



CITY OF

PORTLAND, OREGON

**OFFICIAL
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 17TH 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.

Chet Orloff, Director of the Oregon Historical Society, asked the City to participate with the Society in creation of a permanent exhibit on the City's history. He said they are working with Portland State, City Archives and the Portland Public Schools to form a planning group to produce this major exhibition, which would also include a research component. He requested \$120,000 over a three year period.

Commissioner Blumenauer commented on the Historical Society's contributions to the City already, citing the Albina Community Plan, the Regional Rail plan, Clean Rivers program. He said it would be helpful to document these contributions.

312 TIME CERTAIN: 9:30 AM - Consider withdrawal of territory from Hazelwood, Gilbert (Powell Valley Road) and Rockwood Water Districts (Hearing; Report)

David Johns, Water Bureau Urban Services Manager, said after territory is annexed within the jurisdiction of a special district it is necessary to hold a formal hearing to withdraw that territory and have Council make a formal determination that the withdrawals are in the interest of the City. The Bureau believes the withdrawals are in the City's interest because they further the goal of having the City provide all services and reduces the number of governmental units.

Mayor Katz asked about the status of Hazelwood.

Mr. Johns said about 95 per cent of Hazelwood has been annexed and withdrawn. He said following the 1991 withdrawal ordinance, Hazelwood

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transferred all its physical assets to the Rockwood Water District in order to avoid the effects of the withdrawal. The Water Bureau believes this constituted a merger in fact. He said the City is continuing to annex in Hazelwood, noting that when annexations occur a step at a time, the withdrawal occurs piecemeal and the transfer of assets has to be negotiated. He said the City has been trying to negotiate the transfer of remaining assets from Hazelwood although they insist they have no assets to transfer. The City is challenging that and will go to the County to seek a resolution. If the outcome is still in question, the City can take it to Court, but the Bureau firmly believes the annexations and withdrawals should proceed.

Jean Orcutt, Rockwood Water District, said since Hazelwood transferred its assets to Rockwood, it has created problems for affected residents who are not getting sufficient water pressure. She said it is a real service problem when Rockwood owns the pipes but the customers are in Portland.

Mr. Johns said the specific problem referred by Ms. Orcutt exists around SE 117th-120th. What happened is that when the territory was withdrawn, the City did not receive all the assets, including a large 12-inch main Rockwood used to provide service to its remaining customers. Portland received the local mains which were isolated and this reduced the available water flow to this area. He said they have been trying to get the larger main but in the interim have tried to tie the remaining ones together. He said one reason why annexations should go forward is so that they can get the rest of these assets. He said they are trying to figure out an interim solution other than laying a duplicate main.

Disposition: Adopted. (Y-5)

Agenda No. 326 was pulled from Consent. On a Y-5 roll call, the balance of the Consent Agenda was adopted as follows:

CONSENT AGENDA - NO DISCUSSION

313 Accept quote of Wentworth Chevrolet Company for three passenger mini-vans for \$41,429 (Purchasing Report - Informal Quote)

Disposition: Accepted; prepare contract.

314 Accept quote of Landmark Ford for two compact four-wheel drive utility vehicles for \$42,084 (Purchasing Report - Informal Quote)

Disposition: Accepted; prepare contract.

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315 Accept bid of Frahler Electric Company for parks pathway and roadway lighting for \$250,000 (Purchasing Report - Bid 98)

Disposition: Accepted; prepare contract.

Mayor Vera Katz

316 Authorize the City Attorney to take an appeal from the Judgment of the Circuit Court, entered February 17, 1993, in Simons v. City of Portland, Multnomah County Circuit Court Case No. 9110-06965 (Resolution)

Disposition: Resolution No. 35111. (Y-5)

317 Authorize reimbursement of expenditures with debt proceeds (Resolution)

Disposition: Resolution No. 35112. (Y-5)

***318** Pay claim of Frederic and Catherine DeArmond (Ordinance)

Disposition: Ordinance No. 166315. (Y-5)

Commissioner Earl Blumenauer

319 Accept completion of the Columbia Boulevard Wastewater Treatment Plant gravity belt thickener purchase and make final payment for Ashbrook-Simon-Hartley (Report; Contract No. 26720)

Disposition: Accepted.

