



CITY OF  
**PORTLAND, OREGON**

**OFFICIAL  
MINUTES**

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

Agenda Nos. 457, 466, 483, 485, 493 and 496 were pulled from Consent. On a Y-5 roll call, the balance of the Consent Agenda was adopted as follows:

**445** Accept bid of CPM Contractors for Construction of the Training Center Phase III for \$373,000 (Purchasing Report - Bid 89)

**Disposition:** Accepted; prepare contract.

**446** Accept bid of Northside Ford for furnishing six 1.5 yd. dump trucks for \$147,378 (Purchasing Report - Bid 100)

**Disposition:** Accepted; prepare contract.

**447** Accept bid of Hessel Tractor for furnishing one crawler/dozer, medium duty, for \$117,164 (Purchasing Report - Bid 104)

**Disposition:** Accepted; prepare contract.

**448** Accept bid of Werbin West Contracting for Tryon Creek Infiltration Inflow Project for \$160,560 (Purchasing Report - Bid 114)

**Disposition:** Accepted; prepare contract.

**449** Accept bid of S-2 Contractors, Inc., for NE 13th Avenue Sump Project Unit 9 for \$301,400 (Purchasing Report - Bid 115)

**Disposition:** Accepted; prepare contract.

**April 7, 1993**

**450** Accept bid of Breslin & Wallace for furnishing five mini cargo vans for \$77,939 (Purchasing Report - Bid 117)

**Disposition:** Accepted; prepare contract.

**451** Accept bid of Alexander Motor Co. for 53 compact four-door sedans for \$448,859 (Purchasing Report - Bid 118)

**Disposition:** Accepted; prepare contract.

**452** Accept bid of Bruce Chevrolet for furnishing six cargo vans for \$76,962 (Purchasing Report - Bid 119)

**Disposition:** Accepted; prepare contract.

**453** Accept bid of Landmark Ford for furnishing seven compact pickups for \$64,953 (Purchasing Report - Bid 121)

**Disposition:** Accepted; prepare contract.

**454** Accept bid of S-2 Contractors, Inc., for NE 13th Avenue Sump Project Unit 11 for \$285,050 (Purchasing Report - Bid 124)

**Disposition:** Accepted; prepare contract.

**455** Accept bid of S-2 Contractors, Inc., for NE 13th Avenue CSO Sump Project Unit 10 for \$385,164 (Purchasing Report - Bid 133)

**Disposition:** Accepted; prepare contract.

**456** Accept bid of Uniquet, Inc., for furnishing Automatic Cashiering System for \$49,207 (Purchasing Report - RFP 94)

**Disposition:** Accepted; prepare contract.

**Mayor Vera Katz**

**458** Report of the Fuel Management Committee on implementation and cost-sharing methodology for the City's vehicle fuel management program (Report)

**Disposition:** Accepted.

**April 7, 1993**

**459** Authorize reimbursement of expenditures with debt proceeds (Resolution)

**Disposition:** Resolution No. 35117. (Y-5)

**\*460** Call for bids for Force Lake site improvements and parking lot, authorize contract, and provide for payment (Ordinance)

**Disposition:** Ordinance No. 166390. (Y-5)

**\*461** Call for bids for replacing the carpet in the Portland Building, 9th floor, authorize contract, and provide for payment (Ordinance)

**Disposition:** Ordinance No. 166391. (Y-5)

**\*462** Call for bids for communications equipment and cabling, authorize a contract, and provide for payment (Ordinance)

**Disposition:** Ordinance No. 166392. (Y-5)

**\*463** Agreement with Portland State University not to exceed \$95,362 to help conduct an assessment of Community Policing (Ordinance)

**Disposition:** Ordinance No. 166393. (Y-5)

**\*464** Agreement with the University of Oregon not to exceed \$152,262 to help conduct an assessment of Community Policing (Ordinance)

**Disposition:** Ordinance No. 166394. (Y-5)

**\*465** Authorize Second Modification of Legal Services Agreement with Williams, Fredrickson, Stark and Weisensee for special legal counsel to obtain certain property for police precinct headquarters (Ordinance; amend Agreement No. 27706)

**Disposition:** Ordinance No. 166395. (Y-5)

**\*467** Apply for continuation of the "Greater Portland Area Police Activities League" grant from the State Criminal Justice Services Division in the amount of \$47,255 (Ordinance)

**Disposition:** Ordinance No. 166396. (Y-5)

**April 7, 1993**

**\*468** Authorize the issuance of revenue bonds and establish program for the financing of solid and hazardous waste remediation projects (Ordinance)

**Disposition:** Ordinance No. 166397. (Y-5)

**\*469** Pay claim of Robert A. Luxton (Ordinance)

**Disposition:** Ordinance No. 166398. (Y-5)

**Commissioner Earl Blumenauer**

**470** Accept completion of the Columbia Boulevard Wastewater Treatment Plant Secondary Clarifier Painting Job and make final payment to S&K Painting (Report; Contract 27948)

**Disposition:** Accepted.

**471** Accept completion of the Columbia Boulevard Wastewater Treatment Plant composter blower system and make final payment to Triad Mechanical, Inc. (Report; Contract 27112)

**Disposition:** Accepted.

**472** Accept completion of the NE 13th Avenue Basin CSO Sump Project Unit 4 and make final payment to Moore Excavation, Inc. (Report; Contract No. 28447)

**Disposition:** Accepted.

**473** Accept completion of the SW 10th and Taylor's Ferry Road/SW 2nd and Boones Ferry Road Storm Sewer Systems project and make payment to Malar Construction, Inc. (Report; Contract No. 27920)

**Disposition:** Accepted.

**\*474** Authorize Purchasing Agent to issue a contract for sewer reconstruction services with Gelco Insituform, Inc., and provide for payment (Ordinance)

**Disposition:** Ordinance No. 166399. (Y-5)

**\*475** Intergovernmental agreement with Peninsula Drainage District No. 1 to provide for a new bike path adjacent to N Marine Drive (Ordinance)

**Disposition:** Ordinance No. 166400. (Y-5)

**April 7, 1993**

**\*476** Call for bids for the purchase of two motor starters and two transformers at Ankeny Pump Station, authorize a contract, and provide for payment (Ordinance)

**Disposition:** Ordinance No. 166401. (Y-5)

**\*477** Call for bids for the Wheeler Basin Relief Phase 2-Unit 1, authorize a contract, and provide for payment (Ordinance)

**Disposition:** Ordinance No. 166402. (Y-5)

**\*478** Call for bids for the Alder Basin Relief and Reconstruction Phase 1-Unit 1, authorize a contract, and provide for payment (Ordinance)

**Disposition:** Ordinance No. 166403. (Y-5)

**\*479** Call for bids for placement of drainage piping and fill at the Sunderland Pump Station site, authorize a contract, and provide for payment (Ordinance)

**Disposition:** Ordinance No. 166404. (Y-5)

**\*480** Call for bids for the Sunderland Pump Station, authorize a contract, and provide for payment (Ordinance)

**Disposition:** Ordinance No. 166405. (Y-5)

**\*481** Contract with Brown and Caldwell for professional engineering services and provide for payment (Ordinance)

**Disposition:** Ordinance No. 166406. (Y-5)

**\*482** Create a fund to activate the Private Plumbing Loan Program as established by Ordinance No. 166291 (Ordinance)

**Disposition:** Ordinance No. 166407. (Y-5)

**Commissioner Charlie Hales**

**\*484** Authorize purchase of two carryall 4x4 vehicles through the Oregon State Price Agreement and provide for payment (Ordinance)

**Disposition:** Ordinance No. 166408. (Y-5)

**April 7, 1993**

**Commissioner Gretchen Kafoury**

**486** Accept a Tree Preservation Bond requirement in the form of a Tree Preservation Agreement and Letter of Credit from owner Brett Allen on property located south of SW Arnold Street as described in Bureau of Planning Case File LUR 92-00568 ZC EN, at no cost to the City (Ordinance)

**Disposition:** Passed to Second Reading April 28, 1993 at 9:30 a.m.

**\*487** Amend agreement with City of Gresham to increase the total compensation and to revise the scope of work, budget and other terms and conditions (Ordinance; amend Agreement No. 28244)

**Disposition:** Ordinance No. 166409. (Y-5)

**Commissioner Mike Lindberg**

**488** Establish the North Portland Trust Fund as a Sub-Fund within the Portland Parks Trust Fund (Resolution)

**Disposition:** Resolution No. 35118. (Y-5)

**\*489** Call for bids for construction of site improvements in Argay Park, authorize a contract, and provide for payment (Ordinance)

