



CITY OF

PORTLAND, OREGON

**OFFICIAL
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 13TH DAY OF JANUARY, 1993 AT 9:30 A.M.

THOSE PRESENT WERE: Mayor Katz, Presiding; Commissioners Blumenauer, Hales, 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.

- 16** **TIME CERTAIN: 9:30 AM** - Final report summarizing the current water status, the evaluation process and considerations for supply in the summer of 1993 (Report introduced by Commissioner Lindberg)

Discussion: Commissioner Lindberg said Water Bureau has been assessing and evaluating the impact of the summer water shortage, adding his belief that the public was well served during the crisis despite the frustrations and complications.

Mike Rosenberger, Water Bureau Administrator, said three issues stand out from the summer shortage: 1) the impact on water rates; 2) what worked and what did not and; 3) the prognosis for next summer.

He said a \$4.3 million revenue shortfall was realized due to reduced summer water sales as well as \$600,000 in additional expenditures, much of it the cost of additional water. He said a reduction in water demand has carried over because people have continued to conserve. However, because of higher than anticipated spring water sales and savings generated by a hiring freeze, the Bureau will not need to raise rates next year to make up for the revenue shortfall.

Mr. Rosenberger said their evaluations showed ~~that~~, without the restrictions, they would have run out of water in late August. They also found that the public did not always understand the consequences of not meeting the targets. He said the Bureau could have done a better job of clarifying these consequences especially about the role of the residential customer who

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accounts for about 70 percent of summer water usage. Also, rather than using a target of 100 million gallons a day, it might have been better to use a range or focus on the reduction. He said a primary issue is equity.

Regarding the outlook for next summer, Mr. Rosenberger said the Bureau does not know what to expect. He said the City has a water surplus nine months a year, with the critical time being between the end of spring rains and the beginning of fall rains when the water supply needs to be stretched. Rain, not snow pack, is what determines the water supply for Portland.

Commissioner Lindberg noted that last year the Bureau had the worst possible scenario in 102 years.

Mr. Rosenberger said next summer will be different because they know they will be able to pump between 2-3 billion additional gallons from the well field. They also know that they can readily import water from other areas, if needed. On the demand side, they expect some continued reduction in because people have changed their behavior. He said a number of alternatives regarding pricing are under consideration including seasonal pricing and inverted block rates. Some consensus is forming for the inverted block rate on a seasonal basis which could be triggered by a supply shortage or used all the time. Beginning July 1, sewer rates will be based on metered water rates which should encourage more conservation.

In summary, Mr. Rosenberger said they do not predict a shortage next summer as more water is available even if there is a dry season. Informing the public about conservation measures will continue. In addition, the regional planning effort continues.

Commissioner Lindberg said during the next few weeks there will be briefings on the Bureau's budget, regional water planning efforts and changes in the billing system. He assured Council that conservation is being looked at not just as a summer time problem but as a major source of additional water supply.

Commissioner Kafoury said what she heard was the need to stress conservation as a value, not just for water but for all resources.

Mr. Rosenberger said surveys make it clear that conservation is an ethic here as is shown by the continued reduction in water use this winter. He said all projections assume that a minimum reduction in use of 14 per cent will be needed in order to meet future water demands.

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Mayor Katz asked if water use this winter had been dramatically reduced over the prior year.

Mr. Rosenberger said the reduction was between five and seven per cent.

Mayor Katz said we need to internalize the conservation value through the winter when there appears to be an abundance of water.

Commissioner Hales asked how long the regional planning process would last.

Mr. Rosenberger said two years, which is consistent with the Goldschmidt Task Force recommendations.

Mayor Katz said this is one issue that should be taken out to the community.

Mr. Rosenberger said a huge piece of this study is public involvement as the idea is to make some fundamental value choices about how water is to be used.

Disposition: Placed on File.

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

CONSENT AGENDA - NO DISCUSSION

- 17** Accept bid of Pacific Water Works for furnishing ductile iron pipe fittings for \$83,606 (Purchasing Report - Bid 50-A)

Disposition: Accepted; prepare contract.

- 18** Accept bid of Mocon Corporation for SE Malden, SE Lambert and SE Lexington 6" water main for \$157,202 (Purchasing Report - Bid 67)

Disposition: Accepted; prepare contract.

