



CITY OF

PORTLAND, OREGON

OFFICIAL
MINUTES

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 30TH DAY OF SEPTEMBER, 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.

Commissioner Lindberg announced that because of recent rains and conservation efforts, the water restrictions have been lifted.

Mayor Clark proclaimed the month of October as Clean River month.

Commissioner Blumenauer said partnerships were formed with citizens to clean up the rivers and reduce industrial pollution and now a third partnership is now underway, involving the Combined Sewer Overflow (CSO) project.

Mary Nolan, Director of Environmental Services, said the City has entered into a stipulation with the State committing to a twenty year program to correct the CSO problem.

Mike Houck, representing Urban Streams Program, said the key to achieving project objectives is regional cooperation.

Linda Robinson, Director of FAUNA, reviewed the Adopt a Stream Program and other activities planned for the month of October in connection with the Clean Rivers program. She also described ways citizens can act to achieve clean water goals.

Greg Wooley, science teacher, emphasized the importance of involving students in environmental issues.

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- *1649** Increase scope of agreement with Aron Faegre and Associates, Architects, for master plan for new Public Safety Facility and construction of Emergency Communication Center, and provide for payment (Ordinance; amend Contract No. 27519)
- Disposition:** Ordinance No. 165855. (Y-5)
- *1650** Agreement with Multnomah County not to exceed \$427,429 to share in the purchase, use and ownership of the XIMAGE automated booking, suspect identification and photo lineup system, (Ordinance)
- Disposition:** Ordinance No. 165856. (Y-5)
- *1651** Amend City Code Section 5.44.080, Securities in Lieu of Retainage to Include Irrevocable Letters of Credit (Ordinance; amend City Code Section 5.44.080)
- Disposition:** Ordinance No. 165857. (Y-5)
- *1652** Authorize additional parties to an intergovernmental agreement with Metro area law enforcement agencies for mutual aid (Ordinance)
- Disposition:** Ordinance No. 165858. (Y-5)
- *1654** Modify agreement with Northwest Regional Education Laboratory for grant evaluation services (Ordinance; modify Contract No. 27671)
- Disposition:** Ordinance No. 165859. (Y-5)
- *1655** Call for bids for Heron Lakes Golf Course maintenance yard relocation and parking lot upgrade, authorize contract and provide for payment (Ordinance)
- Disposition:** Ordinance No. 165860. (Y-5)
- *1656** Call for bids for elevator repairs at three locations, authorize contract and provide for payment (Ordinance)
- Disposition:** Ordinance No. 165861. (Y-5)

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Commissioner Earl Blumenauer

- 1657** Set hearing date, 9:30 a.m., Wednesday, November 4, 1992, to vacate a portion of NW 22nd Place, north of NW Thurman Street (Report; Petition; C-9804)

Disposition: Adopted.

- 1658** Accept completion and approve Change Order No. 1 on contract with Oregon Asphaltic Paving for Maintenance Oil/Gravel Project 1992 (Report; Contract No. 27770)

Disposition: Accepted.

- *1659** Authorize the Purchasing Agent to sign a purchase order as a contract for EMA, Inc., to provide software changes to existing Maintenance Action System software program, and provide for payment (Ordinance)

Disposition: Ordinance No. 165862. (Y-5)

- *1660** Authorize an agreement with OTAK, Incorporated, to provide engineering, design, plans, specifications and estimates for the construction of the Multnomah/Hassalo Connection Project (Ordinance)

Disposition: Ordinance No. 165863. (Y-5)

- *1661** Add Chapter 17.41, Landslide Abatement, to the Portland City Code (Ordinance; add Chapter 41 to Title 17)

Disposition: Ordinance No. 165864. (Y-5)

- *1662** Accept jurisdiction from Washington County of certain county roads, lying within the corporate limits of the City of Portland (Ordinance)

Disposition: Ordinance No. 165865. (Y-5)

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Commissioner Dick Bogle

- *1663** Intergovernmental agreement with Tualatin Valley Fire and Rescue for mutual aid in fire suppression (Ordinance)

Disposition: Ordinance No. 165866. (Y-5)

Commissioner Gretchen Kafoury

- *1664** Amend contract with Bradley-Angle House to increase the amount by \$11,425 and provide for payment (Ordinance; amend Contract No. 28112)

Disposition: Ordinance No. 165867. (Y-5)

- *1665** Amend contract with Raphael House to increase the amount by \$11,425 and provide for payment (Ordinance; amend Contract No. 28073)

Disposition: Ordinance No. 165868. (Y-5)

Commissioner Mike Lindberg

- 1666** Accept contract with Werbin West Contracting, Inc., for water mains as complete and authorize final payment of \$39,592 (Report; Contract No. 27771)

Disposition: Accepted.

