



CITY OF

# PORTLAND, OREGON

OFFICIAL  
MINUTES

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF  
PORTLAND, OREGON WAS HELD THIS 28TH 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; Harry  
Auerbach, Deputy City Attorney; and Officer Sheridan Grippen, Sergeant  
at Arms.

Roberto Berry, President, Guadalajara Sister Cities Association, recognized  
the efforts of Commissioner Lindberg, Parks Director Charles Jordan and  
Police Chief Tom Potter in helping them hold the Cinco de Mayo  
celebration. He also recognized Commissioner Blumenauer for helping to  
put together an environmental team to travel to Guadalajara to help in the  
aftermath of the explosion there. Finally, he recognized Mayor Clark for  
his many years of support for the Sister Cities program.

**1800 TIME CERTAIN: 9:30 AM** - Community Policing Awards (Ceremony;  
introduced by Commissioner Kafoury)

**Discussion:** Commissioner Kafoury said ONA, in conjunction with the  
Neighborhood Associations themselves, makes these awards to officers who  
have made community policing work in this City.

Sharon McCormack, Neighborhood Crime Prevention Program, announced  
the award recipients.

Sgts. Rosanne Sizer and Stephen Smith, Downtown Crime Prevention  
Program and Old Town/China Town NA

Officers Cheryl McGinley and Jonathon Cox, Central Northeast Neighbors

Officer Michele Lish, East Portland District Coalition

Officer Larry Anderson and David Barrios, Northeast Coalition of  
Neighbors

Mitch Copp, North Portland Neighborhood Office

Officer Doug Kosloske and Sgt. Bob Bazter, Neighbors  
West/Northwest

Commander Roberta Weber and Officer Mark DeLong, Southeast Uplift

**October 28, 1992**

Sergeant Michael Barkley, Southwest Neighborhood Information Crime Prevention Committee  
Operation Target Program team members in North Precinct

Chief Potter acknowledged the fine work of the Police Bureaus in solving problems with members the community.

**Disposition:** Placed on File.

Agenda No. 1821 was pulled from Consent. On a Y-5 roll call, the balance of the Consent Agenda was adopted as follows:

**CONSENT AGENDA - NO DISCUSSION**

- 1804** Accept bid for Brundage Construction Co., for NE 13th Avenue CSO Sump Project No. 3 for \$464, 927 (Purchasing Report - Bid 34)

**Disposition:** Accepted; prepare contract.

**Mayor J. E. Bud Clark**

- 1805** Confirm appointment of Joseph Poracsky to the Urban Forestry Commission (Report)

**Disposition:** Confirmed.

- 1806** Confirm appointment of Donna J. Hammond and Fred J. Vogel to the Electrical Code Board of Appeal (Report)

**Disposition:** Confirmed.

- 1807** Confirm reappointment of Patrick Kelly and Michael Feves to the Building Code Board of Appeals (Report)

**Disposition:** Confirmed.

- 1808** Confirm reappointment of Joel L. Burt to the Noise Review Board (Report)

**Disposition:** Confirmed.

- 1809** Recommend approval of Oregon Business Development Loan Fund for Boydston Metal Works, Inc., for \$40,000 (Resolution)

**Disposition:** Resolution No. 35066. (Y-5)

**October 28, 1992**

- 1810** Authorize the Director of Finance and Administration to circulate a request for proposals to provide interim financing (Resolution)

**Disposition:** Resolution No. 35067. (Y-5)

- 1811** Amend Code to reflect changes to collection of money due the City (Ordinance; amend Code Section 5.48.040)

**Disposition:** Passed to Second Reading November 4, 1992 at 2:00 p.m.

- \*1812** Contract with Streimer Sheet Metal Works, Inc., for HVAC Improvements at BOEC facility at Kelly Butte and provide for payment (Ordinance)

**Disposition:** Ordinance No. 165935. (Y-5)

- \*1813** Agreement with Metro not to exceed \$5,682 for enhanced police services for the summer zoo concerts (Ordinance)

**Disposition:** Ordinance No. 165936. (Y-5)

- \*1814** Agreement with Cain & Associates for \$60,000 to provide personnel and training services to the Police Bureau (Ordinance)

**Disposition:** Ordinance No. 165937. (Y-5)

- \*1815** Authorize contract with Citibank (South Dakota), N.A. for corporate credit card services (Ordinance)