- 19** Accept bid of Marshall Associated Contractors for SE Taylor Street west of SE 162nd Avenue sanitary sewer for \$65,209 (Purchasing Report - Bid 72)

Disposition: Accepted; prepare contract.

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- 20** Accept bid of Seaward International for furnishing sea fenders for \$78,750 (Purchasing Report - Bid 73)

Disposition: Accepted; prepare contract.

- 21** Vacate a portion of SE 100th Avenue south of SE Powell Boulevard, under certain conditions (Ordinance by Order of Council; C-9819)

Disposition: Passed to Second Reading January 20, 1993 at 9:30 a.m.

Mayor Vera Katz

- *22** Authorize application to the federal Center for Substance Abuse Prevention in the amount of \$50,000 for a Drug Abuse Prevention Conference (Ordinance)

Disposition: Ordinance No. 166163. (Y-5)

Commissioner Earl Blumenauer

- 23** Accept completion of the Columbia Wastewater Treatment Plant Grit Disposal Materials Handling Facility and make final payment to A.C. Schommer & Sons, Inc. (Report; Contract No. 27895)

Disposition: Accepted.

- 24** Declare the purpose and intention of the City of Portland to construct the SE McKinley Road and SE Jenne Road Sanitary Sewer System (Resolution; Sewer; C-9793)

Disposition: Resolution No. 35092. (Y-5)

- 25** Set hearing date for 9:30 a.m., Wednesday, February 17, 1993, for the vacation of portions of NE 3rd Avenue, NE Hassalo Street and NE Multnomah Street, in connection with the Multnomah/Hassalo Connection Street Improvement Project (Resolution; C-9828)

Disposition: Resolution No. 35093. (Y-5)

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- *26** Agreement with Boxer Northwest Company for driveway closures and access relocation on the Portland Transit Mall Extension Project (Ordinance)

Disposition: Ordinance No. 166164. (Y-5)

City Auditor Barbara Clark

- *27** Cancel system development charge at 8200 NE Sandy Boulevard (Ordinance amend Ordinance No. 165934)

Disposition: Ordinance No. 166165. (Y-5)

REGULAR AGENDA

Mayor Vera Katz

- *28** Authorize termination of a contract with Brattain International Trucks, Inc., for one 21,000 GVW truck with hydraulic power source and service body (Ordinance; Contract No. 28012)

Disposition: Ordinance No. 166166. (Y-5)

Commissioner Earl Blumenauer

- 29** Accept completion of the South Mid-County Interceptor Unit 2, approve Change Order 13 and make final payment to Dyad Construction, Inc. (Report; Contract No. 25029)

Discussion: Mayor Katz asked whether misunderstandings such as occurred in this case could be improved through written notification in the contracts.

Lee Klingler, Principal Engineer for the Bureau of Environmental Services, acknowledged that an arbitration panel found that Bureau staff were not as accurate as they thought they were.

Commissioner Blumenauer said he is less than enthusiastic about this arbitration award since everything he has learned leads him to believe the Bureau did a good job on this. He said the City has had problems with this contractor in the past.

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Mayor Katz said she would like to see better information in the contracts so the parties know exactly what is expected.

Disposition: Accepted. (Y-5)

- 30** Consider vacating a portion of SW Orchid Street at the request of Carla Starrett-Bigg and Virginia Pinkstaff to consolidate property to enlarge yard area (Hearing on Report; C-9803)

Disposition: Kathryn Hall, Office of Transportation, said the question on street vacations is whether there is a current or future public need to retain a dedicated street right-of-way. She said the City Engineer is recommending approval based on responses from City staff, neighborhood associations, utility companies and other jurisdictions. She said the objection is based on access to existing property, particularly if the back lot is developed. Staff believes that even with the vacation, there are still two access options, either west off Taylors Ferry or by extending SW 14th to Orchid. The Planning Commission considered the objections and recommended mediation which failed. The Commission then recommended approval.

Virginia Pinkstaff, 9130 SW 15th, said Mrs. Thomas' lot is not landlocked and can easily be accessed off the east end of SW Orchid. She said Mrs. Thomas has two paved driveways to Taylors Ferry Road and there is no reason why she can not use them as well as a access point on 14th. She asked approval of the vacation.

Matthew Starrett-Bigg, 1444 SW Orchid, spoke in favor of the vacation on behalf of his wife Carla. He argued that Mrs. Thomas is not landlocked, that her lot is too small to build on, and that there are two ways to access her property.

