



CITY OF  
**PORTLAND, OREGON**  
OFFICE OF CITY AUDITOR

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A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 7TH DAY OF OCTOBER, 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.

On a Y-5 roll call, the Consent Agenda was adopted as follows:

**CONSENT AGENDA - NO DISCUSSION**

**1690** Cash investment balances for August 27, 1992 through September 23, 1992 (Report; Treasurer)

**Disposition:** Placed on File.

**1691** Accept bid of Simon Ladder Towers, Inc., for furnishing one 100' rear-mounted ladder truck for \$377,825 (Purchasing Report - Bid 28)

**Disposition:** Accepted; prepare contract.

**1692** Vacate a certain portion of NE Wasco Street west of NE 92nd Avenue, under certain conditions (Ordinance by Order of the Council; C-9801)

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

**Mayor J. E. Bud Clark**

**\*1693** Authorize purchase of property located at 4838 SE Tenino Court (Ordinance)

**Disposition:** Ordinance No. 165881. (Y-5)

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- \*1694** Authorize Tri-met to make and enforce transit shelter ordinance and regulations on City sidewalks (Ordinance; amend Code Chapter 14.20)

**Disposition:** Ordinance No. 165882. (Y-5)

**Commissioner Earl Blumenauer**

- 1695** Transmit Change Orders 5 and 9 through 12, for additional work performed by Eagle-Elsner, Inc., for the improvement of SW Terwilliger Boulevard from SW Homestead Drive to SW Sam Jackson Park Road (Report; Contract No. 28024)

**Disposition:** Adopted.

- \*1696** Agreement for cooperative assistance in public works during emergency conditions with the Oregon State Highway Division (Ordinance)

**Disposition:** Ordinance No. 165883. (Y-5)

- \*1697** Authorize agreement with Orvaley Johnson-Farris for the conveyance of property to the Bureau of Environmental Services, subject to certain conditions, and authorize acceptance of deed and payment of expenses (Ordinance)

**Disposition:** Ordinance No. 165884. (Y-5)

- \*1698** Release the City's interest in a certain sewer easement located in private property adjacent to NE Argyle Street, east of NE 21st Avenue, to Western Boxed Meats Distributors, Inc. (Ordinance)

**Disposition:** Ordinance No. 165885. (Y-5)

**Commissioner Dick Bogle**

- \*1999** Intergovernmental Agreement with Tualatin Valley Fire and Rescue for mutual response in Fire Suppression (Ordinance)

**Disposition:** Ordinance No. 165886. (Y-5)

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**Commissioner Gretchen Kafoury**

**\*1700** Accept a grant from the State Historic Preservation Office for \$50,530 to support funding of the Portland Historic Resources Inventory Update (Ordinance)

**Disposition:** Ordinance No. 165887. (Y-5)

**\*1701** Amend contract with the YWCA of Portland to increase the amount by \$11,425 and provide for payment (Ordinance; amend Contract No. 28074)

**Disposition:** Ordinance No. 165888. (Y-5)

**Commissioner Mike Lindberg**

**\*1702** Award a right-of-way easement with conditions to Guy and Godelieve Priano for a driveway across the Springwater Corridor (Ordinance)

**Disposition:** Ordinance No. 165889. (Y-5)

**\*1703** Contract with Mallory Avenue Christian Church to use the church for recreation programs (Ordinance)

**Disposition:** Ordinance No. 165890. (Y-5)

**\*1704** Call for bids for the renovation of the Westmoreland Park restrooms, authorize a contract and provide for payment (Ordinance)

**Disposition:** Ordinance No. 165891. (Y-5)

**City Auditor Barbara Clark**

**\*1705** Reduce sidewalk assessment for 9014 N Kimball Avenue (Ordinance; amend Ordinance No. 164067)

**Disposition:** Ordinance No. 165892. (Y-5)

**\*1706** Reduce sewer assessment (Ordinance; amend Ordinance No. 164285)

**Disposition:** Ordinance No. 165893. (Y-5)

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**Disposition:** Ordinance No. 165893. (Y-5)

- \*1707** Amend contract with Coopers and Lybrand, CPA's, to increase the compensation by \$10,000 for financial audit services for FY 1991-92 (Ordinance; amend Contract No. 28065)

**Disposition:** Ordinance No. 165894. (Y-5)

### **REGULAR AGENDA**

Commissioner Bogle moved to Suspend the Rules to consider a resolution in support of the disabled. Commissioner Kafoury seconded and the motion carried. (Y-5).

