



CITY OF

PORTLAND, OREGON

**OFFICIAL
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 9TH DAY OF JUNE, 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 Chuck Bolliger, Sergeant at Arms.

Agenda Nos. 844 and 845 were pulled from Consent. On a Y-5 roll call, the balance of the Consent Agenda was adopted as follows:

CONSENT AGENDA - NO DISCUSSION

- 826** Request from Andreas Tsoumas to address Council on tree maintenance issues and the Urban Forestry Commission (Communication)

Disposition: Referred to Commissioner of Public Safety.

- 827** Reject all bids for medium voltage electrical equipment three year preventive maintenance program at the Columbia Wastewater Treatment Plant (Purchasing Report - Bid 150)

Disposition: Accepted.

- 828** Accept bid of Lloyd H. Kessler, Inc., for Force Lake site improvement and parking lot for \$123,000 (Purchasing Report - Bid 163)

Disposition: Accepted; prepare contract.

- 829** Accept bid of Follett Landscape Corporation for Laurelhurst Park irrigation system for \$196,000 (Purchasing Report - Bid 164)

Disposition: Accepted; prepare contract.

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- 830** Accept bid of Cedar Landscape, Inc., for Lents Park irrigation system for \$139,758 (Purchasing Report - Bid 165)
Disposition: Accepted; prepare contract.
- 831** Reject bid of Tice Electric Company for traffic signal modifications at nine locations and traffic island installations at two locations (Purchasing Report - Bid 166)
Disposition: Accepted.
- 832** Accept bid of Albany Electric for St. Helens Road and Police Impound Lot traffic signal for \$46,720 (Purchasing Report - Bid 170)
Disposition: Accepted; prepare contract.
- 833** Accept bid of Glen/Mar Construction, Inc., for 5540 NE Sandy Boulevard renovation for \$74,070 (Purchasing Report - Bid 172)
Disposition: Accepted; prepare contract.
- 834** Accept bid of Marshall Associated Contractors, Inc., for 12", 8", 6" and 4" water mains in NE Bridgeton Road and NE Marine Drive for \$385,004 (Purchasing Report - Bid 173)
Disposition: Accepted; prepare contract.
- 835** Accept bid of Clyde\West, Inc., for furnishing one utility cold planner for \$88,590 (Purchasing Report - Bid 177)
Disposition: Accepted; prepare contract.
- 836** Reject all bids for furnishing three 23,000 GVW cab and chassis with service body (Purchasing Report - Bid 178)
Disposition: Accepted.
- 837** Accept bid of Northside Ford Truck Sales for furnishing one Class 8 truck tractor for \$55,500 (Purchasing Report - Bid 179)
Disposition: Accepted; prepare contract.

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Mayor Vera Katz

838 Authorize \$25,000,000 of Water System Revenue Bonds (Ordinance)

Disposition: Passed to Second Reading June 16, 1993 at 9:30 a.m.

839 Pay claim of Richard McGary (Ordinance)

Disposition: Reconsidered at June 9, 2:00 p.m. Council meeting.

Commissioner Earl Blumenauer

840 Set hearing date, 9:30 a.m., Wednesday, June 30, 1993 to vacate a portion of SW Thomas Street east of SW Condor Avenue (Report; C-9829)

Disposition: Adopted.

841 Accept the LID street improvement project of SW Palatine Street from SW 45th Avenue to SW 47th Avenue and release retainage (Report; C-9783)

Disposition: Adopted.

842 Set hearing date, 9:30 a.m., Wednesday, July 14, 1993, to vacate portions of SW Jefferson Street, SW Jefferson Road, SW Murray Road, and NW Murray Lane near SW Canyon Road (Resolution; C-9845)

Disposition: Resolution No. 35149. (Y-5)

***843** Call for bids for 1993/94 Fiscal Year annual supply contracts for City bureaus and departments, authorize contracts and provide for payment (Ordinance)

Disposition: Ordinance No. 166590. (Y-5)

Commissioner Gretchen Kafoury

***846** Amend contract with Salvation Army to increase the amount of compensation by \$4,575 and provide for payment (Ordinance; amend Contract No. 28138)