Donna Thomas, 1425 SW Taylors Ferry Road, said the adjoining lot, owned by her daughters is a legal lot to which they need access. She said accessing onto SW Taylors Road is very dangerous, arguing that she has been hit 14 times and her insurance cancelled as a result. She said she wanted to access from the west because the terrain is more level and it would be cheaper.

Commissioner Hales asked if the applicant would be required to improve the street to City standards if a building permit was issued on the lot.

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Glen Pierce, Office of Transportation, said a permit for a substandard permit would be needed.

Disposition: Adopted; City Engineer prepare ordinance. (Y-5)

- 31** Consider vacating a certain portion of N Larabee and N Cherry Streets as requested by Oregon Arena Corporation to consolidate land near the Memorial Coliseum (Hearing on Report; C-9808)

Disposition: Adopted; City Engineer prepare ordinance. (Y-5)

- 32** Authorize the City Attorney to file suit against Larson, Inc. (Resolution)

Discussion: Greg Green, Bureau of Environmental Services, said they have been unable to resolve several problems with Larson and would like authorization to file suit.

Commissioner Blumenauer said there have been two efforts at mediation in this matter. He said he visited the firm's general manager yesterday and expressed hope that he would meet with staff, neighbors and mediators to see if this could be resolved. Extensive efforts are being made to reach a mediated agreement.

Robert O'Halloran, attorney representing Larson Inc., said he had told Senior Deputy City Attorney Ruth Spetter he would not testify and therefore believes it would be inappropriate to do so.

David Boyle, 5509 SE 111th Ave., complained about illegal storage of machinery and materials by Larson on a vacant lot in his neighborhood. He said neighbors were repeatedly told that the company had a temporary permit and would be out of there shortly but the company has shown no interest at all in vacating the property and seems to have chosen to fight rather than moving its operation elsewhere.

Others speaking in opposition to Larsen's use of the lot included::

Tommy Horn, 11110 SE Harold, 97266
Jim Manire, 11207 SE Harold, 97266

Ray Hitz, president of Lents Neighborhood Association, stated neighborhood support for eviction of the company from this site and described failed attempts at mediation.

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Mayor Katz told the attorney representing Larson that attempts to mediate this would be appreciated.

Commissioner Blumenauer said the City has no intention of allowing this problem to continue. He said the firm is operating without a valid permit and without signed lease with City and future contracts should not be extended to people who are not good neighbors.

Disposition: Resolution No. 35094. (Y-5)

***33** Authorize temporary closure of NE Roselawn Street between NE 73rd and NE 74th Avenues to motor vehicle traffic (Ordinance)

Don Gardner, Office of Transportation, explained that a street vacation for NE Roselawn had originally been requested which the Planning Commission favored but which Transportation opposed because of the need to retain access to an abandoned quarry where development may occur in the future. Because of neighbor concerns about illegal dumping and inappropriate driving, Transportation devised a solution which would temporarily close Roselawn. He added that there are strong feelings both in favor and in opposition to the closure but stressed that the street could be reopened should development occur or if requested by the Fire or Police Bureaus. Neither bureau has any objections to closure at this time.

Mr. Gardner said the street could also be reopened if delays onto Killingsworth become excessive. He said Transportation Engineering would like to review traffic delays on an annual basis, noting that they now average 1-1/2 minutes during peak hours with the longest wait clocked at five minutes.

Marianne O'Leary, a petitioner for the street vacation, supported the closure, citing problems with reckless and over-road driving as well as illegal dumping. She said they did a survey of 45 adjacent homes and found that only 11 opposed the closure. She contended that proponents met with stiff and irrational opposition to any clean up of the street or attempt to stop the negative use.

Commissioner Lindberg asked if the neighbors were committed to putting in lawn and landscaping.

Ms. O'Leary said yes, they would put in a greenway and a walkway.

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Dale Holm, 5255 NE 74th, said the street is full of water and potholes and improvement will increase safety for kids going to Sacajawea School. He said the proponents agreed to drop their push for vacation in exchange for closure. He said this is not a needed access at this point and disputed the five minute wait.

Commissioner Hales asked if there had been any discussion about forming a local improvement district.

Mr. Holm said only three properties would benefit and the number of rentals and low-income property owners made approval of an improvement district unlikely.