**Disposition:** Ordinance No. 166410. (Y-5)

**\*490** Call for bids to maintain and operate the City-owned decorative fountains (Ordinance)

**Disposition:** Ordinance No. 166411. (Y-5)

**\*491** Call for bids for construction of play equipment in Westmoreland and Sellwood Parks, authorize a contract, and provide for payment (Ordinance)

**Disposition:** Ordinance No. 166412. (Y-5)

**\*492** Authorize application to the Oregon State Marine Board for a grant in the amount of \$235,000 for repairs to Willamette Park and Waterfront Park Ankeny Street boating docks (Ordinance)

**Disposition:** Ordinance No. 166413. (Y-5)

**April 7, 1993**

**\*494** Amend Agreement with Larry Kirkland to execute and install a work of art in Waterfront Park (Ordinance; amend Agreement No. 27567)

**Disposition:** Ordinance No. 166414. (Y-5)

**City Auditor Barbara Clark**

**\*495** Reduce sidewalk assessments (Ordinance, amend Ordinance Nos. 165814, 164067, 157613, 166020, 163918, 160855, 164573, 164214)

**Disposition:** Ordinance No. 166415. (Y-5)

### **REGULAR AGENDA**

**444** **TIME CERTAIN: 9:30 AM** - Declare as City policy the goal of reclaiming and redeveloping the eastbank of the Willamette River, including the reconfiguration of the Eastbank Freeway, reaffirm the City Council's commitment to completing the East Marquam Project and clarify the City's commitment to continue major capital investments including regional rail, CSO reconstruction and inner-city housing while pursuing development of the longer term Eastbank vision (Resolution introduced by Commissioner Blumenauer and Commissioner Lindberg)

**Discussion:** Commissioner Blumenauer said this resolution is about jobs, inner city vitality and the ultimate vision for the Eastbank freeway. He said many people have relied upon the decisions the Council made in the 1980's, including OMSI, the Blazers and hundreds of Eastside businesses, who have long been promised freeway access. He said during the earlier analysis of whether the freeway could be moved in order to create another downtown park, the Council, the State and the region concluded that the move would be quite expensive and was not a regional priority compared to other projects such as light rail. He said he believes moving the freeway several hundred feet is not an appropriate long term vision for the Eastbank of the river as he is confident that, sometime in the next century, the freeway will be removed. However, he said, the current improvements should not be held hostage to a process that will take much time and effort.

Commissioner Lindberg said he has long favored moving and still does favor moving the freeway in order to open up land for economic development and recreation. To him the issues are how it can be moved and in what phases.

Steve Dotterer, Office of Transportation, reviewed the history of the East Bank Freeway and how it came to be located where it is now. He noted that Oregon Department of Transportation (ODOT) has moved forward with the

**April 7, 1993**

originally approved improvements to the freeway, dividing them into phases. He said about two thirds of the money has been allocated.

Commissioner Lindberg asked about the status of Environmental Impact Statement (EIS).

Mr. Dotterer said three elements are under contract -- the main line freeway remodel, the Morrison Bridge improvements and the earthquake retrofit. The Water Avenue ramp and McLouglin Boulevard improvements are the two remaining elements and ODOT has begun the supplemental environmental assessment for the Water Avenue ramp which will come back to Council in September for a decision.

Commissioner Lindberg asked about the \$200 million in investments and whether there are options about how that money would be spent.

Mr. Dotterer said there are two separate programs included in the \$200 million. He said a portion of that amount, totalling \$87 million, is for improvements committed for in the six year plan. Another \$128 million of improvements to meet the needs of the Lloyd District and the Arena are yet to be committed. He said it is not automatic that the funds could be moved from one place to another.

Zari Santner, Eastbank Master Plan staff for the Bureau of Parks and Recreation, reviewed the status of the Master Plan for development of a park on the Eastbank. She said they are now in the process of selecting consultants to review the work done so far and recommend a final development solution that recognizes the potential of reconfiguration of the freeway 20 years from now. The aim is to have a flexible and creative solution that can accommodate future development resulting from a reconfigured freeway, with or without the Water Avenue on-ramp.

Vern Ryles, 8360 SW Stark, said the Eastbank freeway became a high priority for Eastside business owners as a means of stemming the exodus of employers from that area because of the lack of infrastructure. On the top of that priority list was southbound access to I-5. He urged support of the resolution and advised Council not to step back for more studies. He said this has been worked over significantly.

Jack Burns, 516 SE Morrison, Suite 1200, 97214, said seven other studies have been conducted regarding other places the freeway could be located. He said selection of this route saved many, many houses that would have been lost if another route had been chosen. He said these improvements are needed to keep the area viable.



**April 7, 1993**

George Crandall, 1445 NW 30th, 97210, noted that if Council does nothing, ODOT improvements will cost \$200 million, while the realignment scheme offered instead, which would realign the freeway along the Southern Pacific rail line, would cost \$128 million, according to ODOT. He said Riverfront for People wished to present an amended resolution, incorporating that realignment. He cited prior support from many groups endorsing the realignment, which was then turned down by Council. He argued that only 100-300 jobs would be lost out of the 17,000 jobs that are there and the mixed use development they propose with the freeway realignment would create another 2500 jobs. He said everyone supports reclaiming Eastbank; the question is when. He called for a stop to the \$90 million expenditure on the southern improvements, contending that if they proceed, it will make it all but impossible to reclaim the Eastbank.

Ron Buel, Riverfront for People, said the Water Avenue ramp will conflict with high speed rail potential. The ramp, which will have a hairpin turn, will mean more ugly concrete on the East side and will be a visual blight in the area. He said spending \$20 million on something that is pulled down in 20 years is foolish. He said Riverfront for People is not opposed to a southern access to I-5 and do not believe that is the issue. He said there is plenty of money to reclaim the East side.

Commissioner Lindberg asked if the issues he raised about the Water Avenue ramp would not be raised in an environmental impact statement.

Mr. Buel said they do not believe the EIS solves the problem. The best solution is removing the freeway and moving the designation on I-5 over to I-405, keeping the access to the Banfield.

Commissioner Kafoury asked him to correct the resolution submitted by Riverfront for People as it indicates that the Mayor, Commissioner Hales and Kafoury were sponsors.

Carl Goebel, 720 NW Warrenton Terrace, 97210, urged support for reevaluation of all options for reclaiming the Eastbank. He said Phase I and II of the East Marquam Project are already under construction and should not be reevaluated, noting that the project was originally forecast to cost \$25 million but the State has already now spent \$43 million which gives some perspective on the accuracy of the \$200 million estimate for the remaining projects. He noted that Riverfront for People sued to halt Phases 1 and 2 on the basis that these projects would commit the State to Phases 3 and 4. The Court ruled that they did not irretrievably commit the State and therefore did not require an EIS. The Judge, however, specifically stated that he was not ruling on the EIS requirement for Phases 3 and 4.

**April 7, 1993**

Robert Perron, 2326 SW Park Place, 97205, said the great dream for the river front is only half finished and a vision is needed for development of the east side. The continued expenditure of \$200 million is absolute folly and the continued expansion of I-5 will add to the blight.

Jim Howell, Oregonians for Cost Effective Transportation, said \$88 million of pork in this resolution is significant. He said this is not needed, particularly in view of the transportation objectives now in place. He said vehicular traffic has to be reduced and this can not happen if we continue to expand the highway system. He said the only reason it is here is because it is in the pipeline. He said it is time to get rid of the Water Avenue ramp and the connection to McLoughlin Boulevard.

Gary Pappers, 2311 NE 10th, 97212, supported relocation and said this is an omnibus bill that appears to be a makework project for the construction industry. He said a reclaimed east bank freeway is incompatible with the proposed freeway expansion.

Brian McCarl, 3015 SW First Avenue, supported the Riverfront for People resolution, arguing that relocation would add 30 blocks of land available for potential development and jobs that can enhance the East side.

Howard Glazer, 2378 SW Madison, asked Council to look at new conditions that impact this decision. These include the relocation of OMSI and the new arena and the redevelopment of the land lying between the two. He said there is no valid argument for waiting 25 years, arguing that to continue to spend money is illogical.

Marcy McInelly, 115 NW First, AIA, called for a halt on further expenditure until further analysis can be done.

David Lohman, Port of Portland, said Portland is the second leading wholesale trade and distribution center on the West Coast. Providing access to terminals is a key element in this success and the Port estimates that about \$250 million in investments in access projects will be needed to keep Portland viable. He said the economy cannot work without good access to intermodal transportation facilities and questioned whether Portland has the resources to commit to moving the I-5 freeway when so many other investments will be necessary.

Karen Halvorsen, 4330 NE Alameda, 97213, supported Riverfront for People. She said the Arena, Convention Center and OMSI should not be treated as isolated elements.