- *1667** Contract with Providence Medical Center for use of their aquatic facilities by Park Bureau Aquatic Section, commencing September 20, 1992 through June 13, 1993 (Ordinance)

Disposition: Ordinance No. 165869. (Y-5)

- *1668** Authorize agreement with Portland Community College for use of the Sylvania Campus aquatic facilities by the Park Bureau Aquatic Section commencing September 26, 1992 through August 13, 1993 (Ordinance)

Disposition: Ordinance No. 165870. (Y-5)

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- *1669** Authorize a contract with Fletcher Farr Ayotte, PC, for architecture planning services for the Bureau of Water Works and authorize payment (Ordinance)

Disposition: Ordinance No. 165871. (Y-5)

- *1670** Award revocable permit to Interstate Mobilephone Co., dba Cellular One, for non-park use of a portion of Park Bureau property (Ordinance)

Disposition: Ordinance No. 165872. (Y-5)

City Auditor Barbara Clark

- *1671** Cancel sidewalk assessment for 7427 N Lombard Street (Ordinance; amend Ordinance No. 165347)

Disposition: Ordinance No. 165873. (Y-5)

- *1672** Reduce sidewalk assessments for 8989 N Hamlin Avenue (Ordinance; amend Ordinance No. 165347)

Disposition: Ordinance No. 165874. (Y-5)

- *1673** Cancel system development charge for 7506 NE Tillamook Street (Ordinance; amend Ordinance No. 165166)

Disposition: Ordinance No. 165875. (Y-5)

REGULAR AGENDA

- 1642** Accept bid of Digital Equipment Corporation for DEC host computer maintenance for \$127,752 (Purchasing Report - Bid 2-A)

Discussion: Cay Kershner, Clerk of the Council, said the Purchasing Agent had requested a week's continuance.

Disposition: Continued to October 7, 1992 at 9:30 a.m.

- *S-1653** Change agreement with SERA Architects to increase scope of work for architectural services for renovation of the Portland Building lobby and provide for payment (Ordinance; amend Contract No. 26573)

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Discussion: The Clerk said a substitute had been filed and distributed. Commissioner Blumenauer moved the substitute: Commissioner Kafoury seconded and the motion carried. (Y-5)

Disposition: Substitute Ordinance No. 165876. (Y-5)

TIME CERTAIN: 9:30 AM - Report on Construction Trades Intern Program (Report introduced by Mayor Clark)

Discussion: Harold Williams, CH2A and Associates, thanked Council members and bureau staff for their support of the Construction Trade Intern Program. He said this is a Citywide effort to provide opportunities in the construction trades for women, minorities and others in protected classes.

Bruce Watts, Project Coordinator for CH2A, introduced the first graduate of the program who has since gone to work as an apprentice for Slayton Construction Company.

Ms. Howard introduced thirteen interns and their supervisors.

Mr. Williams said Slayton Construction had become very involved in the program and has had approximately 30 placements through the First Source program.

Disposition: Placed on File.

1639 TIME CERTAIN: 9:45 AM - Transmit report on Automobile Seizures and Forfeitures (Previous Agenda 1637)

Discussion: Commissioner Blumenauer said the program is working well and saving money.

Mayor Clark complimented Commissioner Blumenauer for innovating a program which has made a real difference in getting drunken drivers and prostitutes off the streets.

Disposition: Accepted. (Y-5)

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- 1640** **TIME CERTAIN: 10:00 AM** - Join with the US Conference of Mayors in endorsing continuation of sanctions against South Africa (Resolution introduced by Mayor Clark and Commissioners Blumenauer, Bogle, Kafoury and Lindberg)

Discussion: Martin Gonzalez, Associate Executive Secretary for the American Friends Service Committee, said the Government of South Africa continues to promote violence and for this reason it is important to continue the sanctions.

