



CITY OF
PORTLAND, OREGON

OFFICIAL
MINUTES

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 3RD DAY OF MARCH, 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; Harry Auerbach, Deputy City Attorney; and Officer Sheridan Grippen, Sergeant at Arms.

Students at Markham Elementary School presented a choral reading marking Black History Month.

Ray Leary of Self Enhancement, Inc., made a presentation about the program and thanked Council for allowing its location in Unthank Park.

249

TIME CERTAIN: 9:30 AM - Briefing on the City's draft Carbon Dioxide (CO₂) Reduction Strategy and the International Global Warming Symposium to be held on March 10, 1993 (Report introduced by Commissioner Lindberg)

Discussion: Commissioner Lindberg described City efforts to reduce carbon dioxide emissions throughout the world in order to halt global warming. He said many City bureaus support these efforts, as well as private utility companies and environmental groups. Portland is one of 12 cities in the world chosen to take part in an effort to show what can be done by local communities and is being held up as a model city because of what has been accomplished here.

Sue Anderson, Energy Office, described the problems caused by carbon dioxide emissions and steps the City is taking to overcome them through a 20 percent reduction strategy. This includes reducing vehicle miles, increasing the use of renewable energy sources and energy efficiency, introducing federal fuel efficiency standards and adding a "gas guzzler tax".

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Goran Sparrman, Office of Transportation, said the most important step, from a transportation point of view, is to reduce vehicle miles per capita.

David Kish, General Services Director, said they are working on several projects to reduce energy use and increase recycling efforts. These include a lighting project in the Portland Building and parking garages and the possible inclusion of recycling specifications on construction projects, with the North Portland Precinct to be the first such contract where that would apply.

Keith White, Portland General Electric, said they are interested in developing least cost resources and have an aggressive plan for energy reduction and for the use of renewable energy resources.

Dr. Molly Osbourne, OHSU Professor, said global warming is an important global issue and it is clear that the City's plan fits in nicely with the "think globally, act locally" philosophy. Grass roots involvement is also very important.

Doug Capps, Tri-Met, supported the strategy, noting that it points to actions that in addition to reducing emissions can also have such positive results as increasing in the City's liveability, encouraging compact development, improving pedestrian/bicycle access.

Lee Bodenheimer, U.S. Bank of Oregon, described the Greenlights Program.

Disposition: Accepted. (Y-5)

Agenda Nos. 254 and 262 were pulled from Consent. On a Y-5 roll call, the balance of the Consent Agenda was adopted as follows:

CONSENT AGENDA - NO DISCUSSION

252 Request from Shoshanah Jocheved, Tribal Survival Recycling, for Council hearings on repeal of the City's anti-camping ordinance (Communication)

Disposition: Referred to Commissioner of Finance and Administration.

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253 Accept bid of Precision Computers, Inc., and Alpha Computers, Inc., for furnishing personal computers and printers for \$126,581 (Purchasing Report - Bid 74)

Disposition: Accepted; prepare contract.

Mayor Vera Katz

***255** Accept donation of a police canine from the City of Milwaukie, Police Department (Ordinance)

Disposition: Ordinance No. 166283. (Y-5)

Commissioner Earl Blumenauer

256 Accept completion of contract with Atlas Heating, Inc., for Noise Abatement project, release retainage and authorize final payment (Report; Contract No. 28482)

Disposition: Accepted.

***257** Authorize a contract with Columbia Analytical Services to provide laboratory services and provide for payment (Ordinance)

Disposition: Ordinance No. 166284. (Y-5)

***258** Agreement between the Portland Development Commission and the Office of Transportation, Bureau of Transportation Engineering, to provide funding for the River District Development Plan study in the amount of \$20,000 (Ordinance)

Disposition: Ordinance No. 166285. (Y-5)

***259** Call for bids for the Tryon Creek I/I Rehabilitation projects, authorize a contract and provide for payment (Ordinance)

Disposition: Ordinance No. 166286. (Y-5)

***260** Call for bids for the NE 62nd & Hancock Sewer Relief Phase 2, authorize a contract and provide for payment (Ordinance)

Disposition: Ordinance No. 166287. (Y-5)

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Commissioner Mike Lindberg

261 Accept contract with Triad Mechanical, Inc., for replacement of the Calvary Pump Station as complete, approve Change Order No. 8, assess liquidated damages in the amount of \$5,400 and authorize final payment of \$50,036 (Report; Contract No. 27119)

Disposition: Accepted.