**April 7, 1993**

Ernie Bonner, 2836 SE Main, 97214, said a time period of 15-20 years to reconfigure the freeway should be established. He said it makes no sense to set a goal for reclaiming the East bank and then spend \$20 million on the major obstacle to reaching that goal.

Douglas Allen, 2297 SE 51st, 97215, opposed the resolution, supporting the relocation of I-5.

Gary Coe, president of the Eastside Industrial Council, said the McLoughlin ramps need to be connected to relieve traffic congestion and are a vital transportation link for Clackamas County. He said the Water Avenue ramp's existence is vital to the continued well being of the Eastside industrial area and urged Council to stand firmly behind this resolution.

Barbara Walker, East Bank Master Plan committee chair, said the East Bank Master Plan is a totally separate process from the freeway location and is a stepping stone in the right direction for Portland, no matter what happens as far as the freeway is concerned. She asked for Council commitment on the Master Plan, adding that the Committee takes no position on the freeway.

Commissioner Lindberg asked whether this is schizophrenic or if it possible to proceed with planning for the park, transportation improvements and possible reconfiguration of the freeway all at the same time.

Ms. Walker said the Committee believes there are larger issues to deal with and Council must have the time to look at all the elements in this complex equation, including the economy and promises that have been made in the past. She said this resolution sets a goal and then allows a Task Force to enact it.

Commissioner Lindberg asked her to comment on the contention that the City should not move ahead on the Master Plan because it does not meet the goal of having exciting recreational activity.

Ms. Walker said the potential is fantastic, despite the limitations. Nothing in the plan precludes any option before Council or invests money in something that will need to be undone.

Ken McFarling, 7417 SE 20th, 97202, said the Water Avenue ramp would be a further blight.

Ray Polani, 6110 SE Ankeny, opposed the resolution.

**April 7, 1993**

Frank Weigel, Chair of OMSI Building Committee, urged approval of resolution so that the Citizens Advisory Committee can get on with its work.

Dale Christensen, 7660 N. Vancouver, 97217, said this resolution is idealistic utopianism.

Ken Swan, 3225 NE 28th, 97212, supported the joint resolution. He said relocating the freeway is too modest and suggested considering removal of the Marquam Bridge and Southern Pacific railroad tracks.

Brian Stines, 6625 N. Curtis, 97217, said the new ramp will add more and more noise and no landscape architect in his right mind would build a park by it. He called for getting the freeway off the river.

Dennis Gilman, 1313 SE Oak, 97214, urged that no more land resources on the Eastbank be wasted by burying the area under more concrete.

Bob Elliott, 2436 SE Tamarack, SE Uplift, said they disagree with many of the conclusions reached by Riverfront for People and believe a park can be accommodated whether or not the Water Avenue ramp is built or the freeway is moved.

Wesley Risher, 1617 SW Troy, suggested placing storage tanks being discussed as part of the Combined Sewer Overflow project on the Eastbank, saving millions of dollars. He said San Antonio turned a similar problem into a very successful tourist attraction.

Commissioner Blumenauer said this is one of the three areas the Bureau of Environmental Services is looking at.

James Beard, Oregon Environmental Council, said if congestion pricing was implemented, the Eastside freeway could be removed and light rail added without interfering with economic activity there.

Greg Baldwin, 320 SW Oak, said the most encouraging sign is that the City would consider potential removal of the freeway. He said his instincts are that part of the freeway could be removed and that the Water Avenue ramp could be built in a way that does not frustrate that.

Max Bolte, 715 NW 17th, 97209, said the City should reconsider moving the freeway.

Fred Nussbaum, 2514 NE 43rd, noted several new mandates since the last discussion of this project. These include Rule 12, calling for a reduction of

**April 7, 1993**

vehicular miles driven, and other goals which will not be achieved if we keep expanding our freeways.

Jim Ringelberg, 8885 SW Birchwood, said many landscape architects oppose the Master Plan as it is not what the City needs.

Commissioner Blumenauer asked for clarification about use of the \$200 million.

Mr. Dotterer said the projects where money is committed are entirely south of the Burnside Bridge. Improvements in the northern section are not in the six-year plan because ODOT indicated it did not have enough funds. He said some of the connections, such as those near the new Arena, are desirable in order to provide access, not because of the amount of traffic. He said work on the southern improvements are under contract now and the work is going ahead on the earthquake retro fit, the ramps at the east end of the Morrison Bridge and work associated with the Banfield. The pieces that remain are the Water Avenue ramp south (\$19 million) and \$60.5 for connections to McLoughlin Boulevard. These pieces would come to Council after the environmental documents are prepared.

Mayor Katz asked Commissioner Blumenauer if all these were included in the \$200 million figure given for completing East Marquam project.

Commissioner Blumenauer said the project to the North needs to happen but no money is identified for it.

Mayor Katz asked if a commitment had been made for the Water Avenue ramp.

Commissioner Blumenauer said any of these improvements could be stopped by the Council. He said there is a lot of competition for this money and if Council decided it wanted to change, it could. He said he would not mind spending the money elsewhere.

Commissioner Blumenauer asked Mr. Dotterer about the assertions that the three projects will compound current problems and attract a lot of automobile traffic.

Mr. Dotterer said the majority of the funds are to add access and support development in the East side.

Commissioner Lindberg outlined the options available to Council. He said

**April 7, 1993**

Commissioner Lindberg outlined the options available to Council. He said his amendments are relatively minor and would not change the basic direction.

Commissioner Kafoury said she would like to deal with the issue today and is prepared to support the resolution. She said she is not interested in moving the freeway now.

Commissioner Blumenauer said his preference is to go ahead today. He said there is work underway with the Master Plan and no money is lined up for the future. He said this leads directly into what happens with the budget and, if the Council wants to change, adjustments will need to be made.

Commissioner Hales said he would like to wait a little longer, particularly as there may be a way of combining parks improvements with CSO improvements. He said he is uncomfortable spending \$200 million more on freeway system on Eastside and with the commitment to build the McLoughlin connection and Water Avenue ramp.

Commissioner Lindberg said he would be willing to wait until after a workshop, providing it is done in a timely manner.

Mayor Katz said she too has difficulty committing to the McLoughlin connection and Water Avenue ramp. She said she was not satisfied with the ODOT data which left a lot of unanswered questions and would like to explore the concept of combining the CSO with opportunities for neighborhoods. She noted that three Council members are willing to wait.

Commissioner Blumenauer asked for clarification of Council intent regarding the Water Avenue ramp. He said an environmental impact study is going on now and asked what Council wanted done with it.

Commissioner Hales said ODOT controls the money for the project, which is already in the works, so Council reservations do not stop that process.

Commissioner Blumenauer asked Mr. Dotterer if a reconfiguration of the Water Avenue ramp would affect the EIS.

Mr. Dotterer said yes.

Mayor Katz said Council members could vote against the Water Avenue ramps when EIS comes back in September. She said without understanding the alternatives she does not know if it is a good idea or not.

**April 7, 1993**

Commissioner Hales said he is interested in looking at reconfiguration. He said he is concerned that Council is in a vicious circle on this issue.

Commissioner Blumenauer said he does not want the State to go ahead if Council wants to back off.

Mr. Crandall said the Environmental Assessment is the first step in an EIS and, at the end of the Assessment, Council can decide if it wishes to proceed further.

Mayor Katz asked what would happen if Council was not happy with the EIS statement that came back in September.

Mr. Dotterer said Council could decide not to move forward and then City would have to get in line again to gain funding for a another project.

Mayor Katz said a work session would be helpful and asked for information from ODOT and others, particularly on reconfiguration of the ramps and the CSO issue.

Commissioner Lindberg said more information is needed about the funding sources that led to provision of the \$200 million. Another question is whether money could be reallocated to other things.

Commissioner Blumenauer suggested including some of the regional partners, such as Metro and Clackamas County in the informal as they were a part of the original decision and have a keen interest in what happens.

Mayor Katz noted that there are issues that need further examination and noted the need to schedule an informal that includes the partners that were involved in 1989. She said it is her intent to bring this back to Council as soon as possible to vote on and then move on.

**Disposition:** Continued to April 7, 1993 at 2:00 p.m.

### **REGULAR AGENDA**

In addition to all the items pulled for Consent (Agenda Items 457, 466, 483, 485, 493 and 496), all items on the Regular Agenda, (Agenda Items 497 through 515) were continued to the Wednesday afternoon session.

Commissioner Kafoury asked for a vote now to authorize the lawsuit regarding the Hamilton and Lowndale Hotel housing case.

**April 7, 1993**

Commissioner Lindberg said he thought it could be resolved at the 2:00 p.m. session. Commissioner Kafoury agreed to wait.