Disposition: Resolution No. 35047. (Y-5)

- 1674** Reject bid of Thermal Mechanical Inc., for purchase and installation of noise abatement equipment for Columbia Wastewater Treatment Plant (Purchasing Report - Bid 27)

Disposition: Accepted.

Mayor J. E. Bud Clark

- 1648** Establish an administrative policy to streamline the Council Calendar review process (Resolution)

Disposition: Resolution No. 35048. (Y-5)

- 1675** Update quarterly budget review process to streamline procedures (Resolution)

Disposition: Resolution No. 25049. (Y-5)

- 1676** Recommend organizations eligible to participate in the City's 1992 Charitable Campaign (Resolution)

Discussion: The Mayor said an amendment was needed to correct the number of organizations eligible to participate from five to seven.

Disposition: Resolution No. 35050 as amended. (Y-5)

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***1677** Allow the towing of vehicles operated by uninsured individuals
(Ordinance)

Discussion: Lt. John Hren, Portland Police, said he learned Gresham had a similar ordinance and asked the City Attorney to investigate as it seemed like a valuable tool for Portland. He said while it will be useful in dealing with gang members, the original idea was to cut down the number of uninsured vehicles in the City. He said for almost 12 years the State has required that vehicles have proof of insurance. He said this ordinance would be a way of getting a car off the street until it is insured, adding that the Police do not want to confiscate or sell cars. Regarding City liability, he said once a car is towed, the tow company is responsible for any damage done so there would be no liability for the City. He said the ordinance would be applied universally and any time a citation is issued for lack of insurance, the car will be towed, as per the Chief's memorandum. Gresham's experience has been that insurance companies are decreasing their rates because fewer drivers are involved in accidents. Lt. Hren added that 40 per cent of cars towed in Gresham are not redeemed because motorists can not get insurance.

Commissioner Blumenauer asked about implementation and whether a phase-in period, allowing a month or two to get the word out about procedures, would be advantageous.

Lt. Hren said they felt there would be no problem giving only advisory citations for the first 30 days.

Commissioner Bogle said he was concerned about the process. He asked if the Chief's Forum had taken a position on it.

Officer Hren said no, the issue was raised among community leaders last week, who felt it was a tool that should be vigorously pursued and placed on the fast track.

Commissioner Bogle asked if the officer requesting a tow would remain with the car until the tow truck arrives. He also asked if Police could estimate how much officer time would be spent waiting for tow trucks.

Officer Hren said officers would remain until the tow truck arrived and that they have 30 minutes to respond, although typically response time is less. He said he believes some officer time will be lost at first until people realize they must have insurance.

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Commissioner Bogle asked what the goal of the ordinance was and whether removing uninsured motorists is a crime or if the City would be huckstering for insurance companies.

Officer Hren said uninsured drivers make everyone's insurance go up and this ordinance might result in a lowering of insurance rates. He said there are a lot of people driving who have no right to drive in the first place and taking away their mobility also limits their ability to commit certain crimes.

Commissioner Bogle asked about the Chief's Order implementing this ordinance.

Officer Hren said the memo would deal with universal application.

Commissioner Bogle said one of his concerns is that this will target young, black males. He said the major issue concerning equity of enforcement centers around where the officer stops cars, not that a citation to tow is issued to every uninsured vehicle. He asked if there would be as many stops in Southwest as in Northeast.

Officer Hren said this ordinance was not originally meant to deal with gang members or young people but if gang members do not have insurance, their cars will be taken, thus limiting their activities. If officers routinely ask for a driver's license, registration and proof of insurance, they will ask for it everywhere. He guessed that more cars were stopped in North and Northeast Portland than Southwest because more officers are there. However, following that logic more people per day may be stopped in Southeast since there are more officers there.

Commissioner Lindberg asked if an evaluation program was planned to see what the patterns are.

Officer Hren said they propose a six month evaluation.

Commissioner Lindberg asked if there would be discretion about who would be towed.

Officer Hren said they wanted a universal application to apply so that if a citation were written, the vehicle would be towed.

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Commissioner Lindberg asked about the potential of being harsher on young, black males.

Lt. Hren said they still could not stop someone on suspicion that they do not have insurance. A visible violation would have to occur first. He said current court law and practices do not allow Police to stop a car just because they want to.

Commissioner Bogle said in the past he thought it was legal to stop an auto to check on whether the operator had a valid license.