***263** Authorize agreement to provide construction administration, dangerous tree removal and tree inspection services to Portland Development Commission (Ordinance)

Disposition: Ordinance No. 166288. (Y-5)

***264** Set hearing on withdrawal of territory from Rockwood Water District, Hazelwood Water District, Gilbert (Powell Valley Road) Water District for 9:30 a.m., Wednesday, March 17, 1993 (Ordinance)

Disposition: Ordinance No. 166289. (Y-5)

City Auditor Barbara Clark

***265** Cancel sewer system charges at 1415 SW Park Avenue and 823 SE 154th Avenue (Ordinance; amend Ordinance Nos. 165166 and 166242)

Disposition: Ordinance No. 166290. (Y-5)

250 **TIME CERTAIN: 10:00 AM** - Approve the NE Sacramento and NE Pacific/108th Neighborhood Traffic Management projects (Report introduced by Commissioner Blumenauer)

Discussion: Commissioner Blumenauer said this project reflects two years of work and the efforts of Transportation to be responsive to neighborhood concerns and incorporate them into a program that actually happens.

Donna Green, Neighborhood Traffic Management program, said last year the Bureau of Traffic Management did a three-month test of speed bumps on five streets to see if they were effective and did not impair emergency vehicle access. They then went to the neighbors with the results. On three streets the bumps were found to be effective and were put in place, while on NE Sacramento and NE Pacific/108th it was felt that something

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Donna Green, Neighborhood Traffic Management program, said last year the Bureau of Traffic Management did a three-month test of speed bumps on five streets to see if they were effective and did not impair emergency vehicle access. They then went to the neighbors with the results. On three streets the bumps were found to be effective and were put in place, while on NE Sacramento and NE Pacific/108th it was felt that something less abrupt was needed. She said ballots were sent to affected residents: for NE Sacramento the vote was 96 yes and 27 no while on NE Pacific, the vote was 53 yes and 20 no.

Mayor Katz asked for comments about the increased traffic on Alameda that will result from this project.

Len Stanley, 704 NE 108th Ave., said he is pleased with the reduction in speeds that have resulted from the test speed bumps and strongly supported the project.

Sharron Fuchs, 6105 NE Sacramento, said she lives on a bad corner on Sacramento and has noticed significant reduction in both the number of vehicles and speeds. She asked Council to consider two additional speed bumps to continue the project beyond the current boundary.

Russ Hale, 6727 NE Sacramento, said this project is definitely a plus for the neighborhood. He said very little traffic has been diverted onto Alameda compared to the current problem where nothing was done for 20 years.

Alice Scannell, 6735 NE Sacramento, said she believes the increase in traffic on Alameda is due to the new routes people have chosen now that Sacramento is no longer a straight shot. She said she thought the volume on Alameda went from 390 to 603 after the second set of revised bumps were added. Sacramento traffic went from 2500 to 1400, which is more than twice the volume on Alameda, with half the houses.

Mayor Katz asked staff whether the license plates on Alameda had been identified to see if the cars belonged to residents there. She asked about the effect of the speed bumps and stop signs.

Ms. Green said they have a traffic impact threshold curve which gives them a guideline which says a certain amount of traffic increase on another local street is acceptable but beyond that curve it is unacceptable and the project has to be revised or removed. The 213 vehicle increase on

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Alameda was within the threshold as there was a decrease of about 1100 cars off of Sacramento with only a small percentage going onto Alameda. They believe a lot of those cars belonged to neighborhood residents who previously preferred the straight shot on Sacramento but now find it is a tradeoff as to which street is faster. Ms. Green noted that people on Alameda were able to vote on the project and over half voted for it.

Kevin Hottmann, Traffic Engineer for the Office of Transportation, said all five of the streets where speed bumps were placed were selected to minimize diversion.

Mayor Katz said she was interested in knowing where the cars went and how their dispersal is tracked.

Disposition: Approved. (Y-5)

251 Approve the SW Boones Ferry Road Neighborhood Traffic Management project (Report introduced by Commissioner Blumenauer)

Discussion: Donna Green, Bureau of Traffic Management, said the SW Boones Ferry Road Project attempts to reduce excessive traffic volumes and speeds on Boones Ferry and helps the City implement the Reclaiming Our Streets action plan recently adopted by Council.