**Disposition:** Ordinance No. 165938. (Y-5)

**Commissioner Earl Blumenauer**

- 1816** Set hearing date, 9:30 a.m., Wednesday, December 2, 1992, to vacate a portion of NW Marshall Street lying between NW 26th Avenue and NW Cornell Road (Report; C-9807)

**Disposition:** Adopted.

- 1817** Initiate a comprehensive plan map amendment and a zoning map amendment from R1 to CM for the property at 4031 and 4033 SE Milwaukie Avenue for one year (Resolution)

**Disposition:** Resolution No. 35068. (Y-5)

**October 28, 1992**

- \*1818** Call for bids for five sea fenders for the Bureau of Maintenance (Ordinance)

**Disposition:** Ordinance No. 165939. (Y-5)

- \*1819** Call for bids for the Columbia Boulevard Wastewater Treatment Plant aeration blower installation, authorize a contract and payment (Ordinance)

**Disposition:** Ordinance No. 165940. (Y-5)

**Commissioner Gretchen Kafoury**

- \*1820** Amend contract with Salvation Army to increase the amount of compensation by \$11,425 and provide for payment (Ordinance; amend Contract No. 28138)

**Disposition:** Ordinance No. 165941. (Y-5)

**Commissioner Mike Lindberg**

- 1822** Direct reappointment of five members to the Water Quality Advisory Committee (Resolution)

**Disposition:** Resolution No. 35069. (Y-5)

- \*1823** Extend the option period for the City's acquisition of 1.114 acres known as Lotus Park at Hayden Island (Ordinance)

**Disposition:** Ordinance No. 165942. (Y-5)

- \*1824** Amend current engineering services contract with Cornforth Consultants, Inc., to increase work scope, fees (\$16,000) and contract expiration date (Ordinance; amend Contract No. 28066)

**Disposition:** Ordinance No. 165943. (Y-5)

- \*1825** Contract with 15 arts organizations at a total cost of \$591,673 to provide public performance and/or public services to promote the arts and provide for payment (Ordinance)

**Disposition:** Ordinance No. 165944. (Y-5)

**October 28, 1992**

**REGULAR AGENDA**

- 1821** Accept contract with Koll Construction for construction of indoor pool at Matt Dishman Community Center as complete, authorize final payment and release of retainage (Report; Contract No. 27272)

**Discussion:** Darnell Holefield, Holefield Construction, complained about lack of payment for his subcontracting work with Koll Construction Co.

Jim Figurski, Project Manager for Matt Dishman project, said it appears that there were a series of misunderstandings about incomplete paper work. He said it does not have any impact on this report.

Commissioner Lindberg said this is a dispute between the Contractor and the subcontractor, adding that the City has performance bonds that guarantee that all subcontractors will be paid prior to final payment to the contractor.

Council decided to continue this item to the afternoon session to allow the parties time to talk to the contractor.

**Disposition:** Continued to 2 p.m. October 28, 1992

- 1801 TIME CERTAIN: 10:00 AM** - Dedicate new resources from increase in assessed value growth to the Police Bureau to fulfill the City Council's commitment to implementing Community Policing (Previous Agenda 1795)

**Discussion:** Commissioner Blumenauer said the City should dedicate all the new fiscal resources to the hiring of 57 Police officers to reflect its prior commitment to community policing. He said the Council has built up the reserves in excess of 20 million dollars. He noted that the Office of Finance and Administration has flagged certain items of financial uncertainty, such as the Blazer deal and tax increment financing, but said that these are not now, and should not be, part of the General Fund. He said the focus should be on public safety, which is what Council has repeatedly stated is its first priority.

Mayor Clark, while noting his commitment to community policing, said he believes that it is best to hold off from a commitment to full police hiring at this time because of uncertainty about debt obligations, state shared resources, ADA requirements and other financial needs.

**October 28, 1992**

Individuals speaking in support of Commissioner Blumenauer's proposal to commit the additional funds to Police hiring included:

Roger Morse, Portland Police Association  
Ronald Latang Sajang Catalani, Counsel for Vietnamese Association  
Confederation  
Oskar Hess, Ditch Masters Plumbing  
Avel Gordley, member of The Chief's Forum and State Representative  
Bette Howard, Woodstock Neighborhood Association  
Clarice White, 7400 N. Willamette Blvd.  
Betsy Radigan, 37 NE Morgan  
Harry Braunstein, 7610 SE Foster Rd.  
John Campbell, Sabin neighborhood  
Helen Stoll, 3830 NE Hancock 97212  
Sande Nelson, President, East Precinct Advisory Council  
Dee Dee Kouns, 6908 SW 37th, President of Crime Victims United  
Bob Kouns, 6908 SW 37th  
Patrick Donaldson, Citizens Crime Commission, 221 NW 2nd  
Bill McCormick, 720 SW Washington  
Richard Brown, 10 NE Ainsworth 97211  
Marie Brown, 3323 SE 71st 97216  
Charlie Hales, 2946 NE Glisan, 97232  
Judy Low, 2014 NW Glisan, No. 308 97209

