



CITY OF

PORTLAND, OREGON

**OFFICIAL
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 29TH DAY OF JULY, 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; Kathryn Imperati, Senior Deputy City Attorney; and Officer Sheridan Grippen, Sergeant at Arms.

Agenda No. 1337 was pulled from Consent. On a Y-5 roll call, the balance of the Consent Agenda was adopted as follows:

CONSENT AGENDA - NO DISCUSSION

- 1333** Request from Al Armstrong to address Council regarding enforcement of firearm regulations (Communication)

Disposition: Referred to Commissioner of Finance and Administration.

- 1334** Accept bid of Christenson Electric, Inc., for furnishing hydra CSO monitoring project, telemetry equipment for \$136,618 (Purchasing Report - Bid 8)

Disposition: Accepted; prepare contract.

Agenda No. 1337 was pulled from Consent. On a Y-5 roll call, the balance of the Consent Agenda was adopted as follows:

Mayor J. E. Bud Clark

- 1335** Confirm appointment of Vern B. Ryles, Jr. to the Portland Development Commission (Report)

Disposition: Confirmed.

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- *1336** Contract with Simon and Company, Inc., for liaison services between City bureaus and the federal government (Ordinance)
Disposition: Ordinance No. 165685. (Y-5)
- 1338** Pay claim of Kenneth Van Loo (Ordinance)
Disposition: Ordinance No. 165686. (Y-5)
- *1339** Amend agreement with Glen Slaughter and Associates for the provision of self-insured medical plan claims administration (Ordinance)
Disposition: Ordinance No. 165687. (Y-5)
- *1340** Contract with Reid & Yates Physical Therapy for provision of worker reconditioning program consulting services (Ordinance)
Disposition: Ordinance No. 165688. (Y-5)
- *1341** Authorize a contract with Portland General Electric, dba Comprehensive Maintenance Services, to install a 120/240V single phase electric service to the communications facility at Lookout Point (Ordinance)
Disposition: Ordinance No. 165689. (Y-5)
- *1342** Contract with Ball, Janik and Novack for the consulting services of Victoria Cram on matters pertaining to the relationship between the City of Portland and the federal government (Ordinance)
Disposition: Ordinance No. 165690. (Y-5)

Commissioner Earl Blumenauer

- 1343** Accept completion of the SW 34th Avenue Storm Sewer and make final payment (Report; Contract No. 27113)
Disposition: Accepted.
- 1344** Accept completion of the NE 13th Avenue Basin Phase V Storm Sewer Project and make final payment (Report; Contract No. 27105)
Disposition: Accepted.

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1345 Accept completion of the Columbia Boulevard Wastewater Treatment Plant Outfall Modification, approve Change Order No. 1 and make final payment (Report; Contract No. 27758)

Disposition: Accepted.

***1346** Authorize a contract with Fishman Environmental Services to conduct biomonitoring studies on clams and crayfish for the Columbia Slough Water Quality Program and provide for payment (Ordinance)

Disposition: Ordinance No. 165691. (Y-5)

***1347** Consent to transfer of Mel's Service franchise to Baldwin Sanitary Service (Ordinance)

Disposition: Ordinance No. 165692. (Y-5)

***1348** Authorize a contract with Limno-Tech, Inc., to provide professional engineering services for the combined sewer overflow program and provide for payment (Ordinance)

Disposition: Ordinance No. 165693. (Y-5)

Commissioner Gretchen Kafoury

***1349** Amend Ordinance No. 165665 with the Senior Job Center to correct contract amount (Ordinance)

Disposition: Ordinance No. 165694. (Y-5)

***1350** Authorize grant application to State Department of Land Conservation and Development (DLCD) to provide alternative dispute resolution training to Bureau of Planning staff in the amount of \$3,000 (Ordinance)

Disposition: Ordinance No. 165695. (Y-5)

***1351** Contract with the Salvation Army for \$47,000 for emergency and transitional housing services and provide for payment (Ordinance)

Disposition: Ordinance No. 165696. (Y-5)

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Commissioner Mike Lindberg

1352 Accept contract with Petroleum Equipment Company (PEMCO) for installation of nine aboveground fuel storage tanks and associated equipment as complete and authorize final payment including retainage of \$25,140 (Report; Contract No. 27380)

Disposition: Accepted; prepare contract.