Deputy Chief Charles Moose said officers need probable cause to make a stop, such as an expired license plate. He noted that State law says everyone has to have insurance to operate a motor vehicle, adding that it is a public safety hazard to have people driving automobiles without insurance and what the Police are trying to do is get them off the roadways.

Commissioner Blumenauer said he agrees with Lt. Hren and Chief Moose that people driving without insurance endanger the public and drive up insurance costs for everyone. It is also related to other problems of reckless behavior. Because this is a significant change in City policy, he suggested removing the emergency clause to allow for public hearings and a longer phase-in period to answer the questions raised and satisfy Portlanders that it will be equally applied.

Citizens testifying in opposition included:

Howard Leighty, PO Box 2055, 97208
Jerry Hoffman, 715 NE 92nd, 97220
Molly Jubitz, 4706 NE 57th
Roy Sutton, 190 SE Cleveland, Gresham
Juliann Lansing, 380 SE 27th, #1
Marie Lutman, 380 SE 27th, #1
Don Denson, 5290 NE 24th
Miles Twete, 551 SE 15th
Darnell Holefield, Holefield Construction

Opponents said this ordinance deprives people of due process and is unconstitutional. They said taking people's personal property away is

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not the answer to the uninsured motorist problem and raised questions about the availability and cost of insurance. A number contended that it unfairly focuses on minorities and the poor.

Jack Lynch, 9408 N. Edison, supported the ordinance. He said people should consider what it does to the rest of the community if they do not have insurance.

Mayor Clark said he thought a second reading was needed to clarify these issues.

Commissioner Blumenauer moved to delete the emergency clause
Commissioner Kafoury seconded and the motion carried. (Y-5)

Commissioner Blumenauer suggested continuing the second reading for two weeks to address the concerns raised about proof and monitoring, set up the procedures and provide for more public input. He said no one is talking about forfeiting cars. If no amendments are proposed in two weeks, Council could then put it into effect and have basically the same time table that has been talked about. He said nothing he has heard today suggests that this would not be a useful tool for the Police.

Commissioner Bogle asked if there was time for the Chief's Forum to review this in the next two weeks. He said one issue that needs to be explored is whether this would be a good use of police time.

Commissioner Kafoury said that, in addition to clarifying what would be required as proof, she would like to know more about what kind of public information campaign would be conducted. She said she would like to give the Police more tools to get uninsured motorists off the road.

Commissioner Lindberg said he agrees with the goals of the ordinance but would feel more comfortable if he could see the guidelines for implementation. He said there seems to be an incredible amount of discretion here and guidelines are needed to ensure that there is equity among different parts of the City.

Commissioner Blumenauer moved that this item be set over two weeks for a second reading and requested that the Bureau hold a public information meeting and also have the Chief's Forum consider it.
Commissioner Bogle seconded and the motion carried. (Y-5).

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Mayor Clark said an emergency clause could be placed on this when it returns in two weeks. He suggested that all uninsured drivers stay off the road. He said he believes this is a way to vigorously and inexpensively enforce the law and protect the public. He said they will not be confiscating cars, only holding them until proof of insurance is given.

Disposition: Passed to Second Reading October 14, 1992 at 9:30 a.m.

The Clerk said she had a request from Bill Hardin at NAMCO for reconsideration of Item 1641 on the Consent Agenda. Commissioner Kafoury said she thought the issue was to set a date for a hearing. Council decided to set the item over for two weeks.

- *1678** Establish three positions and two salary rates for the Compensation Plan in accordance with the Personnel Rules adopted by the City Council (Ordinance)

Disposition: Ordinance No. 165877. (Y-5)

- *1679** Accept a continuation grant of \$66,837 from the Oregon Department of Transportation, Traffic Safety Division, for DUII enforcement (Ordinance)

Disposition: Ordinance No. 165878. (Y-5)

Commissioner Dick Bogle

- 1680** Transmit preliminary report of the Joint Cable Regulation Consolidation Task Force charged with developing a proposal to form a single cable regulatory commission in Multnomah County (Report)

Discussion: David Olson, Cable Office, said the Consolidation Task Force believes a merged commission will be able to achieve savings of at least \$60,000 a year and provide a better cable structure.

Disposition: Accepted.