***320** Agreement to reimburse Metro for the cost of providing street lights included in Street Job 2088 on NE Irving Street, NE 7th Avenue and NE Lloyd Boulevard (Ordinance)

Disposition: Ordinance No. 166316. (Y-5)

***321** Authorize an Intergovernmental Agreement with the Metropolitan Service District, including acceptance of a \$52,397 grant for implementing a multi-family recycling container program (Ordinance)

Disposition: Ordinance No. 166317. (Y-5)

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***322** Amend City Code to allow organizations to collect and transport recyclable materials without a residential waste collection franchise, if the materials are collected at a non-mobile depot without charge to the generator (Ordinance; amend Chapter 17.102)

Disposition: Ordinance No. 166318. (Y-5)

***323** Consent to transfer of Jack Young, Inc., franchise to Jack Young Sanitary, Inc. (Ordinance)

Disposition: Ordinance No. 166319. (Y-5)

***324** Amend agreement with the Department of Environmental Quality to provide for oversight in connection with the N Marine Drive Project (Ordinance; amend Agreement No. 27727)

Disposition: Ordinance No. 166320. (Y-5)

***325** Call for bids for the NE 13th Avenue Basin, C.S.O. Sump Project - Unit 16, authorize a contract and provide for payment (Ordinance)

Disposition: Ordinance No. 166321. (Y-5)

Commissioner Gretchen Kafoury

***327** Accept a grant from the US Department of Housing and Urban Development for an Emergency Shelter Grant Program under Title IV of the Stewart B. McKinney Homeless Assistance Act of 1987, in the amount of \$136,000 (Ordinance)

Disposition: Ordinance No. 166322. (Y-5)

Commissioner Mike Lindberg

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

Disposition: Accepted.

***329** Authorize acceptance of a recreational trail easement at 12106 NE Ainsworth Circle in Columbia South Shore Slough area by Dennis Sivers (Ordinance)

Disposition: Ordinance No. 166323. (Y-5)

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***330** Authorize acceptance of a recreational trail easement at 11824 NE Ainsworth Circle in Columbia South Shore Slough area by Dennis Sivers (Ordinance)

Disposition: Ordinance No. 166324. (Y-5)

***331** Authorize acceptance of a recreational trail easement through Tax Lot 21 and Lots 63 and 64 of Reynolds Mountain View Plat 2 in Columbia South Shore Slough area by Winette Sivers (Ordinance)

Disposition: Ordinance No. 166325. (Y-5)

***332** Amend contract with Network Computing Corporation to provide additional services for billing system (Ordinance; amend Contract No. 16544)

Disposition: Ordinance No. 166326. (Y-5)

***333** Call for bids for the construction of 8-inch and 6-inch water mains in SE 40th, SE 65th, SE 75th and SE 77th Avenues, authorize a contract and provide for payment (Ordinance)

Disposition: Ordinance No. 166327. (Y-5)

***334** Call for bids for the construction of Elk Fountain water supply modification, authorize a contract and provide for payment (Ordinance)

Disposition: Ordinance No. 166328. (Y-5)

REGULAR AGENDA

***326** Call for bids for labor and materials to install school crossing traffic signals at three intersections (Ordinance)

Discussion: Commissioner Blumenauer said these three signals will solve serious problems at three schools where cross walks are highly utilized and represents a commitment by the City to make streets safer.

Colleen Culbertson, 2105 SW Lesser Road, described the traffic situation on Capital Highway and the need for the signal.

Commissioner Blumenauer said a signal helps but is not enough and perhaps some enforcement can also be done.