She said the project essentially entails adding a semi diverter on Boones Ferry at Taylors Ferry and a series of five speed bumps along Boones Ferry Road. She said traffic volume on Boones Ferry was close to 4000 vehicles per day, with speeds in excess of 40 miles per hour, clearly indicating its use as a commuter cut-through to avoid the Terwilliger/Taylors Ferry intersection. She said these projects are citizen driven and involve extensive citizen involvement.

Ms. Green reviewed some of the traffic management alternatives considered, including placement of a semi-diverter at the south end of Boones Ferry Road and stop signs, explaining that studies indicate that when stop signs are placed on high volume streets to increase safety on low volume streets, those stop signs are often disregarded, creating more of a safety hazard.

Major goals of the project included reducing traffic volume and traffic speeds on SW Boones Ferry Road. Because of placement of the semi-diverter, a left turn onto Boones Ferry from Taylors Ferry is no longer possible. Studies at one location show that traffic volume decreased from approximately 3,850 to 1,520 cars per day, or 68 per cent reduction.

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Traffic was also reduced on SW Palatine Hill Road although an increase was noted on SW Primrose where vehicles per day increased by 325, or a 35 percent increase in volume, which is still within the acceptable limits determined by the impact threshold curve. Because of concern about the increased volume on Primrose, a count was made which found that 63 percent of the cars were registered to residents of the interior area. To reduce traffic speed, five speed bumps were installed, which reduced traffic velocity from 40 to 30 miles per hour, clearly showing that the bumps were effective.

Ms. Green contended that most of those opposing the project are not residents of Boones Ferry Road and may now have to wait an average of three minutes at the evening peak hour to get through the cycle at Terwilliger and Taylor Ferry.

Additional goals of the project were to reroute traffic on Boones Ferry to appropriate routes and improve vehicle, pedestrian and bicycle safety, particularly at dangerous intersections. Regarding the balloting results, she noted that the project had a very high 77 percent return rate, with 65 yes and 10 no votes, or 65 per cent voting in favor. She added that some feel that ballot area should have included a larger portion of the neighborhood but the area designated meets Office of Transportation requirements and was approved by the Citizen Advisory Committee. They believe some inconvenience caused by delays or restricted access is an acceptable consequence of traffic management and should not be subject to a ballot.

David Barringer, 9601 SE View Point Terrace, 97219, asked for inclusion of a larger number of residents in the project. He said this is a case where an organized minority is dictating to the majority, contending that not one resident of Primrose has been a member of the Committee even though the changes most severely impact their street. He argued that distortions have occurred because of the application of a grid and called for reevaluation of the project.

Thomas Lindell, 0277 SW Palatine Hill Road, 97219, objected to the semi-diverter on Taylors Ferry and agreed with Mr. Barringer about the need for reevaluation. He charged that the voting district was gerrymandered and left many people in the neighborhood without any say. He said the speed bumps should be tested without the semi-diverter and called for inclusion of all the people affected by the project.

Ed Tarowishi, 9520 SW 3rd, 97219 objected to the area included in the balloting, contending that it was drawn too narrowly and has denied others

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a right to vote. A petition was circulated after installation of the semi-diverter and 61 residents signed in opposition. He said that to get a majority vote, two rounds of voting had to be conducted and charged that it is not fair to keep taking votes until an acceptable result is achieved. He asked for removal of the semi diverter and the installation of stop signs on Boones Ferry at the intersections of Taylors Ferry, Primrose and Palatine Hill Road. He said this would meet the goals of the project without unfairly impacting all residents of the neighborhood.

Paul Schulbert, 9258 SW Brier Place, 97219, said the traffic diverter is overkill and speed bumps and stop signs should be tried first. He said Council should reject arguments that stop signs should not be put in because you expect people to ignore them.

Dorian de Leon, 9268 SW Brier Place, 97219, recommended that this project be tried with the speed bumps but without the diverter because of the lack of access.

John Miller, 8959 SW Boones Ferry, Collins View Neighborhood Association, (CVNA) asked for adoption of the project, arguing that Boones Ferry will not be destroyed and the neighborhood will be saved, making a safe haven for children.