Supporters said police levels still remain dangerously low and the commitment to community policing places even more pressures on Police to respond to crime reports. The necessity of adding more street-level and neighborhood patrols as well as assigning more staff to investigate burglaries and other crimes was emphasized. Because of inadequate resources, supporters said, the stress on Police has never been higher and the City must deliver on the promise it made last year to increase hiring and ensure the success of community policing.

Individuals speaking in support of Mayor Clark's resolution included:

Margaret Strachan, 1108 NE Going  
Ronald Gold, 4926 SW Corbett  
Charles Duffy, 1529 NW 29th, 97210

Supporters of the Mayor's resolution said prudent fiscal decision making requires that citizens know what programs they are trading for community policing. They suggested waiting to consider this during the next budget process.

**October 28, 1992**

Mr. Gold questioned the methodology used by the Crime Commission to arrive at the number of police it says are needed and Mr. Duffy criticized Commissioner Blumenauer for manipulating this issue for political purposes.

Steve Bauer, Director of Office of Finance and Administration, outlined some of the City's most pressing financial needs. He said they know without a doubt that there will be a problem funding 90 million dollars worth of tax increment debt and, in addition, there will be no money to continue current PDC programs. They also face additional costs connected with the Blazer arena.

Mr. Bauer described the impact on the budget if 57 officers are hired and the gap that will result. He said if just 20 officers are hired now, by 1995 there will be a significant problem in balancing the budget. He said his office is currently working with PDC to explore funding options but, until some of the solutions are known, he asked that Council refrain from a permanent commitment to Police hiring.

Commissioner Kafoury said it looked like there would be only a very small gap through the end of 1993-94 if 20 police officers were hired now.

Mr. Bauer said there had been some question about whether the budget included prefunding for retirement.

She said it looked like there should be no problem for at least 18 months.

Mr. Bauer said the potential gap is 12 million dollars or 9 million if there is no continuance of PDC programs.

Commissioner Lindberg asked about the PDC options report regarding tax increment financing.

Mr. Bauer said it would be ready in several weeks but that it is a very complicated issue with no easy solutions.

Commissioner Kafoury asked Charlie McKinney how quickly 57 officer could be placed on the streets.

Charlie McKinney said there were 30 on the list ready to be hired.

Commissioner Bogle asked about youth and family services program.,

**October 28, 1992**

Police Chief Tom Potter said three positions were budgeted for this program this year. He said this is their highest priority and would like to get it up and going as soon as possible.

Commissioner Bogle asked how long it would take to get 20 new hires on the streets.

Chief Potter said 1-1/2 years of training are needed to put new hires on the street but other officers can be placed in the program earlier.

Commissioner Blumenauer asked how the trainees are used when they are not at the academy.

Potter said they are the second person in Police cars. He said that other than the 15 weeks of academy training, trainees are used on the streets.

Commissioner Kafoury asked for a briefing on the transfer of some current Police responsibilities to non-sworn officers and the civilianizing of some positions.

Captain Potter said in they are in the process of looking at several areas in the Bureau to see what can be done.

Commissioner Blumenauer said he is absolutely committed to finding solutions to the problems identified by Mr. Bauer but believes they should be dealt with separately and should not replace the commitment to public safety. He said if the Blazer deal requires additional millions that displace public safety, he will have tough time supporting it. He said the question is one of commitment to public safety and follow through. As a compromise he proposed authorizing the hiring of the 19 officers on the current list, which there is money for, and making a tentative commitment that the balance of the new resources go toward hiring the additional 57. Then in two weeks Council could return to finish the job of hiring the remaining 38 officers.

Mayor Clark said when that commitment was made Council did not have the decision about tax increment financing or information about the seismic improvements required for the Coliseum.

Commissioner Kafoury said the 19 officers now on the list should be hired but she did not think Council had to make long term decisions today.

Commissioner Blumenauer moved to amend the resolution to allocate funds now to the Police Bureau to hire 19 new officers and resolve that the



**October 28, 1992**

Bureau include in their FY93-94 budget an add package that funds positions for 38 new officers.