Commissioner Kafoury also asked that Item 507 be continued to June 16, 1993 as there would not be time to hear it this afternoon.

At 12:30 p.m., Council recessed.



**April 7, 1993**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 7TH DAY OF APRIL, 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; Ruth Spetter, Senior Deputy City Attorney; and Officer Sheridan Grippen, Sergeant at Arms.

**444**

**TIME CERTAIN: 9:30 AM** - Declare as City policy the goal of reclaiming and redeveloping the eastbank of the Willamette River, including the reconfiguration of the Eastbank Freeway, reaffirm the City Council's commitment to completing the East Marquam Project and clarify the City's commitment to continue major capital investments including regional rail, CSO reconstruction and inner-city housing while pursuing development of the longer term Eastbank vision (Continued from April 5, 1993 at 9:30 a.m.)

**Discussion:** Mayor Katz said a date was needed for continuation of this item. She said a Council informal would be scheduled sometime beforehand.

**Disposition:** Continued to May 5, 1993 at 9:30 a.m.

**508**

Express City Council intent to join lawsuit filed by Legal Aid and Northwest Pilot Project concerning the General Services Administration's proposed plans to build a federal courthouse at the site of the Hamilton and Lownsdale Hotels (Resolution; Previous Agenda 438)

**Discussion:** Commissioner Kafoury said they have received a flat no from every front on this matter and urged adoption of the resolution.

Mayor Katz said HUD Secretary Cisneros said there is nothing he can do but go for an appropriation from Congress. That would take a lot of time. The White House wanted to intervene but there is nothing they can do either.

Commissioner Lindberg said he heard that everyone who left the hotels had received adequate housing.

Commissioner Kafoury said there was compelling testimony that there was not adequate housing downtown. When people are relocated, they are given \$5,000 cash by the federal government.

**April 7, 1993**

Mayor Katz noted that Senator Hatfield has done everything he possibly could with no help from those at HUD. Council needs to take action now.

**Disposition:** Resolution No. 35119. (Y-5)

**457** Confirm appointment of John D. Eskildsen to the Portland Development Commission (Report)

**Discussion:** Commissioner Blumenauer said he appreciated getting Mr. Eskildsen's resume after his initial query.

**Disposition:** Confirmed.

**483** Adopt a definition of Community Emergency Services for Portland and direct the Portland Bureau of Fire, Rescue and Emergency Services to proceed with a one-year pilot program of a Community Emergency Services plan (Resolution)

**Discussion:** Commissioner Hales said this resolution will start a pilot project to apply some of the ideas of community policing to fire services. Three stations will be selected and community leaders in each area will participate also. He said specific time tables have been set for reporting back to Council on the success or failure of certain concepts.

Ron Bender, Portland Fire Bureau, said they believe this project will give them answers to the feasibility of integrating the fire stations more directly into the community.

Jim Crawford, Portland Fire Bureau, said they think working with the community will increase the effectiveness of the Bureau. They hope to use existing resources within the Bureau in the most effective manner possible. He said empowerment of the community is the key to making community emergency services effective.

Commissioner Kafoury said she hopes this will not recreate existing neighborhood associations and that the Fire Bureau will use all the social service and other existing structures and not set up bunches of new committees.

Mr. Crawford said they would tap into existing resources.

**Disposition:** Resolution No. 35120. (Y-5)

**April 7, 1993**

**\*466**

Authorize acquisition of certain property for use as a police precinct headquarters and other uses (Ordinance)

**Discussion:** Commissioner Blumenauer said he had requested information regarding costs, the funding and the time table since that had not been available when Council made its decision about the location. He noted the emergency clause and said he was concerned, since the order had not been signed by the judge yet, about disbursing funds any sooner than necessary. He said he does not plan on supporting this.

Mayor Katz asked about the current legal position.

Jeff Rogers, City Attorney, said the Stipulation is expected to be signed today and then the City will have 30 days in which to make the payment.

Commissioner Blumenauer noted that removal of the emergency clause would have it go into effect 30 days after passage.

Mr. Rogers said the ordinance without the emergency clause would become effective 30 days after next week so the City would be one week late if the Stipulation is signed this week.

Commissioner Blumenauer said he did not think the money should go to these people one minute earlier than it has to but said he would go along with the ordinance if the City would not pay until it absolutely had to.

Mr. Rogers said that would be understood.

Doug Butler, Portland Development Commission, said he did not have answers to all Commissioner Blumenauer's questions as they have gone back to ground zero and appointed a number of sub groups to study these issues and report back.

Commissioner Blumenauer said Council was told this would be opened in December or January and therefore should be locked into the budget.

Mayor Katz said Council asked that this be reopened for additional information and recommendations. That process is going on right now and will be shared with Council as soon as possible.

**Disposition:** Ordinance No. 166416. (Y-5)

**April 7, 1993**

**\*485** Contract with Linda Moro for \$15,000 for professional services to the Family Violence Intervention Steering Committee (Ordinance)

**Discussion:** Commissioner Kafoury said Commissioner Hales had a question about how this related to the Police Family Services Unit which the Council agreed to set up. She said this ordinance is out of last year's agreement to try to link the community domestic violence programs with Police activities.

Commissioner Hales said he did not want Council to vote for this on the assumption that it was precommitting to an expanded family services unit in the Police Bureau before acting upon it as a budget request. He said he would like to revisit the issue of who does human services in general with Multnomah County.

**Disposition:** Ordinance No. 166417. (Y-5)

**\*493** Authorize Change Order No. 5, adding \$115,858 to contract with Rollins and Greene Builders for work on Phase II of the Matt Dishman Community Center remodel (Ordinance; amend Contract No. 28444)

**Discussion:** Bruce Dennis, Columbia Pacific Building and Construction Trades Council, said the value of this change order is well above the threshold at which a competitive bid should occur. He said there are also discrepancies in the payrolls filed with the Auditor's Office and there is some suspicious reporting about work done and rates of pay. He said the general contractor has posted the job so that no one can observe work at the site. In addition there is some question about compliance with EEO requirements and the use of First Source hiring.

Jim Figurski, Bureau of Parks and Project Manager, addressed the issues raised. He said wage certificates have all been filed in Salem and with the Auditor's Office which has informed him that no formal complaints have been received about them. Regarding First Source hiring, except for the electrical subcontracts, no other work exceeds the \$50,000 threshold requiring First Source compliance. He said he believes the City is in compliance but if complaints are filed, they can enforce compliance. Mr. Figurski said time and weather constraints warranted filing the Change Order and structural modifications of \$47,000 required immediate attention to protect current investments.

Mayor Katz suggested that Mr. Figurski talk to the Trades Council.

**April 7, 1993**

Commissioner Hales said this may be a case of honoring the spirit of the requirements as well as the letter. He said he is satisfied that this contract meets the requirements but the issue needs to be closed.

Mr. Dennis said just because there have been no formal complaints does not mean the City is in compliance. He said the wage rates are not in compliance and also noted that there had been four previous change orders, questioned if they were exempt from competitive bidding and First Source. He said they believe that the project should not be broken down into little pieces and then be told that the rules do not apply.

Mayor Katz asked what remedies are available if the project is not in compliance.

Mr. Figurski says a formal complaint needs to be made and then the general contractor can be compelled to comply. Those who have not been paid appropriately can file liens against the contractors.

Commissioner Hales said he would be willing to meet with the Purchasing Agent to explore this issue a little further.

**Disposition:** Ordinance No. 166418. (Y-5)

**\*496** Reduce sewer assessment lien to 11804 NE Fargo Court (Ordinance; amend Ordinance No. 163350)

**Discussion:** Dan Vizzini, Auditor's Office, said his office has not resolved what the status of the property is or the lien on it.

**Disposition:** Referred to the Auditor's Office

**497** Request from Mark D. Turnham, Portland Postal Employees Credit Union, for Council review of sewer assessment (Previous Agenda 431)

**Discussion:** Commissioner Blumenauer said there are about a dozen properties that fall into this category and he is trying to find a way of recapturing this assessment if the property is redeveloped without setting a precedent that will cause problems in the future. He asked to hold this over to see if a mechanism can be found to solve it.

**Disposition:** Continued to May 12, 1993 at 9:30 a.m.

**April 7, 1993**

**Mayor Vera Katz**

**498** Amend Code Chapter 5.68, Professional, Technical and Expert Services Contracts (Second Reading Agenda 434)

**Disposition:** Ordinance No. 166419. (Y-5)

**Commissioner Earl Blumenauer**

**499** Consider vacating a portion of NW 20th Place, north of NW York Street and southwesterly of the portion previously vacated July 12, 1922, in Ordinance No. 41380, at the request of Howard Freeman (Hearing; C-9811)

**Disposition:** Approved; City Engineer prepare Ordinance.

**500** Summary report on the Third Annual Regional Rail Summit (Report)

**Discussion:** Wendy Smith Novick, Outreach Coordinator for the Regional Rail Program, said the summit, sponsored by the City and Tri-Met was held to discuss the future of light rail in the region and its associated benefits and impacts. Over 800 people attended the sessions, which included a presentation on the visual preference survey. Participants in one workshop, on improving citizen participation, would like to continue meeting and give a report to Council on its results.

