding process and noted an additional five affirmative action programs that Trailblazers Inc. and the Oregon Arena Corporation are establishing for the project.

Commissioner Kafoury asked about the accountability if the community perceives that these five programs are not resulting in appropriate minority involvement.

Mr. Silvey said there is substantial oversight by the Portland Development Commission, which is acting as agent for the City and Metro in this matter. He said the affirmative action policies of the City have been adopted into this program in total.

Commissioner Bogle asked if the same percentage goals the City has were being transferred to this project. He noted that the private sector could enforce them legally while the City could not.

Mr. Silvey said yes. He said the additional affirmative action policies go beyond the City goals. He said there will be a series of meetings with community leaders in the neighborhoods within the next few weeks.

Commissioner Lindberg said he is convinced the Trailblazers will do the right thing.

Commissioner Blumenauer asked if preference would be given to local contractors and concessionaires.

Mr. Silvey said there is no specific guideline which gives preference to local contractors except for the Trailblazer's internal programs.

Commissioner Blumenauer asked if the selection of concessionaires was separate from the construction process and if any special consideration would be given local companies.

Mr. Silvey said there are no limitations or restrictions on who may bid and while they have noted that being a local business may be considered as a factor in awarding the bid, it is only one of many factors.

Disposition: Substitute Ordinance No. 165510 (Y-4; Bogle absent)

June 4, 1992

- *1037** Authorize execution of agreement of Indemnification with Oregon Arena Corporation relating to exemption of improvements, property and services identified in the proposed Oregon Arena Development Agreement and related agreements from the requirements of competitive bidding (Ordinance)

Disposition: Ordinance No. 165511. (Y-4; Bogle absent)

Commissioner Lindberg moved consideration of the four fifths calendar. Commissioner Blumenauer seconded and the motion carried. (Y-4)


Four Fifths Agenda

- *1047** Grant a park-use permit to the Bow and Arrow Cultural Club to use East Delta Park for a Pow-Wow and Encampment (Ordinance introduced by Commissioner Lindberg)

Disposition: Ordinance No. 165512. (Y-4)

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

BARBARA CLARK
Auditor of the City of Portland


By Cay Kershner
Clerk of the Council