Commissioner Kafoury noted that the resolution also calls for dedicating \$2.9 million to the hiring of 57 police officers.

Commissioner Blumenauer said he would agree to delete that and just state that 19 would be hired now with the add package as part of the budget for the next fiscal year.

Commissioner Kafoury said she did not want to fund the retirement system. She said no one on Council is comfortable committing all \$2.9 million just to the Police.

Commissioner Blumenauer repeated his proposed amendment and Commissioner Kafoury seconded.

Commissioner Lindberg said the City has a legal obligation to pay \$9.0 million a year in debt service for 40 years. He said OFA projections show that, if 57 Police hires are added now, the City could have a \$3.7 million shortfall next year and over \$15 million the next. He said this would have an incredible impact and involve drastic cuts. He said he preferred to look at the tradeoffs during the regular budget process.

Mayor Clark said he can support the resolution redesigned by Commissioners Blumenauer and Kafoury. He said he wants to hire more Police but also wants fiscal stability.

Commissioner Bogle said that he could support the resolution as amended.

**Disposition:** Resolution No. 35070 as amended. (Y-5)

- 1802** Resources from increase in assessed value growth for the Police Bureau to fulfill the City Council's commitment to implementing Community Policing, to be appropriated for that purpose when it is clear that the additional positions can be sustained at least through the next two fiscal years and other Council obligations can be met (Resolution introduced by Mayor Clark)

**Disposition:** Tabled.

**October 28, 1992**

- \*1803** Adjust FY 1992-93 Budget for Fourth Quarter changes (Ordinance introduced by Mayor Clark))

**Disposition:** Ordinance No. 165945. (Y-5)

**REGULAR AGENDA**

**Mayor J. E. Bud Clark**

- \*1826** Authorize Mayor and Auditor to execute a labor agreement between the City of Portland and the District Council of Trade Unions (DCTU) relating to terms and conditions of employment of represented personnel (Ordinance)

**Disposition:** Ordinance No. 165946. (Y-4; Blumenauer absent)

**Commissioner Dick Bogle**

- 1827** Delete Chapter 16.48 from Title 16 and add Chapter 16.40, Taxicab Regulations (Second Reading Agenda 1785)

**Discussion:** Commissioner Bogle said this changes the Code by establishing a Taxicab Board of Review, increasing the Taxi Supervisor from half to full time and increasing fees only to fund a full time supervisor. He noted that fees have not been increased for over 20 years even though the cab industry has been granted three major rate increases since 1979. He described the long hearings process that had been held on these changes, beginning in November, beginning in November, 1991 when TRAX took over Broadway Cab and Council directed the License Bureau to report on the state of the cab industry. He said industry representatives have had ample opportunities, including two public hearings, to provide input and objections filed now by members of the industry are merely a last minute attempt to torpedo the Code changes which were arrived at in a fair and open process.

**Disposition:** Ordinance No. 165947. (Y-4; Blumenauer absent)

**Commissioner Mike Lindberg**

- \*1828** Lease a small portion of the Auditorium Parking structure in downtown Portland from Mark Group No. 5 for the operation of public restroom facilities (Ordinance)

**Disposition:** Ordinance No. 165948. (Y-5)

**October 28, 1992**

**City Auditor Barbara Clark**

- 1829** Approve August sidewalk maintenance bills for assessment (Hearing on Report)

**Disposition:** Approved.

- 1830** Assess property for sewer system development charges through August, 1992 (Hearing; Ordinance; Z0201 through Z0210)

**Disposition:** Passed to Second Reading November 4, 1992 at 9:30 a.m.

- \*1831** Release retainage to the contractors for the Adventist, Montavilla and Linn Park Sanitary Sewer Local Improvement District projects (Ordinance; C-9743, C-9744, C-9745)

**Disposition:** Ordinance No. 165949. (Y-5)

- 1832** Report to Council on remonstrances to the final assessment of the Adventist, Montavilla and Linn Park Sanitary Sewer System Local Improvement District (Previous Agenda 1759)

**Disposition:** Accepted.

- 1833** Assess property for sewer system development charges through August, 1992 (Second Reading Agenda 1791)

**Disposition:** Ordinance No. 165950. (Y-5)

- 1834** Assess benefitted property for the costs of constructing the Adventist, Montavilla and Linn Park Sanitary Sewer Systems (Previous Agenda 1760)

**Disposition:** Passed to Second Reading November 4, 1992 at 9:30 a.m.

At 12:15 p.m., Council recessed.