Mayor Katz asked what position the CVNA took about the final proposal.

Mr. Miller said they did not take a formal vote because of the separation between the traffic program from the neighborhood association itself. He said opponents of the project did not participate.

Commissioner Hales asked Mr. Miller his opinion about the process and the validity of the ballot area used in this case.

Mr. Miller said people did not speak out in opposition until the diverter went up although they had an opportunity to participate in the process earlier. He said people were told by the City that one of the consequences of the project might be the closure of a street.

Mayor Katz asked if everyone in the impacted area received notice that a semi-diverter would probably close that street to their neighborhood.

Ms. Green said notice was sent to all residents within the Collins View neighborhood and there were several opportunities for residents to become involved. She said the notices referred to the possibility that partial or full closure might be a consequence.

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Commissioner Hales asked about the ballot area, which includes only a part of those who received informational notices.

Mr. Miller said if people are only going to show up and vote yes or no to close the road they will vote no. If they participate in the process and understand the issue then they can vote.

Commissioner Blumenauer said the problem is neighborhood boundaries are not the same as traffic sheds. He said there is a great deal of history about how this was determined, but the bottom line is whether Council thinks this project will help.

Dirk Young, 9277 SW Boones Ferry Rd., 97219, said the project has been wildly successful, mostly due to the semi-diverter on Taylors Ferry.

Jana McCandless, 9342 SW Boones Ferry Rd., 97219, supported the semi-diverter and speed bumps. She said this makes a positive change at the cost of only a small inconvenience. She said high speeds make it dangerous to walk or bike in the area.

Myra Lee, 9504 SW 2nd, 97219, a member of the Traffic Committee, said the current solution benefits the largest number of residents and has caused a dramatic decrease in traffic.

Betty Hedberg, 7903 SW Ruby Terrace 97219, South Burlingame Neighborhood Association, supported the project.

Bob Noon, 9255 SW Boones Ferry Rd., a member of the Traffic Committee, voiced support, adding that the increase on Primrose is local traffic. He said opponents only started to attend the meetings at the end of the process and never submitted their possible solutions in writing, as had been requested.

Mayor Katz asked if they looked at an alternative for speed bumps without a diverter.

Mr. Noon said the number one goal is to reduce volume and speed bumps alone do not do that. He said they looked at numerous options.

Deborah Tuthill, 9617 SW 2nd, 97219, said the impact of the devices on 2nd has been dramatic and very effective. She said she is delayed three to four minutes more than before, admitting that she now uses Primrose and sympathizes with the negative impact there. However, the overall impact has been positive.

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Jerry Krueger, SW Boones Ferry Rd., 97219, said these devices make the street much safer for children and contended that only seven houses on Primrose are affected.

Lynne McKay, 9267 SW 2nd, 97219, said safety should rank higher than convenience and the diverter has made both Boones and Taylors Ferry safer.

Michael Blackburn, SW 4th Avenue, a member of the Traffic Committee said he was outside the ballot area but was concerned about the dangers on Taylors Ferry and Boones. He said the semi-diverter was an immediate success and the speed bumps have also been effective.

Commissioner Blumenauer said this is a very difficult area with difficult topography. He said there have been 100 projects, none of which have pleased everyone, but the bottom line is that speed and traffic volume are being reduced in a way that does not unduly jeopardize other areas.

Commissioner Hales said he is interested in looking at some of the policy issues raised today at a later time but believes the neighborhood has worked hard to include people and this project should go forward.

Commissioner Kafoury said on balance the benefits outweigh the inconvenience.

Commissioner Lindberg said this is a neighborhood liveability issue and the increased safety is worth the minor inconveniences for others.

Mayor Katz said she does not like to hear neighbors against neighbors, pointing fingers about why people did not get involved earlier in the process. She said she would have preferred to have the entire area

involved from the very beginning. She said the City should not decide against doing something because it anticipates the law will be broken. Mayor Katz said she would have preferred to look at bumps without diverters and stop signs that are not a part of this project at the present time. The voting district also needs to be reviewed, but because of the positive impact for people living on these streets, she will support it.