Mrs. O'Leary noted that the written notification said the meeting would be on the 14th but had instead been scheduled for the 13th.

Simon G. Stanich, 5437 NE Jessup, 97218, said it is almost impossible to access from Killingsworth.

Lois Hunter, 5260 NE 74th, said the access is needed, despite problems with garbage and abandoned cars, citing personal health problems which might require emergency vehicle access in the future.

Gordon Hunter, 5260 NE 74th, said the issue is whether people on 73rd and 74th have only one access out. He contended that illegal dumping has greatly decreased since closure of the landfill. He said he should have the right to use his local road and the City should not give up any of its streets.

Don Madison, NE 74th resident, said he is more concerned with kids on 73rd, not Roselawn where natural speed bumps keep children from using it. He recommended keeping Roselawn open and paving it.

Bill Muir, 2044 N. Webster, also supported retaining access via Roselawn.

Commissioner Hales asked who is responsible if garbage and debris are left there.

Mr. Gardner said the abutting property owners are responsible. He said there is a large area that needs to be redeveloped eventually but this temporary closure is an attempt to deal with a neighborhood problem in the meantime.

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Commissioner Blumenauer noted concern about the permanent vacation and this attempt to craft a reasonable solution. He said he was willing to support this compromise.

Mayor Katz asked about one year monitoring.

Mr. Gardner said if there is a safety problem for the Fire or Police Bureaus or if development occurs they would review it sooner.

Commissioner Kafoury asked about the provision in the ordinance stating that abutting property owners can request a reopening. She asked if the City ever had a broader inclusion.

Mr. Gardner said there are technical problems about getting a broad consensus. He said the neighborhood association took no position other than to suggest that there were solutions other than permanent vacation.

Commissioner Kafoury said she is not opposed to a temporary closure but there needs to be either a time limit or a better process for review.

Mayor Katz asked how it would be monitored and whether it could be done in six months.

Mr. Gardner said if it is closed, there is nothing to monitor on Roselawn itself and they would have to look at access problems onto Killingsworth from 74th and 75th. He said monitoring is expensive and time consuming and the incremental changes are so small it is difficult to measure for any less than a year.

Commissioner Hales said monitoring a temporary damage-control closure to solve the dumping problem troubles him, particularly for a street that is supposed to be part of the grid system.

Commissioner Blumenauer said if Council wants to establish a policy on this Transportation would welcome it. He said they have had situations where the Bureau has tried to go ahead with the grid and got whacked. He commended Mr. Gardner for taking direction from the Planning Commission, neighbors and staff in trying to craft a solution.

Commissioner Hales said there needs to be some way of dealing with the 75 miles of gravel streets in the City and finding a new method for a fair cost

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sharing between the residents and the rest of the City. Given the Cully Neighborhood Plan, he would rather not vote approval for this on an ad hoc basis.

Commissioner Kafoury said she does not believe closure, even though temporary, is the only solution here.

Commissioner Lindberg said there is definitely a need for a policy to support the grid system but he believes there is slightly more benefit for the temporary closure in this particular case.

Mayor Katz said she agrees that there has to be a better solution than closing all these streets.

Mr. Gardner noted that this is a compromise to the vacation petition, which is still valid and will need to come to Council.

Commissioner Blumenauer said it would be helpful if Council made clear its intention that the street would not be vacated either.

Commissioner Kafoury said if she is voting no on a temporary vacation she surely would not vote for a permanent one.

Commissioner Lindberg reminded Council that streets could be targeted for improvement in various ways to make it possible to get outside assistance for LIDs and complete the grid system.

Commissioner Kafoury said she would be willing to see whether there are any block grants available for public works improvements in the Cully Neighborhood.

Disposition: Failed to Pass (Y-2, Blumenauer, Lindberg; N-3)

***34** Authorize Purchasing Agent to exceed informal purchasing limit and issue purchase order to Lakeside Industries, Inc., in the amount of \$44,327 for the emergency purchase of sanding rock (Ordinance)

Discussion: Lou Bruneau, Bureau of Environmental Services, explained why additional supplies are needed.

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Commissioner Hales asked if less material would be recycled because of the length of the cold period.

Mr. Bruneau said most of it will be recoverable.