**October 28, 1992**

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 28TH 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; Pete Kasting, Senior Deputy City Attorney; and Officer Sheridan Grippen, Sergeant at Arms.

Mayor Clark proclaimed Oct. 24 -Nov 1 as Red Ribbon week and encouraged the public to participate in this commitment to a drug-free society.

- 1821** Accept contract with Koll Construction for construction of indoor pool at Matt Dishman Community Center as complete, authorize final payment and release of retainage (Report; Contract No. 27272)

**Discussion:** Harry Auerbach, Deputy City Attorney, noted that this had been pulled from this morning's agenda because of concern about payment to a subcontractor. He said the contractor has expressed his willingness to exchange a check for a lien waiver and said Council should go ahead and accept the contract as complete and authorize the release of retainage.

**Disposition:** Accepted. (Y-5)

- 1835 TIME CERTAIN: 2:00 PM** - Appeal of Southwest Hills Residential League and Bartley F. Day et al, against the Hearings Officer's decision to approve the application of Michael and Ellen Daly for a 3-lot subdivision in an R10 zone located west of SW Hills Drive, north of SW Patton Drive (Hearing; 92-00331 SP)

**Discussion:** Tom Bizeau, Planning staff, said staff recommended approval with conditions of this 3-lot subdivision. The Hearings Officer also approved the application finding that the criteria outlined in Title 33 and Title 34 were met, with conditions. Issues on appeal by SWHRL and individual neighbors include assertions that: 1) the cluster housing section of Title 33 is not met; 2) fire protection is insufficient; 3) minimum setbacks are not met and; 4) there is insufficient information in the application itself.

Mr. Bizeau said the applicant submitted a site plan showing the housing locations which was approved by the Hearings Officer. The Hearings

**October 28, 1992**

Officer, while approving the tree removals shown, also called for a tree and shrubbery inventory and a preservation plan to be approved by the Bureau of Planning. Mr. Bizeau said no performance bond was attached to this condition requiring preservation of the trees but it is a possible condition of approval.

Regarding fire truck access, Mr. Bizeau said the Hearings Officer added a condition regarding road width and called for approval by the Buildings and Fire Bureaus. The street design must also provide no worse access to adjacent property owner Bartley Day's garage than currently exists. He said there is a problem with the intersection as currently designed as fire trucks would have a hard time gaining access. Regarding the charge that the application was incomplete, Mr. Bizeau said site designs have been submitted with all the information required as far as staff can determine. The last issue is the minimum setbacks of the base zone. He said when a private street is created there is a setback requirement applying to adjacent dwellings which might make Mr. Day's property not in conformance. However, since his house already exists, this is a grandfathered situation.

Chris Malcolm, President of Southwest Hills Residential League, said most of the controversy concerns access and the use of the cluster house ordinance. SWHRL asks for a reversal of the Hearings Officer's decision because the lack of a final survey makes the location of the subdivision unclear, the use of the cluster housing ordinance to accomplish a de facto variance on a single lot with less than 100 foot depth is questionable and it is unclear whether the Fire Bureau has approved the access road. He also contended that the developers have shown blatant disregard for preservation of the trees. He said one of the three lots is heavily treed and removal of these trees would not be in keeping with character of the neighborhood. He asked for the City to enact a tree conservation plan requiring adherence by all parties.

Bartley Day, appellant, owner of the house at the bottom of the private driveway, said the roadway as it currently exists conforms with setback requirements but if it were broadened it would not meet them and would also require removal of part of his garage pad, patio and hedge. He said the closeness of the street to his house and loss of privacy is also a concern. Regarding a suggestion by the planner that the boundary line is not flush with driveway, he said no formal survey has been done and, from his property description, it is not clear that the Dalys own the property which

**October 28, 1992**

they now plan to expand the driveway onto. He raised due process issues regarding lack of access to supplemental findings, contending also that the cluster housing proposal does not specify where the houses are, thus denying them an opportunity to respond to the proposal.

Richard Leonard, 4571 SW Hillside Drive, noted the controversy between Mr. Day and Mr. Daly over the driveway. He said a 4-lot subdivision had been approved in 1982 but had lapsed in 1986 because of failure to get final plat approval. He said Mr. Daly's application is incomplete and information about the adjacent configuration of Hillside Drive was not shown clearly nor was the configuration at the intersection. As shown in the proposal, a City fire truck could not get around the corner. Neighbors have an alternative proposal which they believe solves all the issues. It calls for the street to go along the existing alignment and for moving the property line in front of Mr. Day's house so that his hedge and parking space are protected. They also ask for certainty about which trees will be removed. He said their solution would provide two new lots for Mr. Daly in addition to the one he currently resides on. He asked for reversal of the Hearings Officer's approval to allow these issues to be worked out.