1353 Accept contract with Valmet-Sentrol, Inc., for furnishing water control system equipment as complete and authorize final payment of \$354,053 (Report; Contract No. 24638)

Disposition: Accepted; prepare contract.

1354 Accept contract with Grasle Electric Company as complete for construction of parks lighting, release retainage and authorize final payment (Report; Contract No. 27111)

Disposition: Accepted; prepare contract.

***1355** Authorize two applications to the Metropolitan Service District Greenspaces Restoration and Enhancement Grant Program for up to a total of \$15,000 for projects at April Hill Park and Oaks Bottom Wildlife Refuge (Ordinance)

Disposition: Ordinance No. 165697. (Y-5)

***1356** Amend contract with the Private Industry Council to authorize placement of two additional youth work crews at Water Bureau work sites (Ordinance; amend Contract No. 28080)

Disposition: Ordinance No. 165698. (Y-5)

***1357** Call for bids for improvements at West Clinton Park, authorize a contract and provide for payment (Ordinance)

Disposition: Ordinance No. 165699. (Y-5)

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REGULAR AGENDA

- *1337** Pay claim of Randall N. Laws, Personal Representative of the Estates of Richard J. Nuttall, Rachael M. Laws and Rebecca S. Laws (Ordinance)

Discussion: Commissioner Bogle said he had learned that officials of the Bureau of Emergency Communications knew of the problem with the switch two weeks before the fire which precipitated this claim occurred. He added that the person who called in the fire was put on hold for three-and-one half minutes. He called for a full investigation by the City Attorney's office and said if evidence shows that officials at BOEC were derelict in their duty, appropriate discipline action should be taken.

Mayor Clark said once these problems were brought to the attention of management, steps were taken to solve the problems right away. He said they were trying to fix it at the time of the fire and it was tragic that it did not get done.

Disposition: Ordinance No. 165700. (Y-5)

- *1331** **TIME CERTAIN: 9:30 AM** - Contract with Friends of Columbia Park to maintain and rent Columbia Cottage (Ordinance introduced by Commissioner Lindberg)

Discussion: Bill Minnard, Vice President, Friends of Columbia Park, said this is the final agreement reached with Parks to renovate and reopen an unused cottage in the Park as a community center. He also noted that the new lighting, funded as part of the lighting levy, has been installed, giving added security. Plaques were presented to the Parks Bureau to replace those which had disappeared from the entry some time ago.

Rich Gunderson, Parks Bureau, said the Bureau is thrilled to see what has been happening in Columbia Park.

Disposition: Ordinance No. 165701. (Y-5)

Mayor J. E. Bud Clark

- 1358** Modify direction to City bureaus regarding expenditures from the 1992-93 Adopted Budget (Resolution)

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Discussion: Commissioner Blumenauer offered an amendment to the resolution as outlined in the memo he distributed. Commissioner Bogle seconded.

Commissioner Blumenauer said he believes there should be no new spending except for public safety, particularly in the aftermath of Measure 5. He noted that he had voted against the budget in the spring because he felt it strayed from that objective but was pleased with the review that occurred in June. He said the reason for his amendment today is because he believes there are two items, the Environmental Commission and the Sister Cities program, that do not meet the agreed-upon guidelines and are not ongoing expenditures. He said the Environmental Commission is not a continuing program and the \$46,000 proposed as leverage for the Sister Cities program is mischaracterized since there is no direct tie to any commitments that might be made. He also noted that his amendment would only cut a portion of the proposed funding for the Commission, not all of it.

Patrick F. Donaldson, Executive Director, Citizens Crime Commission, supported this \$126,000 dedication of funds to public safety. He said they believe the citizens have made it clear that public safety is their first priority. He added that all their studies have shown that more funds are needed to implement community policing.

Mayor Clark asked Mr. Donaldson if he doubted his commitment to public safety.

Mr. Donaldson said no.

Debby Engel, 4035 N. Vancouver Avenue, and member of Inner Northeast Public Safety Action Committee, said public safety should be Council's number one concern. She noted the continuing presence of drug dealers in Unthank Park and the number of drug houses in her neighborhood which are currently destroying it.