Disposition: Approved. (Y-5)

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REGULAR AGENDA

***254** Authorize donation of three seized vehicles to the Council for Prostitution Alternatives, the Multnomah County Sheriff's Office Mounted Patrol and RAPHA House (Ordinance)

Discussion: Commissioner Kafoury said the City is donating these cars to someone to sell at an auction, which she believes should not be done until there is a policy regarding the donation of vehicles.

Sergeant Roger Hediger, Police Bureau, said the first request came to him from the Chief's Office, with the understanding that it would have to get Council approval. There is no policy now but he understands one will be developed in the near future.

Commissioner Kafoury said the issue is that the cars are being donated for sale at an auction. She said she is reluctant to approve these until there is a policy.

Commissioner Blumenauer said the automobile forfeiture ordinance was set up so that the program would be self-financing and monies from the sale of seized vehicles were to be dedicated back to the Police Bureau for law enforcement purposes. He said that is the policy and he is concerned about the Police making contributions to fund-raising efforts when it needs the money to fund its own programs. He said he understood one of the cars was already auctioned off.

Sergeant Hediger said it was auctioned off with the understanding that Council would have to approve it and no money has exchanged hands.

Mayor Katz asked that this be referred back to her office until a policy is determined.

Disposition: Referred to Commissioner of Finance and Administration.

262 Accept completion of HVAC remodel at Multnomah Art Center, approve Change Order No. 3, authorize payment to Hydro-Temp Mechanical for \$24,936 and release of retainage (Report; Contract No. 28050)

Disposition: Referred to Commissioner of Public Affairs.

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Commissioner Earl Blumenauer

266 Accept completion of the Columbia Boulevard Wastewater Treatment Plant secondary lighting project, approve Change Order Nos. 1 and 2 and make final payment to Northwest Electric Company (Report; Contract No. 28009)

Disposition: Accepted.

***267** Establish a Private Plumbing Loan Program for certain owners of single family residential property located in the Mid-Multnomah County Sanitary Sewer System Improvement Project and authorize an intergovernmental agreement with Multnomah County for program administration services (Ordinance)

Discussion: Commissioner Kafoury said the concern is with continuing to have two agencies administering these loan programs. It is hoped that by the end of the year they will be combined.

Disposition: Ordinance No. 166291. (Y-5)

***268** Authorize contract with Ad Department, Inc., to procure and provide professional services for a public service campaign for the Combined Sewer Overflow Program and provide for payment (Ordinance)

Discussion: Mary Nolan, Bureau of Environmental Services, said this would implement one part of the public involvement process for decision making on the CSO program. She said this ad campaign was not a part of the original proposal but was added at the urging of citizen advisory committees and in response to concerns raised at various meetings. All these sources believe information about the CSO needs to reach a very broad-based audience, which this program will do. It will authorize a public service announcement contract to go to a single general contractor, the Ad Department, which will manage subcontractors for production of print, radio and television pieces. She said the contractor must follow City policy in selecting subcontractors and interview at least three contractors and aggressively seek minority and female contractors. She said past use of Ad Department showed they were able to leverage three or four times the value of the contract. She said the contract will be funded out of current resources with funds to pay for it being diverted from other parts of the program.

Mayor Katz asked if this money was left over from previous contracts and if savings were identified in order to do this.

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Ms. Nolan said basically they reviewed the entire project to identify savings in staff resources and technical development funds.

Mayor Katz noted that this has an emergency clause and needs unanimous approval.

Commissioner Blumenauer said they are operating in a very short time frame but if people do not feel comfortable with it, then it is best not to do it. He said he would rather have it fail than remove the emergency clause and wait 30 days.

Ms. Nolan said if they wait a month it will be too late for the information campaign which needs to occur prior to the hearings Council will hold at the end of April and May.

Commissioner Blumenauer said this is something that will affect the entire community and he believes the expenditure would be well worth it.

Commissioner Hales said he thinks there are other alternatives that are better and voted nay.

Commissioners Kafoury, Lindberg and the Mayor voted aye.