Disposition: Ordinance No. 166329. (Y-5)

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Mayor Vera Katz

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

Disposition: Ordinance No. 166330. (Y-5)

Commissioner Earl Blumenauer

- *336** Amend contract with Unified Pacific Controls to increase the amount by \$31,522 to cover additional work requested by the City (Ordinance; amend Contract No. 27763)

Disposition: Ordinance No. 166331. (Y-5)

Commissioner Charlie Hales

- 337** Authorize the City Attorney to file for party status and represent the City's interest at the Oregon Liquor Control Commission in the matter involving the Cigarette Plus Package Store liquor application for a new outlet at 2224 North Lombard (Resolution)

Discussion: Commissioner Hales noted that earlier Council and OLCC staff recommended denial of this license application. This resolution authorizes City staff to continue the process with the OLCC.

Commissioner Blumenauer asked if Council had to formally authorize this action in order to have the City Attorney represent it in this case since it had earlier indicated its unfavorable position.

Harry Auerbach, Deputy City Attorney, said the Code provides that in instances where it is not specifically provided, direction is needed from Council before proceeding.

Commissioner Blumenauer said he would support blanket authorization so that at any point the License Bureau believes it necessary, they could proceed based on Council's recommendation.

Commissioner Hales supported Commissioner Blumenauer, noting that if Council has already taken a stand and established a policy, this could streamline the number of items needing to come to Council for approval.

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Mr. Auerbach said Council might consider adding an authorization statement to its recommendations so that the Bureau does not have to come back later to get it.

Disposition: Resolution No. 35113. (Y-5)

***338** Accept a \$46,000 grant from the Federal Emergency Management Agency (Ordinance)

Discussion: Commissioner Kafoury asked why the City is not doing this through Metro or Multnomah County, which is the authorized FEMA agency.

Commissioner Hales said the question of who is the lead agency is a policy question for the future.

Mayor Katz said she would also like to know what the money is to be spent on.

Ron Maynard, Office of Emergency Management, said the grant for \$46,000 is being matched by the Fire Bureau to fund staff to maintain the City's emergency center. He said they are having ongoing conversations with Multnomah County but the Committee appointed by ex-Governor Goldschmidt to examine such questions felt that local emergency management was pretty important and additional layers of government could be negative. Mr. Maynard said the City in the past has chosen to have an emergency management function to keep more local control.

Commissioner Kafoury said there is a massive policy issue here, adding that she is troubled that in eight years in local government she has yet to see an effective emergency response system.

Mayor Katz said she shares the concern and a full discussion is planned.

Disposition: Ordinance No. 166332. (Y-5)

***339** Authorize the purchase of four police patrol sedans through the Oregon State Price Agreement and provide for payment (Ordinance)

Disposition: Ordinance No. 166333. (Y-5)

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Commissioner Mike Lindberg

*340

Grant a revocable permit to Portland Saturday Market, Inc., to use Ankeny Park and that portion of Gov. Tom McCall Waterfront Park located under the Burnside Bridge (Ordinance)

Discussion: Rich Gunderson, Parks Bureau, said traditionally permits have been issued to Portland Saturday Market to use Ankeny and a small portion of Waterfront Park. Last fall, however, they became aware that another party was interested in pursuing that permit also. The Bureau then planned a bidding process but later found out that the City had entered into a verbal agreement with Saturday Market that if the Market put up \$25,000 for Ankeny Park improvements, it would be granted the permit. The matter was then turned over to the City Attorney and the bidding process was not pursued.

Susan Steronko, Saturday Market manager, reviewed the selection of the site and City participation in that process. She also cited recommendations by a Council-appointed Task Force formed in 1981 which concluded that the Market should continue operations at its present location and include a portion of Ankeny Park. She noted that in 1984 Saturday Market contributed \$25,000 as part of the match required for park improvements.

Eileen Boss, Chair of the Saturday Market Board, described the positive contributions the Market has made to improving the neighborhood and the image of the City.

Sam Naito, 5 NW Front Ave., said this is a great tourist attraction and has helped the growth of Old Town. It also promotes small businesses, craftsmen and boosts Tri-Met light rail use on weekends.

Commissioner Blumenauer said the Council recently granted a permit extending the main permit for Saturday Market for a period of five years, and asked why this piece should not also come back in a five year cycle.