Disposition: Ordinance No. 166591. (Y-5)

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***847** Amend contract with Robert Evanson Associates by \$1,902 for additional services to the Front & Davis parking garage (Ordinance; amend Contract No. 28088)

Disposition: Ordinance No. 166592. (Y-5)

***848** Amend agreement with Multnomah County by increasing the amount of compensation by \$100,000 to provide expanded services for homeless youth and provide for payment (Ordinance; amend Contract No. 28238)

Disposition: Ordinance No. 166593. (Y-5)

***849** Increase purchase order contract for design improvements at Third and Alder Garage (Ordinance; amend P.O. No. 1012785)

Disposition: Ordinance No. 166594. (Y-5)

Commissioner Mike Lindberg

850 Accept contract with Pioneer Waterproofing Company for repair of reservoirs at Mt. Tabor and Washington Parks as complete and authorize final payment of \$1,898 (Report; Contract No. 28323)

Disposition: Accepted.

851 Accept completion of the SW Columbia Street, First Avenue to Second Avenue Sewer Reconstruction Project and make final payment to Bengue Construction Company (Report; Contract No. 28600)

Disposition: Accepted.

852 Authorize a lease agreement with Rogers Construction, Inc., for 5,100 square feet of office space (Ordinance)

Disposition: Passed to Second Reading June 16, 1993 at 9:30 a.m.

***853** Contract with Suzanne Crane Engineering to rewrite the BES Construction Inspectors Manual and perform revisions to the BES Design Manual and Special Specifications (Ordinance)

Disposition: Ordinance No. 166595. (Y-5)

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***854** Approve License, Right-of-Entry and Joint Management agreement between First Congregational Church of Portland, City of Portland and Metropolitan Exposition-Recreation Commission (Ordinance)

Disposition: Ordinance No. 166596. (Y-5)

***855** Contract with Suzanne Crane Engineering to provide engineering services for the Outfall Mixing Zone Study at the Tryon Creek Wastewater Treatment Plant and provide for payment (Ordinance)

Disposition: Ordinance No. 166597. (Y-5)

***856** Authorize Commissioner of Public Utilities to enter into agreement with Oregon Department of Environmental Quality allowing City to act as authorized representative of State for certain ground water monitoring activities (Ordinance)

Disposition: Ordinance No. 166598. (Y-5)

City Auditor Barbara Clark

***857** Reduce sewer assessment at 3544 SE 122nd Avenue and cancel sewer assessment at 8404 NE Multnomah Street (Ordinance; amend Ordinance No. 165977)

Disposition: Ordinance No. 166599. (Y-5)

REGULAR AGENDA

S-*844 Authorize intergovernmental agreement with Oregon Emergency Management for earthquake damage assessment survey reports (Ordinance)

Disposition: Substitute Ordinance No. 166600. (Y-5)

845 Amend City Code to set application fee for certification of approved testing agencies (Ordinance; amend Code Section 24.10.119)

Discussion: Mayor Katz said there was a policy issue here about whether to deal with fees in relation to the budget process.

Ray Kerridge, Commercial Inspections Manager, Bureau of Buildings, said State building code requires that certain highly specialized inspections be carried out by special inspectors, who work for testing agencies, not the City. A special inspection advisory group has recommended that the City adopt

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procedures to certify testing agencies because of the technically complex work these people do.

Commissioner Kafoury said the question is why do it now rather than through the regular budget process.

Mr. Kerridge said the fee would coincide with new rules that have just been put in place.

Mayor Katz said it would be a good idea to tie this into the budget process so Council can identify what the revenues will be used for.

Disposition: Ordinance No. 166601. (Y-5)

824

TIME CERTAIN: 9:30 AM - Adopt the North Portland Bikeway Improvement Plan to designate selected streets in North Portland as bikeways (Resolution introduced by Commissioner Blumenauer)

Discussion: Commissioner Blumenauer said this is another step in the City's renewed commitment to alternative modes of transportation and specifically to bicycles which are an integral part of the solution to transportation problems and to reducing vehicle miles travelled. He said they are trying to integrate this into the traffic management system.