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- 1681** Declare Council support for enactment of federal cable legislation; commend Cable Director for election as President of NATOA (Resolution)

Disposition: Resolution No. 35051. (Y-5)

- 1682** Authorize the City Attorney to file suit against the Rockwood People's Utility District. (Resolution)

Disposition: Resolution No. 35052. (Y-5)

- 1683** Assess property for sewer system development charges through June, 1992 (Hearing; Ordinance; Z0174 through Z0182 and Z0211)

Discussion: Dan Vizzini, Auditor's Office, said two remonstrances were filed on these contracts. The first property is located outside the Mid-County Sewer Project area and the owners are objecting to their ineligibility for sewer assistance. The second remonstrator objects to the calculations used to determine the contract amount on his property, which includes three duplexes. The Mid-County sewer office concurs that because of the complexity, the contract should be pulled for review. He recommended that the first remonstrance be overruled and that the installment payment contract be removed from the assessment roll for the second.

Bill Cramer, owner of the three duplexes on 12835-12851 SE Foster Road, said he would be happy to have this reviewed but would still like to be eligible for the lower interest rates and financing he signed up for.

Crystal Pedersen, 15139 SE Foster Road, said she was told she was ineligible for the lower rates because they are five blocks out of the area. She objected to the \$24,000 assessment, noting that they could not afford the cost to subdivide even though it would lower the cost considerably. Ms. Pedersen said everyone understands but no one seems able to help.

Mr. Vizzini said the problem with the Pedersen property is that it is located outside the state-mandated area. Regarding Mr. Cramer's request about financing, he said it may be possible not to remove his contracts from this assessment. He said it may be better to leave him in this assessment roll and adjust the loan later if necessary.

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Commissioner Blumenauer moved to overrule the Pedersen remonstrance. Commissioner Kafoury seconded and the motion carried. (Y-5)

Disposition: Remonstrance overruled. Passed to second reading October 7, 1992 at 9:30 a.m.

***1684** Create a local improvement district to construct the NE Russell Street from NE 111th Avenue to the easterly terminus Improvement Project and construct sumps (Hearing; Ordinance; C-9795)

Disposition: Ordinance No. 165879. (Y-5)

At 11:40 a.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 SEPTEMBER, 1992 AT 2:00 P.M.

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

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

- 1686** Appeal of Dale Rhine, applicant, against Hearings Officer's decision to impose restrictions in approving a nonconforming use request at 4031 and 4033 SE Milwaukie Avenue (Previous Agenda 1635; 91-00863 NE)

Discussion: Ruth Spetter, Senior Deputy City Attorney, said Council has to decide whether it agrees with the Hearings Officer that there is a valid nonconforming use still in existence. If it does, Council must then interpret the Code in terms of abandonment and either approve the partial discontinuation interpretation adopted by the Hearings Officer or find that the nonconforming use, if there is one, may continue at the same level as it was when it became nonconforming in 1981. Council also has to decide how the property is to be designated, probably by a category in the Code rather than a particular use.

Commissioner Kafoury said Council could be setting an important precedent if the new category outlined by Ms. Spetter, of partial conforming use, is adopted.

Mayor Clark asked about the difference in categories and whether the business licensed between 1987 and 1991 was a continuation of a business already there but in a different category.

Ms. Spetter said the category expressly requested by the applicant includes reprographic copy businesses. She said the use was commercial but she does not know what the category would be because she believes Council does not have the facts to know what has been going on there.

Mayor Clark said perhaps this should go back to the Hearings Officer to establish the facts of the case. He said he is concerned with the level of activity and can not tell what category of business it is.

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Commissioner Kafoury said one way to avoid making that distinction is to deny the appeal and urge applicant to resubmit an application for a different kind of zoning use.

Commissioner Bogle asked if the applicant could reapply under a different category if the appeal was denied.

Commissioner Blumenauer said he tried to reconcile the information submitted about the business licenses and found that the license was for a different category, for a commercial rental, not for operation of the business. He said there are two concerns for Council: 1) making the appropriate decision under the Code and 2) having justice done. He said he thinks the nonconforming use has lapsed in this case and any other reading of the Code is nonsensical since it is not just the act of having a structure there, it is the use in the structure. He noted that City policy is one of phasing out and getting rid of nonconforming uses. He said it seemed clear to him that the business that had been there prior to 1981 was not conducted in recent years. For these reasons, he favors the original staff recommendation to deny the appeal and determine that the nonconforming use had expired.