Betsy Radigan, 37 NE Morgan, chair of the Northeast Public Safety Action Committee, said additional police staffing is badly needed if something is to be done about the crime level.

Lee Poe, Environmental Commission member, described the work of the nine-member, volunteer Commission. She asked for some consideration

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for the projects already underway, particularly one on social environments requested by Chief Tom Potter, and requested some staff support.

Mayor Clark said when he asked Council to put aside certain things in the budget because of the Tax Court decision, he did not mean to reopen the budget process. He said he does not see how the proposed changes will pay for three officers. He said the money for Sister Cities is leveraged, one-time money designed to make them independent so it would not pay for an officer past the first year. He added that he thinks the Environmental Commission is very valuable and will save money in the long run. He said he believes Council should keep to the budget agreed upon last Spring.

Roll was called on the amendment.

Commissioner Blumenauer said this takes the work Council agreed to do in June and puts its priorities in order. He said he believes this will not hurt the Environmental Commission, which was designed to be established with no staff support at all, adding that this still keeps \$80,000 in its budget.

Commissioner Bogle said he is disturbed that Unthank Park has essentially become a ghost park because of the fear of violence. He said he realizes three police officers will not solve the entire crime problem but they will chip away at it.

Commissioner Kafoury thanked Council for not removing all funds for domestic violence.

Commissioner Lindberg said he would vote no on the amendment as he felt Council already made public safety its number one priority during the budget process by saying that 75 cents of every additional dollar would be devoted to public safety.

The amendment carried. (Y-3; N-2, Lindberg and Clark)

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Mayor Clark said the time to change the budget is September when the decision comes down from the Supreme Court. He said this change in the budget is incorrect, noted that he will not be here in January and concluded by saying God save the City after January.

Disposition: Resolution No. 35021 as amended. (Y-5)

1332 TIME CERTAIN: 10:00 AM - Transmit Planning Commission and Planning Bureau reports on exemption of Southwest Lower Drive Local Improvement District from environmental review (Report introduced by Commissioner Kafoury)

Discussion: Al Burns, Planning Bureau, said when this came up for approval in June the Planning Bureau and the Bureau of Environmental Services initially believed the best way to fix the problem was to remove the environmental zones. The Planning Commission, however, recommended denial of the exemption because of the existence of an alternative to the gravity sewer. Their reasons were that a pumping system requires less work because of the geological instability of the land and would cost less. He said what this is a situation where reasonable people have reached different conclusions about the alternatives, pumping or the gravity sewer.

Commissioner Kafoury suggested taking public testimony since there is a difference of opinion here and Council must make the final decision.

Mayor Clark asked if the bureaus disagreed.

Commissioner Kafoury said the bureaus agreed but the Planning Commission did not.

Charles A. Fagan, 2525 SW Montgomery Drive, cited geological reports regarding slides on his property and said he entirely agreed with the Planning Commission. He said his house was removed from the LID by Council because it is already on a City sewer but that he objects to the Lower Drive Sewer because of the risk to his house and property due to possible land slides induced by this project.

Elizabeth Boylston, 2845 SW Upper Drive, said the Planning Commission decision is inaccurate, contending that pumping is not an adequate or safe alternative. She urged retention of the sewer district and expressed confidence in Bureau of Environmental Services

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geotechnical skills and planning. She said the neighborhood has agreed to participate financially even though legally there may be grounds for their not having to do so.

Olliemay Phillips, 2855 SW Upper Drive, said they have been working for 5-1/2 years to resolve this sewer problem. She said the pump system would cost her an estimated \$12,500 compared to the gravity sewer cost of \$7,474. She said she also believes her property value would be drastically reduced by installation of a pump system.

Steven Synne, 2575 SW Montgomery Drive, said who owns the sewer system and who is responsible is a matter of significant dispute and many believe the City is responsible. He said the solution worked out with BES resolves longstanding disputes, will result in the immediate removal of a significant health hazard and is the most environmentally sensitive.

Joanne Kahn, 2811 SW Upper Drive, said her property collects sewage although she is not in the project. She said the Planning Commission did not have information on the cost of pumps nor did it consider what the City has already invested in the project. She said if the pumping system is chosen there will be additional enforcement and regulation costs.