**Disposition:** Accepted.

**\*501** Call for bids for the NE Multnomah/Hassalo Connection Project from NE Occident Avenue to NE Grand Avenue; authorize a contract and provide for payment (Ordinance)

**Disposition:** Ordinance No. 166420. (Y-5)

**\*502** Amend agreement with Wong's Forensic and Metallurgical Engineers, Inc., and waive Section 5.68.050 of the City Code (Ordinance; amend Agreement No. 28579)

**Disposition:** Ordinance No. 166421. (Y-5)

**April 7, 1993**

**\*503** Increase amount of Contract with Construction Management Inspection, Inc., for work required by the City during the remainder of fiscal year 1992/93 and fiscal years 1993/94 (Ordinance; amend Contract No. 27226)

**Disposition:** Ordinance No. 166422. (Y-5)

**\*504** Authorize negotiations to purchase a parcel of land and acquire a Storm Drainage Reserve Easement required for construction of the Balch Creek Storm Water Management Project, and in the event that no satisfactory agreement can be reached, authorize the City Attorney to commence condemnation proceedings, and obtain early possession (Ordinance)

**Discussion:** Commissioner Blumenauer requested that this be continued to April 28.

**Disposition:** Continued to April 28, 1993 at 9:30 a.m.

**\*505** Authorize conveyance of property to the Bureau of Environmental Services, subject to certain conditions being fulfilled, and authorize acceptance of deed and payment of expenses (Ordinance)

**Discussion:** Commissioner Hales said this is an interbureau effort that saved the City a considerable amount of money.

**Disposition:** Ordinance No. 166423. (Y-5)

**506** Amend the Mid County Financial Assistance Program to be consistent with Section 17.33.010 of the City Code (Second Reading Agenda 410)

**Disposition:** Ordinance No. 166424. (Y-5)

**Commissioner Gretchen Kafoury**

**507** Consider request by Tan and Thanh Hai Vominh and Paul and Dorothy Anderson for a Comprehensive Plan Map Amendment and Zone Change from R5 to CG to allow continuation of an existing service station in an R5 zone located at NE 72nd and Halsey (Hearing; 92-00563 CP ZC)

**Discussion:** Cay Kershner, Clerk of the Council, said there has been a request to continue this to June 16.

**Disposition:** Continued to June 16, 1993 at 2:00 p.m. Time Certain

**April 7, 1993**

- \*509** Amend the Comprehensive Plan Map and change the zone of property at SW 24th Avenue and SW Spring Garden Road, from R2, Residential, to CG, Commercial, with conditions (Ordinance; 92-00853 CP ZC)

**Discussion:** The Clerk said there had been requests to continue this and Item 510 to May 26.

**Disposition:** Continued to May 26, 1993 at 2:00 p.m.

- \*510** Amend Ordinance No. 154620, which granted a Zone Change on property located on SW Hume Court at SW 26th Avenue, from R7 to R2, to modify Condition 1, and add conditions (Ordinance; 92-00853 CP ZC)

**Disposition:** Continued to May 26, 1993 at 2:00 p.m.

- S-511** Adopt regulations declaring certain activities on business properties a public nuisance and providing remedies (Second Reading Agenda S-439)

**Discussion:** The Mayor noted that all previous concerns had been addressed.

**Disposition:** Substitute Ordinance No. 166425. (Y-5)

**Commissioner Mike Lindberg**

- \*512** Intergovernmental Agreement to fund and manage Phase 2 of the Regional Water Supply Plan (Ordinance)

**Discussion:** Commissioner Lindberg said they believe they have achieved an unprecedented level of regional cooperation in this planning effort. He said there will be tremendous public involvement.

Lorna Stickel, Water Bureau, said the IGA will not become effective until all those involved sign the agreement and no work will begin until there is a full commitment. She said the process will take two years to complete.

**Disposition:** Ordinance No. 166426. (Y-5)

- \*513** Contract with Barakat and Chamberlin, Inc., for Phase 2 of the Regional Water Supply Plan (Ordinance)

**Disposition:** Ordinance No. 166427. (Y-5)



**April 7, 1993**

**City Auditor Barbara Clark**

**514** Assess benefitted property for the costs of the improvement of SW 49th Avenue from SW Vermont Street to 550 feet south (Second Reading Agenda 440; C-9784)

**Disposition:** Ordinance No. 166428. (Y-5)

**515** Assess benefitted property for the costs of construction of the NW Skyline Boulevard Water Main from 3500' north of NW Thompson Road to NW Reed Drive (Second Reading Agenda 441; C-9761)

**Disposition:** Ordinance No. 166429. (Y-5)

**517** Tentatively deny appeal of Markham Neighborhood Association and uphold, with conditions, Hearings Officer's decision to approve the application of Roger Edwards and John Neimeyer for a ten-lot PUD/Subdivision and Environmental Review located at SW Taylors Ferry Road, north of Stanley Court (Findings; 92-00435 PU SU EN))

**Discussion:** Ruth Spetter, Senior Deputy City Attorney, said that after after reviewing the two proposed sets of findings, she recommended setting this over for further work.

**Disposition:** Continued to April 28, 1993 at 2:00 p.m.

**\*516** **TIME CERTAIN: 2:00 PM** - Protect and conserve natural resources within the Fanno Creek Watershed and revise environmental regulation (Ordinance introduced by Commissioner Kafoury)

**Discussion:** Bob Stacey, Planning Bureau Director, said this is the sixth of eight subarea natural resource plans and, following action on this, only East Buttes and Skyline West remain. He noted that the Planning Commission held five meetings on this Plan and were particularly careful not to indulge in regulatory overkill. During that time an interim forest protection ordinance was overturned by the courts and as a consequence trees in the Fanno Creek area have been cut. For this reason, Staff is recommending an emergency ordinance, which it does not ordinarily do for an issue of this magnitude. He said some will argue that environmental regulations in the Code need to be clarified first but the Fanno Creek ordinance also includes regulations that apply Citywide and will introduce fewer procedural hurdles.

**April 7, 1993**

In July, as part of Skyline West, additional improvements that have been pioneered in the Fanno Creek plan will be recommended for adoption citywide. After that the Bureau will reassess its environmental regulations.

Al Burns, Planning Bureau, described the Fanno Creek watershed, noting that 151 habitat assessments in the field had been made. He said Planning did not want to affect existing development patterns and provided a 25-foot transition zone in areas that would otherwise be designated a natural resource. Reviews would not be required if people abided by standard conditions, erosion control and impact minimalization. He said when they got into the review process they found that some of the proposals would be good citywide, not just for Fanno Creek, so in January they expanded their notifications regarding the new exemptions and procedures that would apply Citywide. A significant change that applies Citywide is that activities solely within a transition area no longer require a Type II or Type III review. Many other simplified regulations will also be put into effect Citywide in time for the 1993 building season. He noted the loss of interim resource protection regulations, another reason why the Planning Commission recommended adding an emergency clause.

E. L. Devereaux, Chair of the Far Southwest Neighborhood Association, 5002 SW Vacuna Street, 97219, said this is a unique opportunity to protect resources.

Dorothy Gage, Ashcreek Neighborhood Association, supported adoption, calling for protection of the City's pristine areas while there still are some to protect. She decried the reckless stewardship of the forested areas and said failure of the City to preserve them arouses cynicism.

Liz Petillo, 6039 SW Knightsbridge Dr., said members of the Ashcreek Neighborhood Association endorse this plan. She said it is time to stop leveling the west side for subdivisions and to preserve the few forested hills and watersheds that remain.

Terry Moore, Metro Counselor from District 13, and member of the Green Spaces Task Force, supported this as being visionary for the region.

William Cox, land use attorney, said the language is so vague and subjective that no one can predict what can be done. Use of words like "significant," "practicable" and "necessary" fail to give needed guidance and will result in excessive debate and expense. He said implementation will be costly, both for staff to administer the program, and for the public in terms of buying homes and paying for appeals.

**April 7, 1993**

Jeff Bachrach, attorney, 1727 NW Hoyt, said the Fanno Creek zoning maps could be adopted today without adopting the regulations. He said a hold should be put on the regulations until after the Bureau's planned evaluation of the environmental zoning recommendations.

Mayor Katz asked for one change as an example.