Commissioner Blumenauer said he is also concerned about the interests of the property owner and recommended that Council direct an expedited review of a zone change on this property, with waiver of the fees. He said this might result in something that satisfies both the applicant and the Brooklyn neighborhood.

Commissioner Kafoury moved to deny the appeal and reject the Hearings Officer's recommendation. Commissioner Blumenauer seconded. Commissioner Kafoury said her biggest concern is not to establish a precedent that finds that the existence of a structure on a property over a period of time constitutes a business activity or authorizes continuance of a nonconforming use.

Ms. Spetter said a statement of Council findings is needed since Council has indicated that it disagrees with the Hearings Officer.

Commissioner Kafoury said Council believes the presence of a building on a property does not constitute a continuance of a nonconforming use.

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Commissioner Blumenauer said the evidence also shows that there was a suspension of the business activity.

Mayor Clark asked if the commercial rental business was a nonconforming use too, noting the business license issued for this use. He said he assumed it would still have that nonconforming status and asked if that could be denied.

Ms. Spetter said it was in a residential neighborhood so it would be nonconforming. She said it was not clear exactly what status Mr. Rhine has had for two years because there was a warehouse use for awhile.

Mayor Clark said he was using the license as a criteria. He said a commercial rental license was continuously there.

Commissioner Bogle said he understood that the business license allowed the appellant to be a landlord for a tenant there.

Ms. Spetter said initially it was for a business but she might be wrong.

Mayor Clark said there were two different licenses, one for the reprographics business which expired in 1987, and one for commercial rental for 1987-91.

Commissioner Kafoury said the appeal was based on continuous use of the printing business in effect during this time period. The question is not whether he had any business license.

Mayor Clark asked if the reprographics use was what was being denied. He said that is where the category designation arises and he does not know how to clarify that.

Commissioner Blumenauer said the Hearings Officer took an interpretational leap and attempted to reach a compromise. The motion before Council reconfirms Council policy that nonconforming uses are not desirable and should be gotten rid of, when appropriate. He said the other half of his proposal would expedite the process for the property owner but avoid a factual determination which appears to be contrary to the intent of a nonconforming use, which is to get rid of nonconforming uses if they are discontinued, not phase them out forever.

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The Clerk noted the motion to deny the appeal, reject the Hearings Officer's recommendation and find that the nonconforming use has lapsed. Findings would be heard in two weeks. Roll was called and the motion carried. (Y-4)

Commissioner Kafoury asked about the fee waiver and whether the Planning Bureau could do an expedited appeal if the applicant chooses to file one.

Mr. Hayakawa said Council may direct the Bureau of Planning to initiate a quasi-judicial review.

Bob Stacey, Planning Bureau Director, said the usual procedure in the past has been to initiate a plan amendment or zone change without prejudice. The practical effect is that the matter, if quasi-judicial, is referred to the Hearings Officer rather than the Planning Commission. He said he is not enthusiastic about waiving the fees.

Commissioner Blumenauer moved to expedite the zone change application and waive the fees. Commissioner Bogle seconded and the motion carried. (Y-4)

Commissioner Blumenauer asked for a language review of the Code so there is no question in the future about the nonconforming use policy.

Mr. Stacey said the next package of Code amendments scheduled for November or December concerns the whole nonconforming use chapter.

Disposition: Tentatively deny appeal, reject the Hearings Officer interpretation and find the nonconforming use lapsed. Prepare findings for October 14, 1992 at 2 p.m.

***1685 TIME CERTAIN: 2:00 PM** - Amend the Comprehensive Plan Map and change zone of property on the south side of SE Powell Boulevard, between SE 99th and 100th Avenues, from OS, Open Space, to EG2, General Employment (Ordinance; 92-00488 CP ZC AD)

Discussion: Mike Hayakawa, Planning Bureau staff, said this is a hearing as required by Title 33 on a Comprehensive Plan Map amendment and generally follows the format used for appeals for Type 11 processes, except that in these cases the applicant would go first since there is no appellant.

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Mr. Haykawa said this application for a Comprehensive Plan Map amendment and zone change from open space to an employment zone was requested by the Bureau of General Services in order to build a 40,000 square foot, two-story facility for 911 on 2.8 acres of Ed Benedict Park. It also includes a request for an adjustment to reduce some screening along the parking lot. A street vacation will be processed separately. He outlined the State land use criteria, noting that the Hearings Officer found that all criteria had been met for both a zone change and the requested adjustment. The Hearings Officer did find, however, that some open space will be lost and recommended a use-specific approval limited to this facility. Other conditions of approval include requiring master plans for Ed Benedict and Kelly Butte Parks.