Others supporting the gravity system included:

David Ausherman, 2833 SW Upper Drive
Chris Malcolmn, 2851 SW Montgomery Dr.

Mayor Clark asked if stormwater would be included.

Jeff Bauman, Bureau of Environmental Services, said it would not. He said BES recommended the gravity system based on reliability, energy conservation and overall environmental benefits. He said they believe a gravity system is the preferred option but that, whatever option is selected, something needs to be done because the present situation is unacceptable.

Commissioner Kafoury moved to accept the Planning Commission report but direct the Planning Bureau and BES to return in a week with an ordinance that endorses the previously agreed upon gravity sewer. Commissioner Blumenauer seconded.

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Commissioner Kafoury noted that this motion accepts the Commission report but disagrees with its conclusion.

Commissioner Blumenauer said all agree that we want great sensitivity to the environment but there is ample record to show that an emergency exists and there may be more environmental damage if Council does not move forward with this construction.

Disposition: Accepted (Y-5)

Commissioner Earl Blumenauer

1359 Establish a Clean River Funding Task Force to recommend policies and principles to govern the allocation of costs for the City of Portland's Combined Sewer Overflow Control Program (Resolution)

Discussion: Nancy Phelps, Portland Organizing Project and a member of the Mid-County Sewer project area, said the relationship of Mid-County Sewer members to the CSO still remains undetermined. She said they want to ensure the equity of financing plans and develop fair policies allocating costs. She said they believe new members should pay for use and maintenance but not upgrades. Ms. Phelps cited a consultant's report which found that adding Mid-County members should lower CSO costs to other customers far more than the monthly increase to these other customers for funding Mid-County project relief. She supported formation of an equity committee to determine who should pay for the CSO problem. As a general principle, POP believes costs for both projects should be shared on a regionwide basis or else mid-county residents should be exempt from all CSO costs.

Disposition: Resolution No. 35022. (Y-5)

Commissioner Gretchen Kafoury

***1360** Ratify agreements with Portland Community Reinvestment Initiatives, Inc., and United States National Bank, pertaining to the financing of the acquisition and rehabilitation of the Dominion Capital Properties (Ordinance)

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Discussion: Commissioner Kafoury said this fulfills the pledge to bring this back to Council for final ratification.

Disposition: Ordinance No. 165702. (Y-5)

1361 Amend code to increase sign permit fees (Second Reading Agenda 1323; amend Code Sections 32.03.030 A and B)

Disposition: Ordinance No. 165703. (Y-5)

Commissioner Mike Lindberg

1362 Report on current water supply (Report)

Discussion: Commissioner Lindberg said this is in response to Commissioner Blumenauer's suggestion that the Water Bureau make a status report on water use every two years.

He noted citizen fears that rates will be raised because of lost revenues but said the Bureau was attempting to absorb those within the current budget as well as the enforcement costs associated with implementation of the new restrictions. He said they have tried to take a balanced approach and be sensitive to the economic impacts and to the thousands of dollars people have invested in their gardens. He said 90 per cent are complying with the restrictions but additional restrictions and actions need to be taken in order to meet the targets. He said more effort will be made to focus on indoor conservation, in particular to reduce the amount of water used to flush toilets. In order to demonstrate their commitment to equity, water usage will be halted in Parks Bureau sports fields and in much of Waterfront Park and other places where they have special permits.

Commissioner Lindberg criticized those who are acting as water vigilantes and urged people not to vandalize or make threats.

Mike Rosenberger, Water Bureau Administrator, updated Council on the current water situation. He said the target number of 100 million gallons per day meets all the supply assumptions but since residents have been averaging 115 gallons a day, use must go below 100 million gallons in order to meet the target unless earlier rains arrive.

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Mr. Rosenberger reported that there is not a great disparity in usage between City and suburban residents. The Bureau found 53 valid violations to date and is now augmenting night patrols as it is clear that there is some willful violation. However, statistics do not support a "report your neighbor" mentality as out of 6,680 phone calls received only 13 per cent were violation reports. Eighty-seven per cent were calls for information and clarification.