- 1707-1** Support training, education and employment of people with disabilities (Resolution)

**Discussion:** Dr. Warren W. Pechman, Vice Chair, Information Access Center for the Disabled Association, read a resolution encouraging the employment of persons with disabilities and support for organizations which help the disabled.

Judith Ramaley, President of Portland State University, described a grant that will allow the University to create an Information Access Center and add an important resource to the disabled. A companion piece is a joint project for a demonstration laboratory in the School of Business to prepare disabled persons for jobs in the information area.

Catherine Novy, First Interstate Bank, said the information and expertise that the Information Center can provide will encourage the hiring of the disabled.

Dr. Tom Finkstein, Director of the Millar Library at Portland State University, said the electronic connection between librarians, advanced computer technology and the ADA have all helped the disabled gain access to basic information.

**Disposition:** Resolution No. 35053. (Y-5)

- 1708** Accept bid of Digital Equipment Corporation for DEC Host computer maintenance for \$127,752 (Previous Agenda 1642)

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**Disposition:** Accepted; prepare contract.

**Commissioner Earl Blumenauer**

- \*1709** Accept a grant from the Traffic Safety Division, Oregon Department of Transportation, to promote traffic safety education (Ordinance)

**Disposition:** Ordinance No. 165895. (Y-5)

**Commissioner Mike Lindberg**

- \*1710** Authorize a contract with Multnomah County Community Action Agency for \$10,000 to help leverage landlord investments (Ordinance)

**Disposition:** Ordinance No. 165896. (Y-5)

- \*1711** Authorize contract with Byron Woods Enterprises, Inc., for concession services at Heron Lakes Golf Course (Ordinance)

**Discussion:** Commissioner Lindberg said the current contract expires on October 31st and a citizens group was formed to review proposals and make a recommendation about awarding the new contract.

Harry Auerbach, Deputy City Attorney, said the review committee found that all four bidders were able to perform the contract. After interviews with the proposers, each committee member evaluated each proposal on the basis of the weighted criteria outlined in the specifications. Now one unsuccessful proposer (Double Eagle) is challenging the award of this bid and has filed a law suit against the City. Mr. Auerbach said he believes the challenge is without basis in fact and that Council should not be intimidated by the presence of the law suit.

Mr. Auerbach said five criteria were set out in the RFP. The committee concluded that all the bidders met the financial ability criterion equally but that Byron Woods had the edge in the affirmative action and service areas and that this outweighed any financial gain the City would achieve if the contract was awarded to Double Eagle.

Mayor Clark asked if waiting a week would hinder the City.

Mr. Auerbach said it is important a contract be in place on October 31.

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He said if the contract is awarded to Byron Woods there would be no disruption in service. He said Double Eagle's attorney informed him that he would decide later in the week whether to go into federal court. If Council acts now, the Court could decide on whether or not to enjoin the contract.

Paul Linnman, Chair of the Selection Advisory Committee, said the committee believes the concessionaire selected by the City is the correct one. He said Byron Woods has exhibited a strong commitment to public service and affirmative action and has received the support of golfers as well. Mr. Linnman reviewed the process the committee used to reach its decision, noting that the decision was unanimous and reached independently of staff input.

Mayor Clark said he heard there was a \$74,000 difference in the contracts.

Mr. Linnman said there is some question as to whether Double Eagle's numbers were realistic. He said the top priority is not making a lot of money but operating a good municipal golf program.

Commissioner Lindberg said he understood that if Byron Woods was awarded this contract, he would not bid on Rose City, which he currently operates, when that contract expires.

Mr. Auerbach said the Parks Director is considering implementing a policy that no concessionaire operate more than one golf course. However, this was not a requirement for this contract. Byron Woods has informed the City that if it is awarded this contract it wants to terminate the Rose City one. He said they are in the process of putting an RFP together for that golf course.

Commissioner Blumenauer said the revenue projection is based on a higher minimum.

Mr. Auerbach said Byron Woods is willing to take a lower minimum on green fees.

Commissioner Blumenauer asked if these projections were conjecture.