Disposition: Failed to Pass. (Y-4; N-1, Hales)

***269**

Revocable permit to Portland Saturday Market, Inc., to use that part of W Burnside under the Burnside Bridge for market operations and to close parts of SW Ankeny, SW Front and NW Front during certain hours (Ordinance)

Discussion: Bob Johnson, Bureau of Transportation Engineering, said Saturday Market has used this public right-of-way at the end of the Burnside bridge on weekends since 1976. Over the years the Market has expanded to provide space for over 250 vendors and has, at its own expense, installed additional street lights and other improvements. Since July, 1992, when a new owner bought the Skidmore Fountain and New Market Theatre building, the owner and the Market have had difficulty reaching agreement on the new ordinance for use of the public street areas. The other adjacent property owner, H. Naito, continues to support the Market. Staff has tried to complete an ordinance acceptable to both to the Market and adjacent properties. This ordinance is valid only for three, rather than 5 years, and states that if an adjacent property owner withdraws approval, the Market shall cease operation at the end of 60 days. No previous Saturday Market ordinance had such a clause and

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adjacent property owners never withdrew approval. He said staff believes the owner of the New Market Theatre would not support the ordinance unless the length of time is reduced to three years and the cease of operation clause was added. Staff however believes there is not good cause to limit the length of the ordinance or give the right of closure to an adjacent property owner without just cause. Because further negotiations do not bode well, staff decided to submit the ordinance as Saturday Market wished.

Susan Steronko, Saturday Market General Manager, described the benefits to the community of having this non-profit market. She said adjacent businesses are heavily dependent on the traffic generated by the Market.

Eileen Boss, Chair of the Saturday Market Board, described the positive impact of the Market and asked for Council approval.

Bill Naito, 5 NW Front, said he is proud to be involved with an institution like Saturday Market. He said light rail gets huge ridership on weekends, partly because of Saturday Market.

Tom Ball, operator of a retail apparel store at 79 SW 1st, said granting the ordinance for three instead of five years does not instill nearby merchants with confidence about the future and requiring unanimous approval of every adjacent property owner seems an impossible task.

Jon Abrahamson, Saturday Market vendor and Old Town merchant, said he is also concerned about the length of time and the requirement for unanimity which allows one property owner the right to revoke the market's license within 60 days. He said he would rather not see the Market open unless this is resolved.

Mike Hashem, 50 SW 2nd, the adjacent property owner, said they support the present ordinance because it reflects what was agreed upon by the Market and the two adjacent property owners. He said this will ensure the Market will be there for another 20 years. As operator of an open air market and two historic buildings, he said he represents 200 vendors and asked the City to consider the interests of both markets.

Commissioner Blumenauer moved two amendments to address some of the concerns. The first would extend the permit to five years, rather than three, and the second would permit an abutting property owner to petition Council if there is a legitimate problem or circumstances change, rather than give the right of revocation to an individual property owner. Commissioner Kafoury seconded and the motion carried. (Y-5)

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Mr. Hashem said the public right of way and access to his property is not mentioned in any way in the ordinance and he does not see a reason to change the agreed-upon ordinance. If the concerned party is not satisfied why would he sign.

Commissioner Blumenauer noted that it has not been the custom to allow members of the public to testify again once Council discussion has begun on motions before them.

Mayor Katz said if there are amendments, she believes citizens ought to be able to comment on them very briefly if they are not aware of them.

Disposition: Ordinance No. 166292 as amended (Y-5)

Commissioner Charlie Hales

***270** Revise Title 19, Harbors, by repeal and adoption of New Title 19 (Ordinance; amend Title 19)

Disposition: Ordinance No. 166293. (Y-5)

Commissioner Mike Lindberg

***271** Authorize contract for revenue bond sale feasibility study for Water Bureau (Ordinance)

Disposition: Ordinance No. 166294. (Y-5)

City Auditor Barbara Clark

272 Assess property for sewer system development charges through December, 1992 (Hearing; Ordinance; Z0344 through Z0379)

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

At 12:50 p.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 3RD DAY OF MARCH, 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; Peter Kasting, Senior Deputy City Attorney; and Officer Sheridan Grippen, Sergeant at Arms.