Mr. Rosenberger highlighted other activities including a price study and design of a new rate structure with a revised billing system that will allow more frequent billing and reflect usage levels. He said they are also working with BES regarding reuse of storm water and with the Energy Office and private companies to promote water conservation. Plans for the groundwater wellfield were also outlined.

Mr. Rosenberger described additional restrictions to be imposed, including a ban on personal car washing. He noted that in the last two weeks, residents have save two billion gallons over normal usage.

Commissioner Bogle asked about the well testing.

Mr. Rosenberger said they will monitor the wells beginning August 3 and then on August 17 the system will be turned on. Monitoring and analysis will be done for a 30-day period and if criteria are met regarding minimal movement and risk, they will then continue pumping. He said 45 million gallons, to be taken from the Blue Lake aquifer, is all they hope to get right now as too little is known about the rest of the wellfield.

Commissioner Blumenauer noted that Council had directed the Bureau of Environmental Services to work on a different billing methodology for sewers. This is scheduled to occur in the course of the next fiscal year. He said it is important to link what BES is doing with what the Water Bureau is doing.

Mr. Rosenberger said currently the two bureaus are not on the same time schedule and explained that the Water Bureau plans to implement consumption-based billing in January. He said they would not be in a position to do anything new with water rates until into the next fiscal year.

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Commissioner Blumenauer said it would be best to make sure we have maximum public participation and tie things together. He said he has asked BES to coordinate what they are doing with what the Water Bureau is doing over the course of the coming year.

Tom O'Keefe, United Community Action Network, asked why Portland, unlike other major cities, is so slow to give out conservation devices, and why Bonneville was not being asked to help pay for them. He said the different water districts should be working with the utilities to coordinate a conservation program.

Commissioner Lindberg said the City is working with utilities to ensure a coordinated program.

Mr. O'Keefe said the different entities are not working together.

Commissioner Kafoury suggested that he discuss these ideas with Commissioner Lindberg and Mr. Rosenberger.

Disposition: Placed on file.

Barbara Clark

1363 Substitute a new Title 22, Code Hearings Officer, of the Portland City Code for the current Title 22 (Second Reading Agenda 1325)

Disposition: Ordinance No. 165704 as amended. (Y-5)

At 11:30 a.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 29TH DAY OF JULY, 1992 AT 2:00 P.M.

THOSE PRESENT WERE: Commissioner Kafoury, Presiding; Commissioners Blumenauer and Lindberg, 3.

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

- 1365** Tentatively grant appeal of Glisan Street Associates, Ltd., applicant, and amend Hearing Officer's decision approving, with conditions, a request to change a nonconforming use in order to remove the existing building and construct a new one at 2301 NW Glisan Street (Previous Agenda 1327; Findings; 91-00786 NU)

Discussion: Jessica Richman, Bureau of Planning staff, said the Bureau of Planning and City Attorney have reviewed the findings and believe they reflect Council's decision. They also reviewed a communication from Brian Perry which was not distributed because they believe it constitutes further argument and introduces new evidence. The record was closed at the end of the hearing on June 3, 1992.

Commissioner Kafoury said the issue is whether Council wishes to hear testimony on the findings.

Council members indicated that they wished to proceed to vote.

Disposition: Findings Adopted. (Y-3)

- 1364** **TIME CERTAIN: 2:00 PM** - Appeal of St. Mark's Evangelical Lutheran Church against Hearings Officer's decision to deny application for a conditional use permit to expand a parking lot at 5415 SE Powell Boulevard (Hearing; 91-00829 CU)

Discussion: Commissioner Blumenauer noted that only three Council members were present. He said usually the appellant/applicant is given the option of continuing this to another time as it takes three votes to approve anything. Appellant asked for time to decide.

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Mike Hayakawa, Planning Bureau, said the proposed parking lot would impact two houses, one of which was originally scheduled to be demolished and one moved. The Hearings Officer found that there was no evidence of a problem in the area due to the parking shortage and expressed concern with the impact of a larger parking lot on neighborhood liveability. The Hearings Officer also found there was late night use of the lot by non-church members, compromising privacy and safety. The Neighborhood Association favors this proposal but some immediate neighbors have concerns. The Hearings Officer found applicant did not adequately demonstrate need or explore alternative transportation programs and other means of addressing this problem, including use of other property owned by the church.