Mayor Clark noted that one of the Hearings Officer's conditions calls for the proposed private street to obtain the approval of the Bureau of Buildings and the Fire Bureau.

Mr. Bizeau said the Fire Bureau has to approve whatever road design is finalized.

Mr. Leonard said Mr. Daly has approval for a subdivision that can not be built because the approved plan does not, and cannot, meet City standards.

Mr. Bizeau said the Fire Bureau has indicated that the intersection design would need to be redesigned for fire truck access.

Michael J. Daly, applicant, said the only difference between this proposed development and the one originally applied for in 1982 is a new road which bypasses the lower 25 feet of gravel road which belongs to Mr. Day. The remainder of the gravel driveway is his. He contended that the setback requirements are not violated, noting that the existing private road was there before Mr. Day's house was built and any setback violation is due to the placement of his house so close to his property line. He said setbacks apply to property lines, not to driveways or streets, and the setback requirements on Mr. Day's land have no effect on his. His are only those of the cluster housing subdivision rules which say that houses must be 10 feet apart. He said the existing gravel road will be widened and paved to

**October 28, 1992**

the boundary of his property which does include the laurel trees referred to by Mr. Day. He said he would like to preserve them if possible but, since they are on his property, he should have the right to cut them if need be. He said City Code allows roadway accesses to extend along property lines which this roadway does. He said Mr. Day's frontage is Hillside Drive, not the gravel road which is a part of Mr. Daly's property, and his setbacks must be posited from there.

He said the same plat as originally approved in 1982 was resubmitted this time so the proposed house sites are a matter of public record. The Planning Bureau, however, reinterpreted the lot depth for Lot No. 2 but until the Hearings Officer made her decision there was no way to know if this would be a traditional cluster housing subdivision. He said the de facto variance issue was never raised until this appeal. He said this is not a single lot getting a variance but three lots being approved for cluster housing as a group. He said the purpose of the ordinance is to provide flexibility when the standard lot pattern is not practical. He said the application did satisfy information requirements and accused the appellants of offering hypertechnical objections. Lastly, he said fire access is adequate but if the Fire Bureau has second thoughts about its original approval, the road will be adjusted. He said the existing gravel road will remain and will be joined approximately 25 feet from the intersection with Hillside Drive with a new paved road. However, the gravel road will continue to be Mr. Day's only available access and, since it has been sufficient for fire access for the last 15 years for two homes, he believes it will remain so as an alternative route in the future.

In rebuttal, Mr. Leonard said the creation of a new street brings the property line closer to Mr. Day's front yard, making it substandard. He said the new street should be kept far enough away from Mr. Day's house so that it does not encroach on the hedge or his parking area. He said because the access configuration was not shown, misunderstandings arose and the Fire Bureau did not respond during the staff review period and did not approve this proposal.

Mayor Clark said he believes the major question is where the property line is. He said if the property belongs to Mr. Daly he has the right to do what he wants with it as prescribed by law.

Commissioner Bogle moved to accept the Hearings Officer's recommendation. Commissioner Blumenauer seconded.

**October 28, 1992**

Commissioner Kafoury asked about tree cutting in the period between when an owner buys a property when a development plan is approved. She wondered if there was any way to protect trees until final approval.

Mr. Bizeau says there is an exhibit that shows which trees are preserved in this site design so if they were to cut them now they would be going against their approval.

Commissioner Kafoury asked about the enforcement capability and whether a performance bond would help.

Mr. Kasting said in general, except in environmental zones, the City does not have tree preservation requirements.

Commissioner Blumenauer said there is nothing to stop property owners from cutting down all the trees on their own property.

Commissioner Lindberg said the Forestry Commission is considering a tree preservation plan but has not presented it yet.

Commissioner Blumenauer said it looked to him as if more protection is granted under this approval than if it is denied.

Mr. Kasting said that is correct.

**Disposition:** Tentatively deny appeal. (Y-5) Applicant prepare findings for November 18, 1992 at 2 p.m.

- 1836** Tentatively grant appeal of Harry Kemm III and Chaney Development Corp., applicant, against Hearings Officer's decision to impose certain conditions in approving a major subdivision and variance at the extension of SW Dover Street, east of SW Oleson Road, north of Alpenrose Dairy (Findings: Previous Agenda 1755; 92-00377 SU)

**Discussion:** Cay Kershner, Clerk of the Council, said the findings had not been completed and a two week continuation has been requested.