Disposition: Ordinance No. 166167. (Y-5)

City Auditor Barbara Clark

35 Create the SE Rex Drive, SE 45th Avenue and SE 46th Avenue Local Improvement District and provide for constructing a sanitary sewer (Hearing; Ordinance; C-9806)

Discussion: Dan Vizzini said this is a hearing only and Council would not make a final decision today.

Jim Ruppia, 4712 SE Rex Drive, 97206, spoke in favor as a circulator of the petition for this LID. He said the problem is that the assessments are twice what had been expected. He said he cannot afford to wait to get a sewer but sympathizes with most people in the neighborhood who simply cannot afford \$8-9,000 assessments.

Others speaking with concerns about the high cost of the assessments included:

Patty Jarrett, 4545 SE Rex Dr., 97206

Frances Hall, 4553 SE Malden Dr., 97206

Richard Hall, 4553 SE Malden Dr., 97206

George Muller, 5226 SE Henderson, speaking for his father, who resides at 4705 SE Malden Dr., 97206

Susan Webb, 4833 SE Rex Dr., 97206

Candace Cardoso, 7825 SE 46th, 97206

Greg Baird, 4610 SE Rex Dr., 97206

Greg Barnard, 4612 SE Malden Dr., 97206

Weldon West, 4610 SE Rex Dr., 97206

Greg Wilson, 4715 SE Rex Dr., 97206

Karen Hamilton, 4549 SE Flavel Dr., 97206

Those testifying emphasized their inability to pay the assessments and asked that the same cost break given residents of the Mid-County sewer district be extended to them. Mr. Muller argued that the sewer is unnecessary and

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people with septic tank problems should simply replace them. Ms. Webb objected to the \$1,000 hook-up charge and Ms. Hamilton said they need to have questions about the cost answered by the Auditor's Office.

Commissioner Blumenauer said everyone is assessed a flat fee to hook up to the trunk line.

Dan Vizzini, Liens and Assessments Manager, said Council has the authority to form sewer improvement projects on its own and also has the authority to discontinue a project for any reason, including the strength of remonstrances against it. He said petitioners began the process of forming a sewer district 2-1/2 years ago, adding that it is impossible to estimate the cost until the design has been completed. He said what you have here is an improvement on a hillside which makes the project more complicated and costly because of the need for an additional line between Rex and Malden. He said this project is above average in cost in a neighborhood that is very stressed and needs many improvements. He recommended that Council not proceed with the project at this time and direct BES to examine alternatives both to the LID itself and to financing. He said he does not recommend extension of Mid-Mid-County benefits to those outside the district because Council specifically limited them to those properties subject to a sewer mandate. If the Mid-County benefits are extended to this project, it could open them up to every district in the City.

Mayor Katz asked for direction.

Mr. Vizzini suggested closing the hearing and continuing this until there is information on the alternatives. That would preserve the work of the property owners who presented the petition. He added that the longer it takes to make decision the more dated the estimate becomes.

Mayor Katz closed the hearing and proposed to move this to second reading at a later date to allow BES and the Auditor's Office to work through the issues.

Commissioner Kafoury said she was interested in reviewing block grant monies to see if this neighborhood would be eligible.

Commissioner Blumenauer noted that one problem with this district is that it is too small to achieve any economies of scale.

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Mr. Vizzini said this represents 20 per cent of the sewers in Errol Heights that need to be constructed. If all could be done at once, such economics could be achieved.

Commissioner Blumenauer said a major issue is one of subsidies.

Commissioner Hales asked that formation of a capital improvement district be considered.

Commissioner Blumenauer said he like to have another session in the community with staff from BES and the Auditor's Office.

Disposition: Passed to Second Reading February 10, 1993 at 9:30 a.m.

At 12:20 p.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 13TH DAY OF WEDNESDAY, 1993 AT 2:00 P.M.

THOSE PRESENT WERE: Mayor Katz, Presiding; Commissioners Blumenauer, Hales, Kafoury and Lindberg, 5.

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

- 36** Tentatively grant, in part, appeal of Wilkes Community Group against certain conditions of approval imposed by Hearings Officer in approving application of KMAC Corporation for an 11-lot subdivision at 1904 NE 155th Avenue (Findings; Previous Agenda 2206; 92-00288 SU)

Discussion: Commissioner Kafoury said an attempt was made to encourage some kind of pedestrian accessway through this development but neither the developer or the neighborhood would accept the plan proposed by the Planning and Transportation Bureaus. She said these findings represent a compromise.