Commissioner Gretchen Kafoury

273 Amend Title 33, Planning and Zoning, to clarify several issues (Ordinance)

Discussion: Jessica Richman, Bureau of Planning staff, said this is the seventh amendment package to be brought to Council to correct glitches which have arisen since passage of the new Zoning Code in December, 1991. This package addresses three major issues. The first, regulation of vehicle repair in residential zones, would limit repairs to vehicles owned by residents of the site and require that major repairs be done within a closed building. The second issue, regulation of drive-through businesses near light rail lines, was raised by the Kaady Car Wash case. Questions arose about when regulation of development should begin near light rail lines and the distance within which such regulations should apply. The Code change proposes that regulation begin at the end of the Environmental Impact Statement process, once the City and Tri-Met have adopted a preferred alternative alignment. The restriction on drive through businesses only applies within the Central City plan district. The change regarding site distance applies the restriction to that portion of the site within 100 feet of a light rail alignment.

The third change, Ms. Richman continued, concerns non-conforming use and development issues. She said this is a confusing concept which covers three situations: 1) non-conforming use grandfathered in because they were legal at the time of creation but became non-conforming due to a change in City regulations; 2) non-conforming development due to subsequent development requirements such as landscaping and; 3) residential densities when zones are changed. No policy change is proposed but a number of clarifications have been added to allow some changes with mitigation for the effects and with the goal of eventually phasing them out. Major changes involve: 1) changes in how to document non-conforming use 2) new regulations on expansion of exterior developments and; 3) limits on site expansion to what the site was at the

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time it became out of conformance. A clarification as to what constitutes a vacant site is being added as a result of the Rhine case where the applicant argued that the site was not vacant because it had a building on it, even though the building was vacant.

Finally, inequities relating to landscaping requirements on non-conforming development are being changed to lessen an unfair effect on small businesses. A new threshold has been added for determining when upgrading, such as landscaping and paving, is required.

Disposition: Passed to Second Reading March 10, 1993 at 2:00 p.m.

274 Amend the fee schedule for land use applications and related planning services (Previous Agenda 247)

Discussion: Commissioner Kafoury moved to Suspend the Rules to refer the item to her office and allow her to introduce a new ordinance in its place. Hearing no objections, the Mayor so ordered.

Disposition: Referred to Commissioner of Public Utilities.

SUSPENSION OF RULES

***274-1** Approval of immediate appropriation to authorize the expenditure of \$140,000 of unanticipated revenue noted in the 2nd Quarterly Report and to hire personnel (Ordinance)

Disposition: Commissioner Kafoury said Planning got the message that Council was not comfortable with the new fee schedule and so have found another way to fund additional help for the Permit Center prior to the start-up in the construction season. The money has already been raised because of the higher volume of activity in the Bureau.

Susan Feldman, Planning Bureau, said the Bureau is asking for an immediate authorization to fund staff positions and spend \$140,000 approved by OFA as part of the Second Quarterly budget report, which is due to come to Council in two weeks. She said the ordinance also creates new positions.

Disposition: Ordinance No. 166295. (Y-5)

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Commissioner Charlie Hales

275 Liquor license application for CP Underhill, Inc., dba The Portsmouth Club, 5264 N Lombard Street, Dispenser Class A liquor license (renewal); favorable recommendation with Letter of Warning recommendation (Report)

Discussion: Henry Emrich, Bureau of Licenses, said this licensee had some serious problems in early 1992 regarding some violent incidents. The Bureau believes the licensee has taken steps to address these problems. However, a Letter of Warning will underscore the seriousness of the Bureau's concern.

Officer Chuck Bolliger, Bureau of Police, reviewed the history of violent incidents which led to interdiction. Since that time only two incidents have occurred and that is why they believe a Letter of Warning is appropriate. He said a license can be cancelled or suspended if four category three violations occur within a two-year period.

Mayor Katz asked why the license had not been yanked since there were four incidents in category three in two years.

Mr. Emrich said after an investigation, the OLCC concluded that the licensee was not at fault. He said the situation has improved because an abrupt change in management brought about significant improvement.

Commissioner Hales moved to recommend approval with a letter of warning. Commissioner Lindberg seconded.

Disposition: Favorably recommended with a letter of warning. (Y-5)

276 Liquor license application for Ed B. Choi, dba Katina's Deli and Grocery, 612 NW Flanders Street, Package Store liquor license (renewal); favorable with restrictions recommendation (Report)

Discussion: Henry Emrich, Bureau of Licenses, described what has been done to address street drinking problems and public intoxication in the Old Town area where this applicant is located. The Bureau believes that the applicant, by voluntarily ceasing sale of fortified wines, has shown a willingness to work with neighbors and regulatory agencies on solutions to the problems but still believes the sale of 40-ounce containers should be

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restricted. The favorable recommendation would carry restrictions on the sale of fortified wine, 40-ounce containers and on the sale of alcoholic beverages to known street drinkers.