Commissioner Lindberg said that is a good idea.

Mr. Auerbach said they did not put a 5-year limit on this permit because it is reviewed every year by the Director of the Bureau of Parks but if the Council wanted to have this come back in a five year period it could be amended.

Commissioner Blumenauer said he appreciates the history that has developed but he is worried about granting this permit in perpetuity. He

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said he thought the two should be linked so they can be looked at in a broader context.

Sarah Fuller, Vintage Trolley, described the good relationship Vintage Trolley has with Saturday Market, noting the increase in ridership when the Market is operating.

Mark McKnight, attorney and tenant of New Market Theatre, said Saturday Market is a positive contributor to the City but as a concept, of a weekend open air market, it need not be identical with the corporation, Saturday Market, Inc. He said there are currently two markets operating concurrently, one run by Saturday Market, Inc. and one run by the New Market Theatre building. He said Saturday Market Inc. tenants pack up its tents and go home during the week while those in the New Market Theatre portion stay there throughout the week and bring more lasting benefits to the neighborhood.

Elizabeth Hashem, owner of the New Market Theatre, said they had been told by the City that they would be able to participate in the bidding process. However, after they did not receive the bid package or any responses to their queries, they asked their attorney to write the City. Several days ago they were informed that there would be a vote. She said this is an instance where the City is doing favors for those who have more power and enriching its friends, adding that she did not have a chance to present her position to anyone.

Cheri Ross, employee of the New Market Theatre, said the current permit holder should not automatically have future and exclusive use of this site. She argued that Saturday Market Inc., is visible only two days a week and does not contribute much to helping with problems in the area. She noted a high turnover in managers, including one who embezzled funds. The issue here is fairness and equal opportunity.

Lisa Bumgard, New Market Theatre employee, read portions of letters noting the positive contributions of the Theatre to Old Town.

Gus Lieber, restaurant owner at New Market Theatre, said the Theatre in the past two years has done a tremendous job in Old Town and deserves to have its application considered.

Dan Andrews, coordinator for the New Market Association, said the lack of a fair and open bidding process cuts off the need for competition and growth.

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Dennis Randazzo, 1851 NE 60th, said Saturday Market has had a tremendous impact in that area and it is critical to have it survive. However, this concerns allowing exclusive use of a public park to Saturday Market, Inc., restricting use by others. The other issue is that this was not brought to the attention of the interested parties.

Tom Halpern, 5910 SE 41st, said an ordinance limiting use of the park to one entity is a violation of the free enterprise system.

Mayor Katz asked Mr. Randazzo if he thought no bid at all should be granted.

Mr. Randazzo said no, but if this property is brought to the market place for bid, then everyone should have an opportunity to be a part of it. He said it is the neighborhood's best interest to continue Saturday Market but those groups who are paying for the park should be given some consideration.

Arthur Honeyman, former Saturday Market vendor, said it was Saturday Market that brought merchants to the area in the first place and they would leave if the Market were not there. He said he believes the whole neighborhood would deteriorate if the Market did not get support. Mary Van der Brick, also a Board member and vendor, assisted him in his testimony.

Mike Hashem, operator of the New Market Theatre, said one of the two entities is being discriminated against. He said City staff and commissioners are improperly supporting one while the other one is trying to stand up on its own feet and compete. He said the City should represent everyone and not keep one group in the dark or pull stunts.

Commissioner Lindberg reviewed the Market's history and requirements, including its commitment to remain at the current site based on the continued availability of Ankeny Park. He noted that Saturday Market Inc. contributed \$25,000 for park improvements with the understanding that it would be allowed use of the Park as long as it stayed there. Commissioner Lindberg said there is a moral obligation, and perhaps a legal obligation, on the part of the City to carry this out. He said the Parks Bureau began the bidding process not knowing the entire history because of changes in personnel. He said he will take the responsibility to say that the commitments to Saturday Market are a moral commitment incurred when it agreed to stay rather than selecting an alternate site. He added that he agreed with Commissioner Blumenauer and would like to have some limits set on both the street and park use and have a five-year review period.