Commissioner Blumenauer said he felt connectivity of the streets was the most important issue. He said failure to proceed with the pedestrian pathway should not set a precedent as he felt the circumstances in this situation were unique. He said he hoped staff would continue to work for pedestrian linkage along with street grid expansion.

Disposition: Findings Adopted. (Y-3; 2 abstentions, Hales and Katz)

At 2:05 p.m., Council recessed.

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**A RECESSED MEETING OF THE COUNCIL OF THE CITY OF
PORTLAND, OREGON WAS HELD THIS 14TH DAY OF JANUARY, 1993
AT 2:00 P.M.**

THOSE PRESENT WERE: Mayor Katz, Presiding; Commissioners
Blumenauer, Hales, 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.

REGULAR AGENDA

Commissioner Charlie Hales

- 37** Liquor license application for Gyung Jae Lee dba Cigarettes Plus, 2224 N
Lombard, Package Store liquor license (new outlet); unfavorable
recommendation (Report)

Discussion: Henry Emrich, License Bureau, said this store is located in the
Arbor Lodge neighborhood, bordering on the Kenton Neighborhood. He said
the License and Police Bureaus as well as the affected neighborhood
associations and the Portland Organizing Project oppose granting this license
because of the long and persistent history of alcohol-related problems in the
area.

Ms. Katz noted that the report mentions that the store does sell fortified
wine.

Mr. Emrich said the outlet no longer sells fortified wine and the record
should be corrected.

Office Chuck Bolliger, Drug and Vice Division, said this is clearly a locational
problem and in no way reflects upon the character of the applicant. He said
the Police feel that if this license is granted it will set a precedent for other
stores in Kenton currently operating without a liquor license.

Roberta Webber, Police Bureau, said the Kenton neighborhood is trying very
hard to deal with non-enforcement problems to make it more livable. She

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said liquor and disorder have been a problem for a long time in Kenton and this outlet would cause additional problems. She said the neighborhood needs a resting period to show they can make a difference.

Commissioner Lindberg asked if Kenton had been set up as a target impact zone.

Officer Bolliger said they are trying to deal with problems in Kenton without designating it an impact zone.

Mr. Emrich said OLCC recognizes this as a problem area to the extent that it will not issue temporary 90-day licenses.

Commissioner Lindberg asked about the criteria for granting licenses. He said until recently it used to depend on the character of the applicant but that seems to have shifted somewhat to take into account the nature of the neighborhood and number of outlets already there.

Mr. Emrich said the Code states that any new outlet has to be in the best interest of the neighbors and of expressed public convenience.

Mayor Katz asked if this is considered a new license since the prior operation here had a license. She also asked if the Code section referring to a license as not being in the best interests of the community because of illegal activities around the premises meant just in general or around that particular location.

Mr. Emrich said the previous license, issued to Plaid Pantry, has not been in effect for at least a year. OLCC considers Cigarettes Plus a new outlet. He said the Bureau has traditionally interpreted "in and around the premises" to mean the area that would be affected by the operation of this license but does not specify a one, three or 10 block radius.

Gary McGrew, License Bureau, said there are normally three reasons why an applicant is turned down: 1) applicant has a record of criminal activity; 2) the particular location has a history of criminal activity; 3) the area has a history of liquor-related problems.

James McHugh, attorney for applicant, said his client is an honest businessman who will cooperate with neighbors. He called the License Bureau's report unfair and not objective, contending that the store never has sold fortified wine, as asserted in the report, and that only one incident cited

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out of the 385 contained in the Police report cited his client. He argued that the core Kenton neighborhood is 12 blocks away from this outlet, not next door as the Bureau implies. Mr. McHugh said the focus of the store is on cigarettes, not alcohol. He argued that the vast majority of people in the Arbor Lodge neighborhood support the applicant and criticized as irrelevant the License Bureau's inclusion of photographs indicating that adult videos are for sale.

Garland Horner, President, Kenton Business Association, cited business opposition to granting an additional liquor license.