Mr. Bachrach said the change deeming a resource as "significant" basically finds that all natural resources are significant. He said builders are asking for clarity -- is every tree significant or is something different meant. He said this definition has become a moving target and the City should not confuse further what is already confusing enough. He said a long list of confusing changes are being proposed without sufficient time for review.

Mr. Bachrach said another confusing area appears on page 430-3 regarding riparian areas. He said there are already three overlays -- the EP, the EC and the transition area -- and now it appears that a fourth overlay for riparian areas is being created. He said this is very difficult to decipher and there are numerous examples like that.

Jon Chandler, Home Builders Association, said there are four or five items in the ordinance which have not been discussed. He said he has seen four different versions of the ordinance and it appears that a great many changes have been made, a number of which were never heard by the Planning Commission. He expressed frustration with this process, noting that a rewrite of the environmental regulations was promised over a year ago. That has not happened and the issue is not environmental protection but how to accomplish it. He said he does not understand the ordinance and could not advise a client how to comply with it. He said because of the urgency of preserving trees, perhaps a tree ordinance should be considered instead of using a shotgun to kill a spider. He said people need to know what the rules are, arguing that the development community has not been involved and urging delay in passage.

John Alland, Southwest Neighborhood Information, decried the cutting of trees in the Fanno Creek area. He said overlay zones are the very least step needed to protect areas where there is no protection now. He said these regulations are the very minimum needed and developers must learn to build to the site rather than changing the site to suit their building.

Kay Durtschi, Southwest Neighborhood Information and Crestwood Neighborhood Association, said these plans must be passed prior to the start of the 1993 building season. Failure to pass this will have ramifications for 20 years. She asked where the home builders were when the neighborhoods

**April 7, 1993**

were working with the Planning Bureau on this plan. She said SW Portland is under siege and protection is absolutely necessary, noting a loss of nearly 10 acres to clear cutting since December.

Mike Houck, Urban Streams Council, PO Box 1195, Tualatin, 97062, urged adoption on an emergency basis. He said the natural landscape should be defined first and then incorporated. He said while an overlay is not the way to go about it, delay is not the answer. He said if something specific, like 250 foot buffers were proposed, then builders would say the plan is too inflexible. But if you come in with certainty, then people want flexibility. He said the document could more explicitly develop the link between water quality, which is receiving only minimal protection.

Commissioner Lindberg asked about the involvement of homebuilders in the process.

Ms. Durtschi said they were never at any of the work sessions which were open to the public.

Mr. Burns said the sessions started in October and all were open to the public.

Katherine Woodward, 6234 SW 30th, urged adoption.

Leona Jensen, 14400 SW Yearling Way, Beaverton, 97005, objected to the proposed zone change on her property.

Dorothy Cofield, Oregonians In Action, 8255 SW Hunziker Rd., Tigard, said persons such as Mrs. Jensen, who has kept three acres for many years as a savings account, are having their property taken from them. She said this deprives people of due process because exhausting all administrative remedies may cost more than the property is worth. She argued that some kind of compensation needs to be provided.

Ken Paulson, SW Haines Street, said Planning regulations place an overwhelming burden on vacant land owners. He said passage of this plan will only make current cumbersome planning procedures more onerous. Although the clear cutting was inexcusable, it was a result of an inflexible bureaucratic process which limits individual freedom.

Henry Bergman, 10604 SW 55th Ave., said his property is adjacent to the property recently clear cut. As an architect, he has never seen an owner so hellbent on destroying the very thing that made that property valuable. He called for adoption of the ordinance now.

**April 7, 1993**

Mike Bescutt, 8610 SW 59th Ave., said, as a builder, he has tried to preserve as much of the natural resources as possible. He said too many impediments are complicating the entire building process and, if there is a taking of property by Code, there must be compensation. Increased fees, staff time and builders costs can not simply be passed on to the builder of affordable housing. He said the number of those who can afford these homes is rapidly decreasing.

Commissioner Hales asked about trees and distinguishing between desirable and undesirable tree species.

Mr. Bescutt said on a recent project he got a permit from the City forester to cut 28 cotton trees and was applauded for removing hazardous trees. The same thing goes for alders. He called for the ordinance to be more specific about what is being protected and said it is crazy to protect trees the City Forester agrees should not be protected.

Richard Whitman, attorney, 101 SW Main, Suite 1100, representing Riverview Cemetery Association, said the Cemetery is not in the Fanno Creek area but in the SW Hills Protection Plan. He said this ordinance would change the balance in that area and would have a significant impact where environmental zones have already been imposed. One of the changes is the provision calling for protection of all natural resources that are noted, not just the significant ones. He said they have spent a great deal of money to inventory the significant resources on their property and all this work will be upset if this is adopted. He charged that not enough attention has been given to the Citywide effect. He called for adoption of the Fanno Creek plan but asked that the City spend more time on the changes proposed to the underlying environmental regulations.

Michael Carlson, Portland Audubon Society, 5151 NW Cornell 97210 urged adoption of the Fanno Creek plan. He said 98 per cent of the land in Fanno Creek is within flood areas or geological hazard areas. Only 600 acres are being protected and a property like Mrs. Jenson's can get density transfers, allowing her to move development to another part of the property. He said the Plan protects only the most valuable resources and encourages responsible development.

Mayor Katz said she was very concerned about building on unstable land in the City.

Ken Paulson, Crestwood Neighborhood Association, urged passage of all the ordinance. He stressed the importance of the Fanno Creek watershed area in protecting the quality of life and ecosystem integrity. Failure to adopt it will

**April 7, 1993**

bring continued clear cutting. He said Crestwood is outraged that commercial logging is allowed in the City, noting that their neighborhood association is being sued for trying to stop it. He said while complaints about cumbersomeness, complexity, etc., are true, the ordinance can be fixed later.

Commissioner Lindberg asked if the City was making property unbuildable.

Mr. Paulson said there may be individual cases where that is true but in general it is not. A conservation zone does not preclude development but requires protection of sensitive areas.

Mayor Katz asked about Mrs. Jensen's property and whether it is entirely within the EP zone.

Mr. Burns said the Jensen property is in the SW Hills protection area. He said the only access to Ms. Jensen's property, which is an EC zone, is through an EP zone and this ordinance will provide such access and reduce fees for environmental reviews from \$4,000 to \$400 for such a review.

Cheryl Dexter, 12515 SW 55th Place, objected to the lack of notice about the clear cutting of over two acres behind her property. She said the owner acted out of greed.

Judy Skelton, 1935 SE Harold Street, urged that what had happened in Los Angeles not be allowed to happen in Portland.

Mr. Burns reviewed some of the issues raised by those testifying. Regarding the Deer Ridge proposal, he said with the new regulations, land use review would be required only on the two lots with significant trees outside the resource area.

He said decisions about significant natural resources are not made case by case in the land-use hearings process. He said in April, 1992, Planning published maps showing what it thought were all significant resources in the Fanno Creek watershed and as a practical matter it was decided not to protect everything that was significant in order to facilitate development. The most significant ones are in environmental protection zones and the next level are in conservation zones but there are acres and acres that are not being protected. Decisions about the significance of a resource can only be made through a legislative adoption procedure. He noted that what the City requires is that the Code do no unnecessary harm and if there is a development opportunity that does not require a resource area location, the

**April 7, 1993**

City does not require one. Planning staff would also like to open the door for approval of a development in a known significant resource if it can be demonstrated that the effects are negligible.

Commissioner Hales said he had a hard time understanding that the new regulations would add more certainty or streamline the current regulations. He cited the new language which states that "all natural resources within environmental zones are significant." He said that is a major change in the regulations and asked what the Planning Commission's reasoning was on this.

Mr. Burns said the Planning Commission wanted to eliminate current ambiguity in the Code and to change the way it was being administered. He said the discussion centered around the point that the City is not in the business of protecting resources that are not significant. He said people are confusing the significance of resources as a whole versus what effects their development proposal would have.

Commissioner Hales said Council is now processing appeals based on environmental zones where the Hearings Officer is saying he cannot understand the regulations. He said the proposed change, defining all natural resources within environmental zones as significant, does not look to him like streamlining and he believes it would be hard to implement.

Mr. Burns said each resource type is not present on each site. In the Fanno Creek Plan the resources that are important within each site have been identified. Plan descriptions of those would be used in quasi-judicial reviews.

Commissioner Hales asked what would happen if a developer proposed removal of cottonwood if the Code says all natural resources are significant.

Mr. Burns said the approval criteria says "do no unnecessary harm." He said Planning would try to avoid unnecessary impacts and mitigate for negative ones. Most would be Type II processes, only rarely Type IIIs.

Commissioner Hales asked about Staff time involved in the review process.