Mr. Auerbach said it is hard to say what the income will be.

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Commissioner Blumenauer said the committee's decision seems reasonable. He said he is concerned that this came to Council as an emergency ordinance and would hope that future ones would not have such time pressures.

Commissioner Lindberg said the committee's emphasis on service convinced him to support this proposal. He said this strikes a balance between maximizing profit and providing excellent service.

Mayor Clark said he did not think a delay would be to anyone's advantage at this point. He said he hoped the rules would stay the same in the future.

**Disposition:** Ordinance No. 165897. (Y-5)

**\*1712** Authorize grants for performance and /or public services that promote the arts and provide for payment (Ordinance)

**Disposition:** Ordinance No. 165898. (Y-5)

**City Auditor Barbara Clark**

**1713** Assess property for sewer system development charges through June, 1992 (Second Reading Agenda 1683)

**Disposition:** Ordinance No. 165899. (Y-5)

At 10:25 a.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 7TH DAY OF OCTOBER, 1992 AT 2:00 P.M.

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

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

**1714** **TIME CERTAIN: 2:00 PM** - Consider the LUBA remand on appeal of John A. Gilson against the City of Portland and GAPO, Inc., (Darian, Inc.) regarding Christina View, a 43-unit PUD on SW Viewpoint Terrace (Hearing; CU 82-90/S 42-90)

**Disposition:** Tom Bizeau, Planning Bureau staff, said this application for a 43-unit development was approved by the Hearings Officer with conditions but then appealed to Council. Council requested that the Design Commission review it for compatibility and the recommendations subsequently forwarded by the Commission were then incorporated into Council's final decision. This decision was appealed to LUBA and remanded back on the basis that the City needed to review compliance with the applicable height and story standards in the R5 zone under the old Code, which was in effect at the time of the application, rather than under the new Code. Other issues relating to geologic stability and compatibility were discussed in the LUBA brief but were not reasons for the remand.

Mr. Bizeau noted that in reviewing the old Code, the applicant found that the site plan could have been approved without height variances for some of the units as the Code allowed for Case I buildings within 0 to 5 feet of the front lot line to have their height measured from the grade of the street in front of the lot line rather than averaging height as is done for Case 2 buildings.

Mr. Bizeau said the case was also remanded on the basis of "story", depending on whether it is a cellar (below grade) or for living purposes. Applicant originally asked for variances for the stories but has since found that, under the old Code, lots sloping downhill from the street with an average slope of 25 percent or more are allowed to have another story. Using this standard, the builder is allowed to have 3.5 stories,



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which he has planned for the downhill units. Upper units would still be 2.5 stories but would still be relatively high because one of those stories is considered to be a cellar.

Richard Whitman, attorney for the applicant, Darien, Inc., noted that there had been six Council hearings prior to its approval. LUBA remanded it on one issue alone, the height issue, although there was a lot of confusion because of changes in the project design from the original proposal as well as the added conditions. He said units which originally required a variance no longer require them because of the recommended conditions imposed by Council which lowered their elevations. The variances have thus been withdrawn.

Mr. Whitman said the uphill units meet the height requirements and corrected a statement in the report stating that the exhibits do not show compliance. He said they demonstrate compliance with height standards for both Case I and 2 buildings.

Commissioner Bogle asked if the testimony had to be limited to the height issue.

Commissioner Kafoury said she understood there was no restriction about what information could be presented.

Ms. Spetter said since the applicants themselves have raised issues of geology and compatibility, those would also be available for discussion as well as compliance with the height and story limitation.

Jeanne Galick, President, Corbett Terwilliger Lair Hill Neighborhood Association, entered comments from Attorney Ed Sullivan into the record. She said this was taken to LUBA on four issues. It was remanded on one issue only, the height limitation, with LUBA deciding not to rule on the other three issues.

Ms. Spetter said having made a decision about the height limitation, which may not be factually accurate, LUBA decided not to decide the other issues. She said the staff report deals with all the issues and finds that the applicant is in compliance with all of them. If Council agrees, it would approve the application based on that staff report, with findings to follow.

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Ms. Galick expressed strong opposition to the project which the neighborhood believes is not compatible in terms of scale, design and liveability. She said the view of the units will be unattractive and can not be camouflaged. She quoted Mike Houck of the Audubon Society who called for preservation of the site to protect the natural corridor. She asked Council to reject this project until a more compatible design is proposed.