Kris Ochia, Office of Transportation, described the planning process and outreach efforts to those in the affected area. The proposal calls for 8.5 miles of bike lanes, usually on collector streets. A major issue is parking. The plan calls for retaining parking on most streets although there will be no parking on the south side of Willamette, which will affect 62 properties plus the University of Portland.

Mr. Ochia said of the six neighborhood associations involved, two support the proposal, two are neutral and one took no action. Only one, University Park, opposes. He noted other supporters, including the the Energy Commission, the 40-Mile Loop Land Trust, and the University of Portland student government. The report presents three options to Council: 1) approve the plan as proposed but direct delay of the N. Willamette bikeway until a traffic mitigation project is undertaken on N. Willamette Boulevard; 2) approve the plan as proposed or; 3) approve the plan with the exception of the Willamette Boulevard portion. Staff recommends approval of Option 1 as called for in the resolution as it responds both to the need to reduce traffic speed and to provide a safe bicycle route.

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Commissioner Blumenauer said everyone has known for years that something needed to be done along Willamette Boulevard because of traffic congestion. He said improvements for Willamette Boulevard will be funded in next year's budget.

Individuals testifying in support of the project included:

Ron Kernan, Bicycle Advisory Committee
Bob Akers, 40 Mile Loop Land Trust
Karen Frost-Mecey, Bicycle Transportation Alliance
Sharon Fekety, Portland Wheelman Touring Club
Geoff Sanders, Bicycle Federation of Oregon.
Dan Harding, 8233 N. Swenson St., 97203
Teresa and Dick Fairbank, 7303 N. Greenwich, 97217
Cathy Bambeck, City Bicycle Advisory Committee
Pat Regan, 4116 N. Willamette Blvd.
Todd Lasher, 5643 N. Atlantic Ave., 97217
Rick Browning, 1903 NW 27th, 97210
Jonathan Cook, 7575 N. Fowler, 97217
Curtis Roth, 205 SW Carson, 97219-4632
Vince Plaza, 5730 NE Everett, 97213
Dan Layden, 208 NE 31st, 97232
Renata Peterson, 7807 N. Denver, 97217
Chris Ho, 1867 SW 19th, 97201

Supporters said they believe removal of a few dozen parking spots on Willamette Boulevard is a fair price to pay to solve transportation problems. They cited bike lanes as the best way to promote safe biking and stressed the importance of connecting bike routes in North Portland and improving access to Delta Park, Kelly Point, the 40-mile loop and other focal points. Many supported Option 2. They said too many people are afraid to use their bikes now because of unsafe conditions and if Portland wishes to increase the number of bicycle commuters over the current three per cent level it must provide a safer bicycle transportation system.

Clarice White, 7400 N. Willamette Blvd., 97203, said they are willing to give up their on-street parking and asked for adoption of Option 1 to put the mitigation plan for Willamette Boulevard into effect. Right now Willamette is too dangerous for bicyclers especially because of excessive traffic and speeding.

Larry Scruggs, University of Portland, said the University endorses the plan proposed today with two concerns. First, they are concerned about the ability of bicyclists to cross at the intersection of Willamette and Portland

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Boulevard and suggest an alternative location, perhaps on the other side of Greeley where traffic volumes are lower. Second, because of concerns about the removal of parking from Willamette Boulevard to Buchanan, they suggest that portion be designated a bike route, not a bike lane, until bicycle volumes increase to the point to justify that use.

David Soloos, President, University Park Neighborhood Association, noted their opposition to the proposed striped bike lanes, rather than bike routes, based on concerns for safety and traffic congestion. The issue of the loss of parking on N. Willamette Boulevard was not the dominant issue, although he noted that Willamette already carries more traffic than Sandy Boulevard, which has five lanes.

Commissioner Hales asked if he felt that Option 1, tying implementation into traffic work on N. Willamette, was the least objectionable choice.

Mr. Soloos said definitely.