Mr. Burns said the new regulations are less discretionary than the current ones. There will be fewer reviews because reviews in transition areas are being eliminated. He said most riparian zones are in protection zones and would be reviewed through a Type II procedure.

Commissioner Hales asked about the addition of four terms in Appendix C: ecologically and scientifically natural areas; forests (for which there is not

**April 7, 1993**

definition in the current Code); meadows and paleontological artifacts. He asked why those were not included in the definitions that were adopted.

Mr. Burns reviewed these terms, noting that they are identified elsewhere in the Code and, if not, as in the case of "forest", the dictionary meaning serves as the definition. He said there are no identified paleontological artifacts or cultural resources in the Fanno Creek watershed. He said defining paleontological is an improvement that could be made to the Code.

Mr. Burns also reviewed the notification process for sending out the proposed ordinance and other points raised during the testimony, including meeting water quality standards in the Tualatin watershed.

Overall, he said, the changes are pro development. He said Planning wants to achieve environmental protection but in a way that provides the simplest process and the smallest fees and the smallest amount of time.

Mr. Burns noted the need for several amendments. Regarding use of the term "minimum amount necessary" (page 430-14) he said what this means is that if a road is approved across a protection zone it should not be any wider than necessary. Finally, the term "to meet public facility design standards" should be added to C on page 430-15.

Commissioner Kafoury moved the amendment to add that language. Commissioner Lindberg seconded and the motion carried. (Y-5)

Commissioner Lindberg asked if adoption of this ordinance was the only way the City could prevent clear cutting.

Mr. Burns said the Court decision said resources cannot be protected through interim measures but only through Goal 5 studies such as Fanno Creek, even though the City has identified a resource and is going through a hearings process to see if it should be protected.

Commissioner Lindberg asked if more tree cutting would result from waiting one month.

Mr. Burns said about one acre a week is being lost. He said passage of this ordinance would have saved about 40 percent of the trees that were lost earlier.

Commissioner Hales proposed dividing the issue. He said he is not satisfied with the clarity of the regulatory part of the document or with why a



**April 7, 1993**

different regulatory framework needs to be applied to this area once the maps identifying significant resources are adopted.

Commissioner Kafoury asked for clarification as to whether the parts are separable.

Ruth Spetter, Senior Deputy City Attorney, said she understands that the rationale for application of these Zoning Code regulations to particular properties in Fanno Creek relates to the new legislation, and not the old. She said she has some concern about adopting the designations but not adopting the Code provisions on which they are based.

Mr. Burns recommended against division based on State procedural requirements which could open the City up for an appeal and a possible law suite if the regulations are not adopted.

Commissioner Lindberg asked if it was possible to do that through legislative intent.

Mr. Burns said the Planning Commission, after much debate, wanted to go with the new regulations but revisit policy issues in May to deal with their concerns about what the approval criteria should be in environmental conservation zones.

Commissioner Hales said in that case, why not wait.

Mr. Burns said the Planning Commission wanted to get these regulations enacted prior to this year's building season because there are dozens of people waiting for these to go into effect. Without these regulations, he said, an appeal would be deadly under Goal Five case law.

Commissioner Blumenauer said the City has already been held up by the courts and if it does not move forward, the building cycle will be lost. He said he personally supports the ordinance but suggested a followup on definitions for such terms as "forest" and "old bones". He asked Commissioner Lindberg about status of tree protection.

Commissioner Lindberg said current efforts were reviewed 30 days ago although the major tree preservation ordinance was still to come from the Planning Bureau.

Mr. Burns said the Planning Bureau is looking at forests, not trees. The missing element is historic trees, adding that he did not know the schedule for bringing that to Council.

**April 7, 1993**

Commissioner Lindberg said he is prepared to move forward though he is concerned about the flaws.

Mayor Katz said there is real nervousness about operating without Goal 5. She said she is not happy with the regulations but will vote for the whole package with the clear understanding that the Planning Commission will review them as soon as possible. In the meantime, there is some protection.

Commissioner Kafoury said the Planning Commission worked for hours to try to make this a better process. She said these are not terrible regulations and in next 20 days Council can decide if it is committed to clarifying them.

Mayor Katz noted that the Planning Commission itself wants to review some pieces.

Commissioner Hales said he would feel more comfortable if he knew the Commission would commit to a review of the whole rules section and not just a few pieces.

Mr. Burns said they would make that commitment.

Commissioner Blumenauer asked if the Planning Commission could meet this objective.

Mr. Stacey said it can review the entire environmental Code beginning with Skyline West and everything in this ordinance will be up for review this summer and fall. He said the Bureau is fully committed to such a review.

Commissioner Hales said he is unsure the necessary level of clarity has been reached but he will support this with the understanding that the Planning Commission will review all of Chapter 4.30.

Mayor Katz said allowing for a review and streamlining will be a part of the budget. She said the clear cutting incident was appalling as was the lack of protection the City has.

**Disposition:** Ordinance No. 166430 as amended. (Y-5)

**April 8, 1993**

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS THURSDAY, THE 8TH DAY OF APRIL, 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.

- 518**      **TIME CERTAIN: 2:00 PM** - Express the City's commitment to children, youth, and families and the role of the City Council as advocate and partner with other jurisdictions on issues relating to high school completion, work force preparation and employment (Resolution introduced by Commissioner Kafoury)

**Discussion:** Commissioner Kafoury said this resolution is a centralization of current policy, specifically regarding Future Focus and the Portland Schools. As other jurisdictions meet to prepare their budgets, this gives focus to the City's role.

Marcia Douglas, City liaison with Portland Public Schools, said this attempts to find the common core in City policies regarding children, youth and families. It states that the City has a leadership role to play in working with other jurisdictions to find creative ways to help families and children in need. She reviewed sources for this policy, including the CHAS (Comprehensive Housing Affordability Strategy), Future Focus and Community Policy Goals.

Dan Vizzini, Child Development Foundation Board member and Child Care Commission members, encouraged City leadership in the area of child care.

Mayor Katz noted the Leaders Roundtable goal of 100 per cent high school graduation as well as other goals regarding jobs and domestic violence.

**Disposition:** Resolution No. 35121. (Y-5)

- 519**      **TIME CERTAIN: 2:15 PM** - Continue efforts to conform and consolidate administration of Portland Business License program and Multnomah County Business Income Tax program (Resolution introduced by Commissioner Hales)

**Discussion:** Commissioner Hales said this is an attempt to consolidate the City business license and Multnomah County income tax. In the next month

**April 8, 1993**

they expect to come back with Code language to modify the current program and then will prepare an intergovernmental agreement for approval. He said they have done this in three stages so that everyone knows in advance what is planned. They also want to get feedback from the business community about proposed Code changes early enough to identify any problems.

Dan Saltzman, Multnomah County Commissioner, said the County passed an almost identical resolution this morning and hopes to eventually simplify the process down to one piece of paper which will make the City a more agreeable place to do business.

Don McClave, Chamber of Commerce and Bogle Task Force committee member, said when you start fiddling with the tax code you find there are unanticipated consequences which is why they are taking a deliberate approach. He said it is senseless to pay for two separate but simple taxes. He noted that a choice will have to be made about who should administer it, noting that the City does a very thorough job but costs much more than the County. He urged flexibility in the operating system to allow changes as needed and take note of the slowed rate of job growth.

Jim Gaffney, CPA with Perkins and Coe, said he believes most CPAs will strongly favor such a step towards consolidation.

Robert Butler, address not given, said he is concerned with major structural problems in the present City license Code which makes Portland the second worst environment in which to conduct small business in the country. The main issue is the limited deductions available to the small business owner. He charged that the License Bureau has ignored inequities and not followed through on commitments made to correct them.

Commissioner Hales said the process is designed to examine as many of the structural elements as possible. He said staff is committed to look at all possible ways to improve the tax and to also consider overall weight of the tax on the business climate.

Mayor Katz said there will be a review of the business climate, comparing Portland with other jurisdictions.

**Disposition:** Resolution No. 35122. (Y-5)

April 8, 1993

REGULAR AGENDA

Commissioner Earl Blumenauer

**\*520** Authorize agreement with Tri-Met to transfer interest in properties to Tri-Met for Westside Light Rail, receive payment, and accept properties (Ordinance)

**Discussion:** Karen Rabiner, Office of Transportation, said this will transfer some interests in properties to Tri-Met for the West side light rail. It also satisfies the requirement to replace any park land taken for transportation purposes. She said the transfer is contingent on receiving releases of interest from the Zoo, OMSI and the Forestry Center on the parking lot area. Favorable responses have been received from OMSI and the Forestry Center but Metro has yet to release its interest.