Larry Beck, 3307 SW Corbett, 97201, said the neighbors are not opposed to development as such but want something that is reasonable in scope and scale. He contended that too many trees which could act as a buffer and screen the development will also be eliminated.

Others testifying in opposition to the project included:

Stephen Leflar, 0223 SW Gibbs, 97201

Larry Cavendar, 5621 SW Corbett, 97201

John Paape, 5711 SW Corbett, 97201

Gary McKay, 3419 SW 1st, 97201

Larry Lindstrom, 6227 SW Kelly Ave., 97201

Jeffrey Lang, SW Fulton Park Boulevard and owner of Gales Creek Insurance Co.

Opponents, in addition to the design compatibility issue, voiced concern with the stability of the site, the loss of open space and the accumulation of ground water.

Mr. Whitman said neighbors seem primarily concerned about the height of the project. He said the height of eight of the units had been lowered one story and this change, plus additional landscaping and an increase in setbacks, will make the project essentially invisible from single family homes. He said the impact will be much less than the original design and there should be no negative impact on property values for the houses below. He said with landscaping, they believe the understructure of the buildings will not be seen.

Mr. Whitman said there are already nine townhouse projects within a two block radius of this project, arguing that the area is no longer a pristine single family residential area. Because of the extensive engineering required for the uphill units, this project will actually improve the stability of the hillside and remove excessive storm water coming off I-5.

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Commissioner Kafoury asked about the developer's relationship with the neighborhood association and individuals.

Mr. Whitman said he believed there had been four meetings with the neighborhood before the application submitted. No formal meeting has been held since the remand. He said this is basically the same project, not a change from the one heard before by Council.

In rebuttal, Ms. Galick said neighbors have had a long negative history with Darian, which was responsible for one of the worst projects in the area, with no landscaping. She said the neighborhood has worked very hard with other developers of rowhouses to make them more compatible and has a good track record. She said there are no guarantees that there will be continued landscaping on this project once it is completed. She also disputed the argument that storm water from the freeway will be caught, contending that water from underground streams is what is causing the problem. She said the neighbors are willing to work with the architects to design a more suitable project.

Mayor Clark said if the developer has not lived up to the conditions, this is an enforcement issue.

Commissioner Kafoury said this probably was not a requirement for approval but it does raise the issue of the City's capacity to enforce conditions.

Ms. Galick said based on the developer's previous track record, they do not believe he will live up to his promises.

Commissioner Bogle asked Commissioner Kafoury about the follow up on the conditions it requires for developments.

Commissioner Kafoury said for a lot of developments preservation was not a condition of approval. She said the City does not have the capacity to go after developers when trees are cut down.

Mr. Bizeau said if vegetation plans are adopted some enforcement abilities are present now.

Commissioner Lindberg asked if there had been any revisions in the plan since it was remanded from LUBA.

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Mr. Bizeau said yes.

Mayor Clark noted that LUBA directed the City to apply the old Code requirements.

Ms. Spetter said a tentative decision needs to be made and findings brought back to Council.

Mayor Clark said this is a much more tasteful project with the redesign of the unit heights and the plantings should help too.

Commissioner Bogle moved to tentatively approve the proposal based on the staff report. Commissioner Blumenauer seconded.

Commissioner Kafoury asked if any additional conditions could be put in the findings.

Ms. Spetter said yes.

Commissioner Blumenauer said the changes Council made based on the Design Commission recommendations made sense in terms of height limitation, landscaping, tree preservation, etc. and he does not believe any devaluation of property values will occur. He said this is a case where the City needs to work with the neighborhood regarding land use, adding that it is unfortunate that the developer did not take better advantage of the neighborhood resource. He said despite the swamp the issue of compatibility raises, he does not believe Council has a basis for changing its prior recommendation.

Commissioner Kafoury asked if Council could require the neighborhood and developer to negotiate.

Commissioner Bogle said he thought this one was too far along in the process for that.

Mr. Bizeau said there have been instances where the developer has tried to resolve the issues but it is not a normal occurrence.

Mayor Clark said in general he likes the approach taken by the developer since the project went to LUBA.

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Commissioner Kafoury said there is no reason for a year's worth of litigation going on with no contact between the neighborhood and the developer.