Mayor Katz asked if this was a revocable permit.

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Mr. Auerbach said it is a revocable permit which does not have a termination date unless the Council or Parks Director takes action to revoke it. He said he has some suggested language to amend the ordinance if a limit is desired.

Mayor Katz asked about the legal grounds for permitting this ordinance to come forward and what it means for another vendor.

Mr. Auerbach said Council manages City property for the benefit of the public and, barring superseding State law, how it does so is a matter of Council discretion. He said this is a use permit, not a public contract subject to the competitive bidding process. A Code provision governs some issues relating to park permits but until recently they operated on a first come, first serve basis. Recently this became an issue as people competed for events in Waterfront Park and, as a result of that, criteria have been added soliciting RFPs in Waterfront Park if conflicts arise between competing groups.

Commissioner Lindberg said use in Waterfront Park is based on a list of criteria, including history and precedent, such as with the Rose Festival. He said it is not accurate to say the selection of users relies entirely on a bid process.

Commissioner Blumenauer said the analogy to the Rose Festival and Waterfront Park is a good one as there are events which Council has determined add to the richness of a community and should not be put up to the highest bid. He said Saturday Market, Inc., is a cooperative effort run by vendors, and he believes it is important to recognize the evolution of this event and competing interests. He said he would like the two permits brought together for Council review so that the event can be looked at with a broader sweep, weighing tradition with neighborhood interest. Until such time, however, he feels comfortable keeping the present process we have and buying time to look at broader issues.

Mayor Katz said she would like the emergency clause removed.

Commissioner Blumenauer said that means there would be no activity in Ankeny Park this weekend.

Mr. Gunderson said the contract was extended until such time as a new permit is issued.

Mr. Auerbach said the Bureau can issue a temporary permit.

Commissioner Hales said we are making a distinction between a festival and a concession. He said he believes the Market is more of a festival and then

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there is a historical basis to grant the use of public property. For concessions, he believes, one should go out for bid.

Mr. Auerbach said with the Blues Festival in Waterfront Park, the City was dealing with two competing interests that combined a beneficiary organization and a secondary group that had a very complex relationship with each other.

Commissioner Lindberg said a wide variety of factors arise when use is restricted and when one group is issued a permit and others are not. He said Parks is struggling to review the history and make the right decision.

Mayor Katz said she feels strongly about using the competitive bidding process when appropriate and would like some time for review.

Commissioner Kafoury said it sounds like the process was changed after letters were sent out about an RFP and people should be notified if such a change occurs. She moved to remove the emergency clause. The motion carried. (Y-5)

Commissioner Blumenauer moved to amend the ordinance to limit the permit to five years. Commissioner Hales seconded and the motion carried. Y-5)

Mr. Auerbach noted that this would amend Section a and grant the permit from the effective date of the ordinance through December 31, 1997.

Disposition: Passed as amended to Second Reading as amended March 24, 1993 at 9:30 a.m.

City Auditor Barbara Clark

***341** Amend City Code and grant limited authority to the City Auditor to cancel installment payment contracts for sewer system development charges. (Ordinance; amend Chapter 17.14)

Discussion: Dan Vizzini, Assessments Manager, said this will facilitate the handling of requests to cancel installment payment contracts. He said now when property owners request that a loan be cancelled, it must come before Council for approval. This amendment will grant the Auditor permission to do so without having to go through Council.

Mayor Katz said she did not think there should be any objections.

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Mr. Vizzini said amendments were needed to add that the Bureau of Environmental Services could also request cancellation of a loan.

Commissioner Kafoury moved the requested amendments. Roll was called and the amendments passed (Y-5)

Disposition: Ordinance No. 166334 as amended. (Y-5)

342 Assess property for sewer system development charges through February, 1993 (Hearing; Ordinance; Z0380 through Z0424)

Discussion: Dan Vizzini, Assessments and Liens Manager, said this batch of sewer assessments covers about 1700 properties. The Auditor's office received about three letters and six to seven phone calls, most of which they have been able to deal with.