Aron Faegre, Architect, 520 SW Yamhill, said they had gone to the two neighborhood associations five times to describe the plans and had received two votes of approval. He said he did not believe the neighborhood associations had taken a negative position on the facility. He said their goal was to make the Park as good as possible and that they had worked closely with the Park Bureau to develop the final design.

Pat Beyer, 10133 SE Knight, opposed the amendment. She said Ed Benedict would have wanted to keep this in green space and asked Council to reconsider placement of the facility at Eastport Plaza.

Al Clark, 3147 SE 129th, 97236, entered a petition into the record with 330 names in opposition to this use of Ed Benedict Park. He said Eastport is the place for 911, not Ed Benedict Park, and LUBA should find this seizure of park property illegal.

Richard Jacobsen, 4154 SE 103rd, supported the amendment. He said if this is not expedited, the park will be lost forever. He argued that placing 911 at Eastport Plaza would cost at least \$500,000 more.

Ken Brummer, 4409 SE 103rd, supported the amendment, stating that this would be beneficial for the Lents neighborhood.

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Mayor Clark said in 1985-86 this property was designated as surplus property by the State and would have been sold off but for the City's request that it be set aside for park use. However, no funds were available then or now to develop the park and if this use is not approved, the property will revert to the state or sit open and empty.

Disposition: Ordinance No. 165880. (Y-5)

At 2:52 p.m., Council recessed.

October 1, 1992

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 1ST DAY OF OCTOBER, 1992 AT 2:00 P.M.

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

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

- 1687** **TIME CERTAIN 2:00 P.M.** Appeal of Wilkes Community Group against certain conditions imposed by the Hearings Officer in approving the application of KMAC Corporation for an 11-lot subdivision in an R7 zone located at 1904 NE 155th Avenue (Previous Agenda 1603; 92-00288 SU)

Discussion: Commissioner Kafoury moved to continue this for two more weeks to see if an agreement could be reached with the neighborhood.

Alice Blatt, Chair, Wilkes Community Group, said they need extra time because of the recent and radical change in the plans presented to them. She said they would also like information on the offsite alternative.

Spencer Vail, representing Carlo Ottoboni, the developer, concurred and said they hoped to return with a mutual agreement.

Disposition: Continued to October 15, 1992 at 2 p.m.

REGULAR AGENDA

Commissioner Dick Bogle

- 1688** Liquor license application for Phillip G. Sanchez, Jr., dba El Charrito, 2400 SE 122nd Avenue, Restaurant liquor license (new outlet); favorable recommendation (Report)

Disposition: Favorably recommended. (Y-4)

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Liquor license application for CJ's Central, Inc., dba CJ's Central, 10 SW 3rd Avenue, Restaurant liquor license (new outlet); favorable with a letter of warning recommendation (Report)

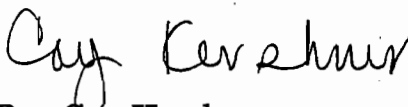
Discussion: John Werneken, License Bureau, said that the outlet at this location operated for many years with no record of problems, except for the immediately previous operator. When Mr. Sahli proposed to reopen the location, the Bureau was concerned that there not be a business emphasizing alcohol opening up again in this area, which is within the Burnside Impact Area. Mr. Sahli and his attorney have provided written assurances that the operator will emphasize entertainment and food, but not drinking, and the OLCC is proposing to place those assurances on the license as restrictions. He noted that the entertainment will be nude entertainment, which is not a liquor licensing issue because it is protected constitutionally. He said if the operation should change and problems materialize, the Bureau may have a different recommendation upon renewal.

Officer Chuck Bolliger, Portland Police, said he spoke to applicant's attorney about whether the practice of table dancing would occur among the dining tables. The attorney said yes. He said similar practices have been determined to foster prostitution and, if this were to occur, it would definitely affect the license at renewal time. He said, however, that no criminal activities have been found at the licensee's other establishments.

Disposition: Favorably recommended with letter of warning. (Y-4)

At 2:15 p.m., Council adjourned.

BARBARA CLARK
Auditor of the City of Portland


By Cay Kershner
Clerk of the Council