Mr. Hayakawa said St. Mark's plans to provide new evidence of their need for additional parking, including a discussion of neighborhood concerns and establishment of a traffic and parking management plan.

Greg Winterowd, Planning Consultant representing St. Mark's, said they wished to proceed with the hearing today.

Commissioner Kafoury said other Council members could review the record if agreement was not reached today.

Pete Kasting, Senior Deputy City Attorney, said that in a recent decision LUBA concluded that either approval or denial of any land use appeal requires three votes. If there is a split vote, the matter will be carried forward until such time as there are three votes either to grant or deny an appeal.

Mr. Winterowd said because of various church activities, parking lot capacity is exceeded 120 days a year. He said the church very actively encourages car pooling and other modes of transportation and has staggered services in order to lessen the parking crunch. He said use of the old parsonage referred to by the Hearings Officer is not feasible as no more than the current 18 parking spaces would be allowed on the lot even if it were torn down. He said a new landscape plan has been prepared and described other measures they plan to take to mitigate the presence of the parking lot. He said they now believe they have addressed all the criteria and concerns raised.

Joel Ario, 3323 SE 55th, said he and his wife live immediately adjacent to the house slated for demolition. He opposed the parking lot

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expansion, contending that it is a commercial encroachment that decreases household uses in the neighborhood and adversely affect liveability. He called for more use of the parking lot directly across Powell Boulevard, with the addition of a stop light to make it safer to cross. Mr. Ario contended that the new parking lot will just increase car use in the neighborhood.

Diana Myrvong, 3323 SE 55th, said she was concerned primarily with safety, noting calls to the police regarding the presence of teenagers in the parking lot at night. She said any expansion would only add to the current problem. Noise and privacy are also of concern, as is an anticipated decrease in the value of her property due to the parking lot expansion.

Delores Berard, 2301 SE 77th, disputed the claim that a drop in property values would occur. She said the parking lot represents the last expansion piece the church would like to put in place, noting that the congregation had passed a statement asserting that no further parking spaces will be sought and have developed a parking policy calling for staff to park across Powell.

Colleen Wagner, 3327 SE 54th, said she has lived adjacent to the church for 13 years. She said she and several other neighbors have no off-street parking and are often frustrated by the lack of parking availability because of on-street parking by church members. She contended that the troubles in the parking lot have gone on for 13 years and questioned whether the additional spaces would attract any additional trouble. She summarized a letter of support from neighbors.

Georgia Herr Barnhart, 1236 SE 88th and a member of St. Mark's, said parking across Powell is unsafe, particularly at night. She argued that the current lack of off-street parking is the biggest problem neighbors have and described some of the church activities, including programs for seniors and pre-schoolers, all of which affect the neighborhood in a much more agreeable manner than what might be going on if St. Mark's was not there.

Mr. Winterowd said there is a clear impact on immediately adjacent neighbors but most seem to support the expansion, with only three objections from among the 17 houses contracted, one of which subsequently withdraw opposition. Regarding the loss of housing, he said they now believe they will be able to save the house originally

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scheduled for demolition so there will be no loss in housing. He said they have examined the noise and privacy issue but see no way to completely stop teenagers from using the lot, adding that the police do not perceive this to be a huge problem.

Mr. Ario said one other neighbor, Susan Bertsch, still objects and has several statements in the record. He said people have not complained to them about the lack of parking. He agreed that the church is basically a good influence but fears an enlarged parking lot will increase chances of it becoming a hangout.

Commissioner Kafoury closed the public testimony.

Commissioner Blumenauer asked church representatives if they could address the security question regarding access to the parking lot and what steps the church would take if problems arise.

Mr. Winterowd said the church is more than willing to abide by a policy of immediate police notification when there are problems. He noted that chaining or locking the lot makes access difficult for legitimate users. He said they would agree to add a condition calling for adequate lighting.

Commissioner Blumenauer moved to tentatively grant the appeal and overturn the Hearings Officer's decision with the addition of the conditions proposed by the church regarding landscaping and traffic devices. Commissioner Lindberg seconded.