**Disposition:** Continued to November 18, 1992 at 2 p.m.

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



**October 29, 1992**

**A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 29TH 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; Pete Kasting, Senior Deputy City Attorney; and Officer Sheridan Grippen, Sergeant at Arms.

### **REGULAR AGENDA**

- 1840** Tentatively deny 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 and approve City staff proposal for pedestrian pathway (Findings; Previous Agenda 1755; 92-00288 SU)

**Disposition:** Continued to November 12, 1992 at 2:00 p.m.

### **Commissioner Gretchen Kafoury**

- 1841** Deny the Comprehensive Plan Map amendment and zone change for 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 (Findings; Previous Agenda 1799; 92-00209 CP ZC)

**Discussion:** Cay Kershner, Clerk of the Council, noted that the votes to tentatively deny the amendment and zone change was three Yeas and two Nays with Commissioner Bogle and Mayor Clark voting no on the denial.

Mayor Clark asked if he could abstain.

Commissioner Bogle asked if he could vote aye on the findings even though he had voted nay previously.

Peter Kasting, Senior Deputy City Attorney, said one could vote either way.

Commissioner Bogle said he voted aye because it did not make any difference this time.

**Disposition:** Findings Adopted (Y-4; N-1, Clark)

**October 29, 1992**

**S-1837 TIME CERTAIN: 2:00 PM** - Allow the towing of vehicles operated by uninsured individuals (Second Reading Agenda 1744)

**Discussion:** The Clerk said a substitute had been filed earlier in the week and distributed.

Commissioner Bogle moved the substitute and the motion carried. (Y-5)

Mayor Clark noted that this would continue for another second reading. He said he still has some questions.

Commissioner Kafoury said she had a lot of questions about enforcement and whether this would have a disparate impact on minority communities. She said while we cannot answer all those questions now, the most telling evidence was the chart showing the correlation between drunk driving, uninsured motorists and those with no licenses. She said that kind of substantive information convinces her that these are not just poor people who cannot afford insurance. She said they also need to make sure the State system responds.

Commissioner Bogle said he would circulate some information he had received from Gresham about how this was applied.

Mayor Clark said he considered driving a privilege and not a right.

Commissioner Blumenauer said he especially liked the addition of the sunset clause which will give Council the facts on which to judge its effectiveness.

Mayor Clark said a resolution will also be filed outlining procedures Police will follow in implementing this.

**Disposition:** Substitute Passed to Second Reading, November 5, 1992 at 2:00 p.m.

**1838 TIME CERTAIN: 3:00 PM** - Report from Portland Development Commission on agreements and lease with Oregon Arena Corporation for the Oregon Arena Project (Report introduced by Mayor Clark)

**Disposition:** Placed on File.

October 29, 1992

- \*1839** Authorize Mayor to enter into development agreement and certain related agreements regarding the Oregon Arena Project (Ordinance introduced by Mayor Clark)

**Discussion:** Larry Dully, Portland Development Commission, highlighted key features of the 750-page agreement. He said Oregon Arena Corporation (OAC), the Blazers' subsidiary, would take over operation of the Coliseum July 1, 1993 for a 20-year period and assume all risk of losses. OAC would advance funds to the City if capital costs for public improvements exceed 34.5 million dollars due to unexpected cost overruns and any OAC advances would be repaid only from the public share of excess project revenues, if any, after such revenues are used to repay City debt on bonds and other costs related to the project. Metro, which now operates the Coliseum, will need to amend its consolidation agreement by December 1, 1992 to permit OAC to take over management of the facility. Net revenues from the Coliseum will be divided 40 per cent each to the City and OAC and 20 per cent to a capital reserve for future improvements. The City will pay and perform all seismic upgrades to the Coliseum outside the 34.5 million dollars public improvement budget. If the seismic costs exceed 2.5 million dollars, the City will have the right to close it. The City will receive a six per cent user fee on tickets sold in the new arena and Coliseum and will offset any future admissions tax or similar levy. An admissions tax agreement must also be negotiated by the City and Metro by December 1. OAC will pay the City approximately five per cent of gross rental income on the entertainment and office complex and will operate all parking on the site. A transportation management plan which includes a shuttle bus will be submitted to Council for approval with the next round of documents.