Disposition: Passed to Second Reading March 24, 1993 at 9:30 a.m.

343 Assess benefitted property for the costs of the HCD improvement of SE 18th Avenue from SE Clinton Street to SE Division Street, and construction of sumps (Second Reading Agenda 280; C-9782)

Disposition: Ordinance No. 166335. (Y-5)

At 11:30 a.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 17th 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 and Linda Meng, Chief Deputy City Attorney.

***344**

TIME CERTAIN: 2:00 PM - Authorize contract with Portland Habilitation Center for \$245,981 for one year of janitorial services (Ordinance introduced by Commissioner Lindberg)

Discussion: Harry Auerbach, Deputy City Attorney, said this contract was not competitively bid and explained why, citing a state statute which favors contracting with qualified non-profit agencies who rehabilitate disabled individuals. The statute exempts contracts with such agencies from competitive bidding process and further imposes an affirmative obligation on public agencies to contract with such organizations, provided the service meets the appropriate specifications and is available at the time required by the agency. In this case the Parks Bureau finds that Portland Rehabilitation is qualified in terms of the statute as janitorial services are on the list of procurement maintained by the State Department of General Services. The City is therefore required under State law to contract with them.

Carleton Chayer, Purchasing Agent, said this is another way to procure services as required under Oregon state statutes. He noted that this is only one contract out of 30 similar ones in the City. He said the City has used Portland Habilitation before and has had very good results.

Commissioner Blumenauer asked about the cost.

Mr. Auerbach noted that the statute reads "you shall" and that the contract price is determined by the state. He said the price given by Portland Habilitation Center is actually more favorable than what the state would have otherwise set.

John Murphy, Executive Director, Portland Habilitation Center, gave an overview of the Center's history, noting that it originally opened in 1951 as the Portland Children's Center, opened a shelter workshop in 1967 and changed its name in 1973 to reflect the shift in emphasis to rehabilitation

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services. In the mid-70's the Center became a union shop, one of the only ones in the United States that trains people with disabilities and provides them with high wages and benefits. He said the bottom line is that they can provide the required service.

Steve Fitchler, Portland State University, said Portland Habilitation has provided services to Portland State University for the past six years and the University has found their services to be outstanding.

Dan Steffey, 3510 NE 19th, said this is good public policy, noting that several present Council members voted for this statute when they served in the Legislature.

Commissioner Lindberg noted the names of others who supported the awarding of this contract and can speak about the services PAH provides.

Greg Peck, attorney representing Servicemaster and other minority contractors, said they understand the law and believe it is great for the City to provide opportunities to special groups. However, he said, they would hate to see minority contractors left out of the 30 such janitorial contracts the City has but believe there is a good possibility this could happen. He said very few outside contractors, for instance, now have federal contracts because of such provisions. Mr. Peck said it is his experience that small and minority contractors get left out and asked Council not to take away from one group to give to another. He noted that the cost of this contract represents a 30 per cent increase over the current cost.

Commissioner Hales asked if 30 was the total number of janitorial contracts and if there was a limit on the number of contracts that could be awarded under the state statute.

Mr. Chayer said there are 30 contracts although some include more than one facility.

Mr. Auerbach said he understood the Parks Bureau contacted several such groups and this was the only one able to meet the specifications of the contract. He said it does not appear that there are other qualified agencies.

Commissioner Hales commented that there would still be opportunities for private firms bidding under the normal process. He said he does not know the ability of Portland Habilitation Center to take on additional contracts.

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Mayor Katz stated her belief that as many contracts as can should go out to competitive bidding, noting that the state statute limits the City's ability in this case. She said with the new emphasis on minority and female contracting perhaps the legislature may wish to revisit this issue.

Disposition: Ordinance No. 166336. (Y-5)

At 2:25 p.m., Council adjourned.

BARBARA CLARK
Auditor of the City of Portland

Cay Kershner
By Cay Kershner
Clerk of the Council

March 18, 1993

THURSDAY, 2:00 PM, March 18, 1993

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