Officer Chuck Bolliger, Portland Police, said the problems persist but the License and Police Bureaus have now addressed all the sales "to go" outlets in the Old Town area and, either through voluntary compliance, Council action or OLCC restrictions, all of these outlets have been treated equally.

Thomas Walsh, attorney for the Korean Grocery Association and representing Ed Choi, the applicant, said when Ray's and Suki's licenses came up for renewal it was understood that all restrictions in the affected area would be applied equally across the board. They also understood that when the larger super markets voluntarily removed the oversize containers, then all markets would carry the same restrictions. However, they do not believe that has happened, noting that at the last hearing they submitted evidence from the OLCC regarding street drinking, listing 16-17 markets of which 13 were not being restricted as to container size. He said the Association believes container reduction does not significantly alleviate the problem of street drinkers but if such restrictions are applied, it insists that they be applied across the board.

Mr. Walsh questioned the statistics used by the Bureaus in documenting that 78 per cent of reports on street drinking problems involve 32 and 40 ounce containers. He noted that the OLCC listed 317 violations, 119 of them involving large containers, or 35 per cent. At a recent OLCC hearing staff recommended that restrictions on container sizes in Northeast Portland be dropped but the Commission decided to keep them because the licensee was new. Mr. Choi on the other hand has been in business for a very long time.

John Rho, Korean Business Association, said they are very upset about this restriction. He said they agreed to product and container-size restrictions before and are now being told they still have a problem.

Arthur Epperson, 310 NW 6th, #308, said the restrictions on this store do not make any difference as people just go elsewhere, such as to the OLCC outlet. He said any more restrictions will not do any good.

Jim Troy, 309 N Killingsworth, said they believe Korean grocers are being singled out while nothing is being done about the other outlets. He said he has seen the applicant refuse sales to people without proper i.d., rent receipts or room keys and objected to adding still another restriction. He

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said if the City is serious about this, the same restriction should be applied to all.

Commissioner Kafoury asked if the restrictions on Ray's and Suki's had been applied equally throughout the area.

Commissioner Hales said they expect to start applying the same restrictions to all licensees in problem areas as they come up for renewal. He said he wants to review the whole subject of impact areas to see if the regulations are being applied equally, reasonably and effectively. In this case, he recommended going ahead today, however, adding these restrictions with the understanding that the policy will be reviewed to see if it is fair and effective.

Commissioner Kafoury said earlier the Bureau indicated it was going to check the criteria used at OLCC outlets and large stores. She said she will support these restrictions but believes the City has not been clear about about its intent.

Mr. Rho said the issue is that everyone must be involved if the problem is to be solved. If not, the problem will be spread to other places.

Gary McGrew, Bureau of Licenses, said Council gave the bureau authority to apply these restrictions throughout the area.

Mr. Emrich said the number one problem is the 40-ounce container, while second is distilled products. The OLCC has set up meetings with their merchants to discuss this information.

Commissioner Kafoury asked if they had met with the Korean Business Associations to explain their expectations.

Mr. McGrew said they would be happy to meet with them again, adding that the Bureau's efforts have been consistent in Old Town and they are also working with Association for Portland Progress.

Mayor Katz asked if Ray's and Suki's have these restrictions now.

Mr. McGrew said the OLCC is waiting to hear what Council's recommendation is for Katina's and then all three will be dealt with together.

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Officer Boliger said all the outlets will come up for renewal on December 31st. He reviewed what is happening at other area grocery stores and taverns.

Commissioner Hales said he would be happy to facilitate additional meetings with the licensees and the Bureaus. He said they are also trying to arrange a meeting between the OLCC and Council.

Mayor Katz said Council wants to make sure the restrictions are applied equably.

Commissioner Hales moved to adopt the favorable recommendation with the three restrictions listed. The motion was seconded and carried. (Y-5)

Disposition: Favorably recommended with restrictions. (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

March 3, 1993

THURSDAY, 2:00 PM, March 4, 1993

**DUE TO LACK OF AN AGENDA
THE PORTLAND CITY COUNCIL
DID NOT MEET**