Others testifying about the dangers of the proposed bike lanes on a street as narrow as N. Willamette Boulevard included:

Sol Lublink, 4288 N. Amherst, 97203
Ray Gillespie, N. Willamette Boulevard,

Pam Arden, Kenton Neighborhood Association Chair, supported the proposed bike plan, expressing hope that it will increase safety on Denver Avenue. She requested that the map be completed in two places where the bike lanes are shown as stopping. The first is on the narrow bridge on N. Denver Avenue by Interstate and the second is the bridge owned by ODOT on N. Portland Road where a safer route is needed to get from one side of the Slough to the other.

Commissioner Hales asked about the mapping requests made by Ms. Arden.

Mr. Ochia said they are working with the State on a plan for North Portland Road and have an agreement to improve the bridge if the City improves the rest of the street.

Mayor Katz asked about development of a Master Plan and prioritizing routes.

Rob Birchfield, Office of Transportation, said the City will start work next year on this plan which is expected to take two years and will become part of the bicycle system plan. He said they take a broad view when working on a

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district plan even though people cannot see all the pieces now. As part of the plan, major problems will be defined and solutions addressed.

Mayor Katz asked about working with pedestrians.

Mr. Birchfield said they are working very closely with both pedestrians and bicyclists.

Mayor Katz noted that the resolution does include delaying the Willamette Boulevard improvements until the arterial traffic calming program, formerly known as the collector recovery program, is implemented.

Commissioner Blumenauer said the work on Willamette Boulevard will allow them to integrate the traffic calming program with the bike and pedestrian activity.

Disposition: Resolution No. 35150. (Y-5)

825 **TIME CERTAIN: 10:30 AM** - Adopt regulations prohibiting the rental of rooms by the hour at businesses that provide overnight accommodations (Ordinance introduced by Commissioner Blumenauer; amend City Code Title 14)

Discussion: Commissioner Blumenauer said this responds to a problem identified in the community associated with hourly rentals by hotel/motels and the problems that relate to the difficulty of enforcing restrictions on prostitution. He said they have worked with all parties, including the lodging industry, on an approach that makes it clear that this type of establishment is not welcome.

Deputy Chief Charles Moose, Bureau of Police, said the Police are very supportive of this measure and view it as another tool to help them do their job better and smarter. He said this adds some processes outside the already overburdened criminal justice system, giving business people a chance to work with their community and the Police a tool for finding solutions to real and perceived problems. It also will serve as the hammer if Police do not get the necessary cooperation. The Bureau does not anticipate that enforcing the ordinance will add to its costs.

Philip Peach, Executive Director, Oregon Lodging Association, said the hotel/motel industry is committed to cooperating with Council and local law enforcement agencies to deal with an increasing crime problem.

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Mr. Peach noted that the ordinance does allow for a day rate for legitimate reasons but that they believe any establishment renting a room more than twice in a 24-hour period is probably doing something other than legitimate lodging business. He said they would prefer graduated civil penalties as remedies rather than closure for six months to protect against the possibility of new employees not knowing the intention of management. Their suggestion is for penalties of up to \$500 on the first offense, \$2500 on the second and closure for subsequent offenses. They would also prefer to see 20 days notice, rather than the 10 days proposed, and would prefer that it be served personally, rather than by mail. He said while this ordinance gives the City some teeth to enforce the law, the Association also encourages full cooperation with the neighborhood associations and the Police.

Commissioner Blumenauer said in the next week staff will work with the Police and the City Attorney on Mr. Peach's suggestions.

Murphy Landells, 3920 SW Barbur Blvd., 97219, operator of the Portland Rose Motel, said a lot of people have legitimate reasons for renting rooms for less than a full day. This includes truckers and others, such as out-of-town job applicants and people who need medical attention, dressing rooms for weddings, to escape from their children and wives or who are too drunk to drive or go home.

Mike Smoke, 5035 SE 70th, fully supported the ordinance and urged further work with the State on zoning to get X-rated businesses out of the neighborhoods. He said families and children must be protected.

Susan Parker, Principal, Kellogg Middle School, supported this ordinance as a means of protecting children and neighborhoods, noting the tragic incident that occurred recently at her school.