Commissioner Blumenauer said the Hearings Officer was appropriately concerned about the original submission and the neighbors had legitimate concerns. He said he believes the recommendations the church has made to deal with these concerns indicate its desire to be a good neighbor and consult with those affected when there are problems. He said he hoped the church would consider installing some additional lighting to increase security for both neighbors and church members using the lot. He said he also hopes they would consider chaining off the lot on weekend nights when there are no church activities so it does not become an attractive nuisance.

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Commissioner Kafoury said she is vitally concerned about housing even though one of the houses is a junker. She said she does not like parking lots but does believe a good effort is being made to work with the neighbors.

Commissioner Lindberg said he concurs and stressed the need for ongoing communication between the church and neighbors to deal with problems.

Disposition: Tentatively grant appeal. Prepare findings for August 12, 1992 at 2:00 p.m. (Y-3)

At 3:00 p.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 30TH DAY OF JULY, 1992 AT 2:00 P.M.

THOSE PRESENT WERE: Commissioner Kafoury, Presiding; Commissioners Blumenauer Bogle and Lindberg, 4.

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

1366 TIME CERTAIN: 2:00 PM - Consider recommendations concerning City Towing Company's appeal of Towing Board of Review's decision to require City Towing to pay \$8.24 or be subject to the possibility of contract suspension or termination (Report)

Discussion: Dennis Nelson, License Bureau, said the underlying cause of the appeal is significant in that it challenges the authority of the City Towing Board of Review to make decisions and rules. The City authorizes one contract, with 29 towers. He said this is a difficult case because the contract language was very unclear and the Towing Board, to make it work, had to make a reasonable interpretation. In this specific case it was decided that the tower would have to double pay the dispatch fee and incur a delay in collection of the City service fee. Given the other alternatives and the small amount involved, \$20 per year per tower, the Board felt it had made a reasonable decision which was accepted by all towers under the contract except one. The appellant, however, refused to pay and a final decision was made that City Towing either pay or its participation in the contract be cancelled. Mr. Nelson said Council is being asked today to reaffirm that the Towing Board has broad powers of contract interpretation and review.

Terry Slominski, attorney for City Towing, said the real issue is whether, when the towing contractor is not in breach of any provisions of the contract, the Towing Board of Review can threaten to cancel a contract in order to collect a payment that is not called for in the contract. He contended that the Towing Board is not independent but an arm of the City, using City employees as its members, and therefore inclined to construe any ambiguity in the City's favor. Mr. Slominski

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said it is unfair for the City to ask towers to pay fees it has already paid, on a monthly basis, to the City. He questioned the City's authority to use the threat of cancellation of a contract to collect this money.

Mr. Slominski also disputed Mr. Nelson's statement that no other tower objected. He said they do disagree. He said the City's system of having the tower later get a credit for the refunded service fee unfairly puts the burden of extra bookkeeping on his client.

Commissioner Blumenauer asked the City Attorney whether she felt comfortable with the City's legal position.

Ms. Meng said she believes City Attorney Ben Walter's opinion is correct.

Mr. Nelson said this is a contract entered into voluntarily which states that the City, acting through the Towing Board, may issue general rules and that it has the authority to interpret the contract.

Commissioner Lindberg asked if they could set rules and regulations not a part of the contract.

Mr. Nelson said they could issue rules and regulations not inconsistent with the contract. He said it would be impossible to try to put everything in the contract but instead they try to come up with a rational way of approaching issues when they arise.

Commissioner Bogle moved that appeal be denied.

Disposition: Appeal denied (Y-3)

REGULAR AGENDA

Commissioner Dick Bogle

- 1367** Liquor license application for Romelle Pacheco, dba La Tiendita Mexicana, 2817 NE Alberta, Package Store liquor license (new outlet); favorable with conditions recommendation (Report)

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Discussion: Henry Emrich, Bureau of Licenses, said they believe that alcohol sales will only be incidental to the licensee's business and noted that the applicant has agreed to conditions which should ensure that it will not negatively impact the neighborhood.

Disposition: Favorably recommended. (Y-4)

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

BARBARA CLARK
Auditor of the City of Portland

Cay Kershner
By Cay Kershner
Clerk of the Council