Other individuals speaking in opposition to granting the license included:

Marie Krieger, 7533 N. Chatham 97217

Rev. Alan Wilkerson, pastor, Kenton Methodist Church, 1619 N. Portland Blvd. 97217

Elizabeth J. James, 2603 N. Russell Street, 97217

John Fisher, pastor, Rivergate Community Church, 2210 N. Dekum 97217

Lenatta Peterson, 7807 N. Denver 97217

Glenn Chase, pastor, Bethel Lutheran Church, 5937 N. Denver 97217

Portland Police Officer Charlie Brown, Kenton Liaison Officer

Pam Arden, Chair of the Kenton Neighborhood Association, said alcohol abuse has been a concern of the neighborhood association since it was formed six years ago. She said they have worked very hard to use their foot patrol to document what was going on and the result is the report showing 385 detox incidents. She said no more outlets are needed where alcohol can be bought for take out; the business area needs a chance to revitalize.

Mayor Katz asked how denying this particular license helps when there is a whole slough of outlets and when the state has no policy of limiting the number of licenses in a geographic area.

Ms. Arden said the neighborhood testified at an OLCC hearing on rule changes, asking it to begin to look at neighborhood liveability concerns. She said they are asking stores to stop selling to inebriates.

Mayor Katz asked how many stores have rules similar to those set up for the Dekum Street market.

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Commissioner Hales said some outlets accept restrictions on sales of certain beverages, hours of operation, etc. but he did not believe any of them are in the Kenton neighborhood.

Ms. Arden said the Alcohol Availability Committee, on which she serves, has discussed the possibility of having stores which sell alcohol enter agreements with the neighborhood associations, much as the convenience stores have done.

Commissioner Blumenauer said in potential problem areas the License Bureau has been entering into good neighborhood agreements as a condition for a favorable recommendation.

Mayor Katz asked how the City could impose such restrictions.

Mr. McGrew said the Bureau must deal with restrictions on an individual basis and cannot make restrictions across the board for the whole system of package stores. He said they try to get voluntary restrictions and most businesses have agreed to take positive steps, such as discontinuing the sale of fortified wine and patrolling areas for litter. He said the City only has authority to make recommendations to OLCC or impose restrictions on a voluntary basis. He said the impact areas are more of a policy statement on the part of the City.

Mayor Katz asked whether, if Council voted for an unfavorable recommendation but the OLCC decided to grant the license anyway, the City would have an opportunity to return with recommended restrictions.

Mr. McGrew said the City would work with staff at OLCC to see if it could influence what kind of restrictions result.

Commissioner Blumenauer said now might be a time to forward a favorable recommendation but with conditions. This might be preferable to sending an unfavorable recommendation which OLCC overrules.

Mayor Katz said the question is whether to add restrictions at the front end of the process.

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Mr. McGrew said there are opportunities to amend or restrict licenses down the road but the Bureau believes the most effective time to do so is now.

Commissioner Blumenauer said if OLCC goes the other way, staff could ask for restrictions then.

Commissioner Hales asked if the list of incidents listed in the Police report was significantly greater than a comparable area.

Officer Brown said yes but Officer Bolliger added that the list was obtained by his personally searching 12,000 detox reports. He said he could not state how it would compare with other districts.

Commissioner Hales moved to forward the unfavorable recommendation to the OLCC. Commissioner Lindberg seconded.

Mayor Katz said she would like this process to have a few more teeth, noting times when the OLCC has overrule an unfavorable recommendation by Council. She said it might be better to forward a favorable recommendation with restrictions.

Commissioner Hales said if a license is issued, City staff will work with the OLCC to secure restrictions. He said his vote is uninfluenced by what other products are being sold but he does not believe this license is warranted here.

Mayor Katz said if this recommendation is ignored or restrictions are watered down, she will vote differently on the next license.

Commissioner Blumenauer said continued efforts to add teeth are warranted on the State level. He said he believes that residents have made a tremendous difference and OLCC is becoming more responsive. He said his vote is not based on character but on the fact that a liquor outlet is unwarranted here.

Commissioner Lindberg said it is difficult to say no to an honorable person who is trying to support his family. However, putting a lid on the number of liquor licenses is an important means for neighborhoods to improve their liveability.

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Mayor Katz said this is a difficult vote because the applicant is an honest person but a liquor license should be a privilege and not a right. She said if this outlet is approved by the OLCC she hopes severe restrictions will be placed on them.

Disposition: Unfavorably recommended. (Y-5?)

At 3:10 p.m., Council adjourned.

BARBARA CLARK
Auditor of the City of Portland

Cay Kershner

By Cay Kershner
Clerk of the Council