Newall Gilchrist, 3603 SE Alder, opposed giving 35 million dollars to a private corporation without a vote, while human services go unfunded. He said Portlanders are being stampeded by the threat of the Blazers leaving Portland if an agreement is not reached. He also objected to turning over the Coliseum to the Blazers and said the entertainment center was a cockamamie idea.

Steve Rogers, Eliot Neighborhood Association, said they focused on the mitigation of impacts on the neighborhood, particularly transportation. He said their negotiations had been very satisfying despite the fact that not all issues have been resolved.

Owen Blank, Portland Chamber of Commerce, said this project will be the envy of other cities and is one where the City will receive immediate tangible benefits rather than promises and fluff. He said he is very glad

**October 29, 1992**

the Blazers have taken advantage of the current site next to the Coliseum rather than fleeing to the suburbs.

Sam Brooks, Metro ERC/Oregon Association of Minority Enterprises, Vice Chair of North/Northeast Economic Alliance and Metropolitan ER Chair, said this benefits both the City and the community he resides in. He said he believes this agreement will increase jobs and businesses in the area.

Joe Walsh, speaking for Tri-Met Director Tom Walsh, conveyed strong support for the proposal. He noted that the Arena will be a transit oriented facility and said development of the project has major implications for Tri-Met.

David Schlatter, Executive Director, North/Northeast Business Association, said the Blazers did a tremendous amount of homework and this will be good for business in the area.

Bill Scott, Pacific Development, Inc., and Arena Task Force member, said the proposal met the Task Force objectives and guidelines.

Steffeni Gray, Association for Portland Progress, supported the proposal.

Harriet Sherbourne, Vice President, Olympia York, said a great body of research pointed clearly to the fact that the community needed new sports facilities to replace ones which are obsolete and badly need repair. She said the Design Commission, on which she served, asked for very high quality features and connections to the river which the Blazers have incorporated into their plans.

Mayor Clark said there are still a few things that need to be tweaked because it is so complicated an agreement. He assured Council that he cannot sign anything until it has City Attorney approval and believes it would be all right to approve it at this point.

Commissioner Lindberg said several issues still remain unresolved involving the technical language. He asked Attorney Steven Janik, representing the City in these negotiations with the Blazers, if Council could approve this in its current form and what kind of amendments would be needed to resolve the remaining issues.

Attorney Steven Janik said Council could state its intent to accept the terms of the documents subject to resolution of the following issues: 1) the

**October 29, 1992**

overall satisfaction of the City Attorney as to the form of the documents; 2) City warranties about the enforceability of these documents; 3) language changes in the Memorial Coliseum operating agreement that need more work.

Mr. Kasting said any changes resulting from the technical fine tuning issues cited by Mr. Janik would still be in substantial conformance with the document before Council. These are relatively minor and technical loose ends.

Mayor Clark said he will not sign anything unless he is given the go ahead by the City Attorney. He said he is looking forward to signing it after the lawyers have come to conclusions on the exact language of the document.

Commissioner Lindberg said if Council voted favorably today it would be supporting the basic deal. He restated the outstanding issues noted by Mr. Janik.

Mr. Kasting said he has been advised that there is already one set of technical adjustments that was not filed because PDC believed this would be continued one week.

Mayor Clark said perhaps this should be continued but Council could state its intention now.

Mr. Kasting said that would be preferable.

Commissioner Kafoury moved to state Council's intent to support the proposal. Commissioner Bogle seconded.

Commissioner Lindberg said now is the time to raise any issues or concerns.

Commissioner Kafoury said she wants to make sure that sufficient amounts of the work will be done by residents of North/Northeast Portland.

Mayor Clark said they had already made such agreements.

Commissioner Bogle noted the Blazer commitment to include a diverse group of minorities in construction and other projects.

Mayor Clark said he has never seen a document that has gotten more scrutiny. He said the Blazers have gone out of their way to get input from

**October 29, 1992**


the community and it is a gift to the City to have this private investment. He said this takes the City out of the subsidy business, gives the City a 30-year guarantee that the Blazers will stay here, enhances the neighborhoods, creates jobs and adds to the property tax roll. He said this is a wonderful bonanza for the City.

Commissioner Lindberg said he too very strongly supports this.

**Disposition:** Continued to November 4, 1992 at 10:30 a.m. Time Certain.

At 4:30 p.m., Council adjourned.

BARBARA CLARK  
Auditor of the City of Portland

  
By Cay Kershner  
Clerk of the Council