Commissioner Lindberg said the Parks Bureau owns the entire parking area and will need to negotiate the terms regarding the distribution of parking lot revenues.

John Sewall, Parks Bureau, said that is part of the Master Plan for the parking lot and generating money that Metro needs to pay Tri-Met for its obligation towards light rail. The conclusion reached is that the best way to do that is by implementing paid parking to meet these obligations. The issue then becomes the disposition of the revenues once those obligations are met.

Commissioner Blumenauer said there was never any agreement by this Council that there would be paid parking in perpetuity. That is an open question. Rather, the City allowed Metro to satisfy its obligation to Tri-Met by using City property.

Mr. Sewall agreed.

Commissioner Blumenauer said a second issue is that we do not have the resources nailed down for the West side light rail, which needs to be done before agreements about the zoo station are made. Finally, if paid parking is continued after Metro meets its obligations, the City should seek long term dedication of these revenues for the park, circulation and transportation needs of the Washington Park Zoo.

Commissioner Lindberg said the impact on the parks system has so many implications it can not be negotiated by staff. Council will need a full review

**April 8, 1993**

because of its profound effect. He assured Council that nothing will be given away without full Council approval.

Commissioner Blumenauer said the materials accompanying this referred to it as "Parks Bureau proposal" without acknowledging overall City and neighborhood needs.

Ms. Rabiner said this is a land transfer agreement that is being held up by Metro. It is essential to Tri-Met to get this and they are prepared to go to a condemnation process if necessary.

Commissioner Hales said even though there may be a legal dispute as to the parking revenues that is separate from deeding the property to Tri-Met.

**Disposition:** Ordinance No. 166431. (Y-5)

**Commissioner Charlie Hales :**

- 521** Liquor license application for Cherns, Inc., dba Lung Fung, 8001 SE Division St., Dispenser Class A liquor license (change owner - re-open outlet); unfavorable recommendation (Report)

**Disposition:** Referred to Commissioner of Public Safety

- 522** Liquor license application for Catalana, Inc., dba La Catalana, 2821 SE Stark St., Restaurant liquor license (new outlet); favorable recommendation (Report)

**Discussion:** John Werneken, said there has been some concern but the License Bureau believe this operation will not negatively impact the neighborhood.

Mayor Katz asked if there were any restrictions because of noise.

Mr. Werneken said this is a restaurant, not a night club, which will close at 11 p.m. If they were to change their operation, the Bureau would revisit its decision.

Officer Larry Siewert, Police Bureau, supported the favorable recommendation, noting they found no evidence of criminal activity.

Rebecca Gardella, 516 SE 28th Ave., said she lives 100 feet from the restaurant and 50 feet from a package store. She asked for a delay because of inadequate notification. She said the previous licensee only operated a

**April 8, 1993**

of inadequate notification. She said the previous licensee only operated a month as a restaurant and then turned into a catering place. She said this area cannot handle a lot of traffic even with the five parking spaces and requested restrictions regarding entertainment and hours.

Commissioner Hales said there have been some discussions with neighborhood associations about the need to get their input first, before making a recommendation to the OLCC.

Ms. Gardella said some people planned to go to the neighborhood association but this was not timed properly.

Lavinia Marx, Chair of Land Use Committee for Sunnyside Neighborhood Association, said this is technically in the Kerns Neighborhood. She said they never received any information about the application and would like a better notification process and more information about the owner. She said they publicized this in their newsletter and the Gardellas were the only ones opposed. She said the neighborhood association has not approved the good neighbor plan but, in her view, it looks good as it stands.

Ms. Gardella asked that the hearing notification be posted on the building itself.

Jennefer Grant, co-applicant, said they are a very small restaurant with a total capacity of 28. They have drafted a good neighbor policy and are paying for parking places. She said they have no intention of catering.

Charles Grant, co-applicant, said they have the official endorsement of Kerns Neighborhood Association and have also talked to the Buckman and Laurelhurst Neighborhood Associations, which seem to welcome their presence.

**Disposition:** Favorably recommended. (Y-5)

**523**

Liquor license application for Mark and Cynthia Meek, dba Mt. Tabor Pub, 4811 SE Hawthorne Blvd., Retail Malt Beverage liquor license (new outlet); favorable with restrictions recommendation (Report)

**Discussion:** John Werneken, License Bureau, said the applicants operate a similar business elsewhere where they successfully turned around an outlet with a history of problems. He said because this area has a tremendous number of outlets, the Bureau studied a similar operation, the Baghdad Theatre, and found that it was able to operate without serious negative impacts on neighborhood liveability. He said the Bureau worked with SE

**April 8, 1993**

Uplift to hold a public meeting about this proposal. Subsequently, an ad hoc committee was formed to prepare a 19 point good neighbor plan, which the applicants have accepted. Based on acceptance of this plan and the applicants' previous record, a favorable recommendation is requested.

Mr. Werneken said this proposal seems far preferable to other possible uses for this facility. Endorsement should be predicated upon acceptance by the three neighborhood associations involved and with a restriction calling upon the applicants to operate in compliance with the Good Neighbor Plan.

Officer Larry Siewert said the Police agree with this recommendation.

William Boyd, SE 45th, Chair of Richmond Neighborhood Association, said after a meeting in March most of those attending, although initially opposed, seemed to come around, based on the Meeks reputation and plans. He said many people volunteered to work on the good neighborhood plan and, unless there is unexpected opposition, he believes the Board will officially approve it.

Lavinia Marx, Sunnyside Neighborhood Association, Land Use Chair, said a few folks maintain strong opposition even after the compromise agreements reached by the three neighborhood associations. She said parking will always be a problem no matter what is located there. The neighborhood does agree that because of the responsibility shown by this owner, they liked the proposal and applicant seems to be willing to keep up ongoing communication with the neighborhood. Sunnyside will take a stand on April 28.

Mr. Boyd said the reason they decided to support this is because the business owner takes a responsible approach and may even work with other bar owners in the area. He added that there are other things far, far worse that could go in here. He said the applicant will provide a security patrol Thursdays, Fridays and Saturdays which will affect other businesses as well.

Individuals speaking in opposition to the favorable recommendation included:

Nancy Newberry, 13820 SW 33rd, 97005 General Manager, Point of Sales Systems

Christine Hofer, 1732 SE 48th

Mrs. Elmer Aunt, owner of JaCiva's

Joan Williams, 1518 SE 48th

Dave Richardson, Manager of the Brite Spot restaurant

Richard Shroeder, speaking for his parents who own property nearby

Ruth Bates, nearby property owner



**April 8, 1993**

Opponents voiced concern about noise, extra congestion and the lack of parking, which already creates a tremendous problem in the neighborhood. They also noted the high concentration of liquor outlets already in the area and the congestion that a facility serving 350 patrons would add.

Mr. Richardson and Mr. Schroeder showed slides to indicate the lack of offstreet parking in the area.

Mark Meek, 7105 SW Germantown Road, co-applicant, said they are not trying to degrade the neighborhood and believe this will be a place which local neighbors can enjoy. He said they plan to emphasize a restaurant atmosphere. To encourage local patronization and use of alternate modes of transportation, free admission will be offered to those who walk, bike or bus to the theatre.

Regarding the parking problem, Cynthia Meek, co-applicant, noted that the theatre has been there 35-40 years and at one time had a capacity of 400 people. She said they are not required to have a parking lot but have tried to work with the neighborhood to see what can be done.

Melissa Delaney, SE Uplift, placed comments in the record from Bob Allen and Al and Nancy Ritter who favor the proposal.

Commissioner Lindberg said he strongly favors granting this license. He said the report is very thorough and the neighborhood plan is excellent. Theatre pubs are not places where people go to drink excessively and it is not fair to penalize the applicants for the parking issue.

Commissioner Hales said this is not a zoning hearing and Council cannot deny a traffic intensive use as the building is already there. He expressed appreciation to the neighborhoods, staff and applicants in reducing impacts to an acceptable level.

**Disposition:** Favorably recommended with restrictions (Y-5)

Commissioner Lindberg moved to suspend the rules. Hearing no objections, the Mayor so ordered.

### **SUSPENSION OF THE RULES**

**524**

Award feasibility study contract to CH2M Hill, Inc., at an estimated cost of \$49,057 (Report introduced by Commissioner Lindberg)

**April 8, 1993**

**Discussion:** Richard Perkel, Finance Manager, Water Bureau, said they have approved a consultant to proceed with the feasibility study for a \$25 million bond sale scheduled for July. He said they hope to finish the feasibility study in 60 days and delay would cause a severe hardship in meeting this schedule.

1

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

At 4:10 p.m., Council adjourned.

BARBARA CLARK  
Auditor of the City of Portland



By Cay Kershner  
Clerk of the Council