Commissioner Bogle said one has to begin with that approach from the very beginning and at this point in the proceedings it is hard to change.

Commissioner Lindberg said he agrees with Commissioner Blumenauer that nothing had changed since this came before Council before. At that time, he voted against the project because of incompatibility of scale and will still vote no on the motion. He said he agrees with Commissioner Kafoury about collaborative efforts in the future.

Mayor Clark said he believed this developer had gone many miles ahead and this is much better.

Commissioner Kafoury said she does not think the City will ever define compatibility to everyone's satisfaction but she does believe rules of procedure could be added to require people to work with the neighborhoods.

Commissioner Lindberg said he would like to see Commissioner Kafoury's goals achieved.

Commissioner Blumenauer said Council should give some clear direction about compatibility. He said he will forward his thoughts and might even consider a shirt sleeve session to flesh out the concept and given some direction to neighbors and developers.

**Disposition:** Tentatively approve proposal (Y-4, N-1, Lindberg); prepare findings for October 21, 1992 at 2 p.m.

At 3:35 p.m., Council recessed.

**October 8, 1992**

**A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 8TH DAY OF OCTOBER, 1992 AT 2:00 P.M.**

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

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

**1715 TIME CERTAIN: 2:00 PM - Amend the Comprehensive Plan Map and change the zone of property on the north side of the N Marine Drive and N Vancouver Way intersection, east of the I-5 Freeway interchange, from IG2h, Industrial to CGh, Commercial (Second Reading Agenda 1636)**

**Discussion:** Tom Dixon, Planning Bureau staff, noted that the Hearings Officer had recommended approval of this amendment subject to conditions relating to transportation. The staff position, supported by the Office of Transportation, was for denial. He said the Bureau of Traffic Management has provided additional information to Council on the transportation issues as did various other parties.

Commissioner Kafoury said all that was being presented today was the Transportation report.

Laurel Wentworth, Department of Transportation, said they tried to go back through the information presented and review the policy and technical issues. She cited Transportation's goal to preserve industrial sites in the Columbia Corridor and provide an industrial transportation pathway in this area. She said as commercial development occurs here it detracts from this purpose. She also noted the data regarding trips generated from the proposed development of this site and the difference relating to industrial and commercial use.

Commissioner Kafoury moved to tentatively deny the Hearings Officer's decision and find that the zone change is not appropriate.

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Commissioner Lindberg seconded.

Commissioner Blumenauer, acknowledging that this site is an island of industrial in a sea of commercial, said it was probably not zoned appropriately 20 years ago. He noted the major changes that will be proposed for this area as part of the Albina Plan. He said rezoning this to retail is contrary to policies the City has been developing and expressed concern for its potential impact on Marine Drive. Since this is an area where Transportation has fought very hard to add truck capacity, he believes the original staff recommendation is sound and is not inclined to support this amendment.

Commissioner Bogle said he was inclined to agree with the Hearings Officer as otherwise Council would be supporting spot zoning. He said he thought it was poor policy to base a decision on the Albina Plan which is yet to become a reality.

Commissioner Lindberg said he supports the Bureaus of Planning and Transportation recommendations.

Commissioner Kafoury said she was not basing her decision on what might happen in the future but believes that to make a major decision to change the Comprehensive Plan rather than looking at it in the context of the Albina Plan is not a good idea.

Commissioner Blumenauer said his decision is based on the issue of transportation capacity and impacts.

Commissioner Lindberg said it is never easy to turn down opportunities to create jobs but he believes he needs to support the staff recommendation based on transportation capacity.

Mayor Clark said a plan is very badly needed for this area because of the seemingly irrational zoning mix, adding that it does not make sense to have this industrial pocket surrounded by commercial. However, because Council has to deal with things as they are now and not what it wants to happen in the future, he would vote no on Commissioner Kafoury's motion.

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**Disposition:** Tentatively deny Hearings Officer's recommendation and deny the request for a zoning change. (Y-3; N-2, Bogle and Clark)  
Findings scheduled for October 22, 1992 at 2:00 p.m.

At 2:20 p.m., Council adjourned.

**BARBARA CLARK**  
Auditor of the City of Portland

*Cay Kershner*  
By Cay Kershner  
Clerk of the Council