Katherine Anderson, Crime Prevention Specialist, SE Uplift, said the Board has not taken a position on this ordinance and she is speaking solely as a crime prevention organizer. She submitted a petition signed by eight people in support of the measure, including the two new owners of the motel. She said the neighborhood has been overwhelmingly against the hourly rate motels and the new motel owners have stated their willingness to work out a good neighbor agreement.

Charles O'Neil, 5051 SE 70th, urged passage, arguing that hourly rate establishments send the wrong message to children.

Herschel Lange, East Precinct Police, supported the ordinance as another tool for Police to control prostitution in motels. He said that, in his

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experience, hourly rates have a direct relationship with prostitution. He said he called some of the adult motels listed in the yellow pages and found that all of them offer hourly rates.

Mayor Katz asked that he monitor that after passage and report back next year.

Officer Lange said they plan to do a follow-up, and are already doing it with regard to hotels, using the specified crime ordinance. This would be a valuable additional tool.

Mayor Katz asked him to keep the baseline data prior to enactment of the ordinance, so that the impact can be measured.

Officer Lange said of the two motels with serious prostitution problems he had monitored, one had almost 600 reported crimes in the area in eight years. Another had 133 prostitution arrests since 1991, many of them in the residential area around the motel.

Patricia Sandoval, incoming-President, Parkrose Business Association, fully supported the ordinance and the amendments proposed by Mr. Peach.

Roseann Lee, 1814 SE 59th, said she believes this will have a great impact on prostitution activity on Hawthorne, SE Portland and Parkrose. As a result of the incident at Kellogg School, she has been involved in an effort to produce a brochure on safety tips for kids which will be distributed through the School Police.

Commissioner Blumenauer said amendments will circulate prior to next week's meeting. He asked Council to consider the addition of an emergency clause as putting it into effect immediately could make a difference this summer.

Disposition: Passed to Second Reading June 16, 1993 at 9:30 a.m.

858 Accept bid of Special Asphalt Products, Inc., for furnishing annual supply of crack sealing material for \$55,590 (Purchasing Report - Bid 90-A)

Disposition: Accepted; prepare contract.

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Mayor Vera Katz

859 Adopt a city-wide performance management program for nonrepresented employees (Resolution)

Disposition: Resolution No. 35151. (Y-5)

Commissioner Earl Blumenauer

***861** Authorize contract with Roy F. Weston, Inc., to design, develop and implement an infrastructure management system for the Portland Office of Transportation (Ordinance)

Discussion: Commissioner Hales said he hoped every opportunity is being taken to ensure that the geographic information systems are the same in all the bureaus and also have the ability to communicate with Metro's system. He said he heard a horror story last week about three different City bureaus requiring three different sets of specifications for public improvement plans because of the difference in their systems.

Commissioner Blumenauer said the problem is that there has been phased implementation because money was not available for some bureaus and the decision was made not to stop others from going ahead. He said he believes the gap is being narrowed and that this contract will have implications for the other infrastructure bureaus.

Disposition: Ordinance No. 166602. (Y-5)

***862** Amend City Code Chapter 5.32 of the Revenue and Finance Title (Ordinance; amend Chapter 5.32.050)

Disposition: Ordinance No. 166603. (Y-5)

Commissioner Charlie Hales

***863** Amend contract with Neighbors West/Northwest District Office for Designed Infill Specific Development Plan (Ordinance; amend Contract No. 28508)

Disposition: Ordinance No. 166604. (Y-5)

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***864** Amend contract with Southeast Uplift District Office for Main Streets Specific Development Plan (Ordinance; amend Contract No. 28507)

Disposition: Ordinance No. 166605. (Y-5)

S-865 Appoint a Citizens Advisory Committee to advise on the design of the NW 23rd/Burnside Improvement Project (Previous Agenda 781)

Discussion: Commissioner Hales moved acceptance of the Substitute. Kafoury seconded and the motion carried. (Y-5)

Vic Rhodes, Office of Transportation Engineering, said George Killian, Killian Pacific, has no objection to proceeding.

Disposition: Substitute Resolution No. 35152. (Y-5)

Commissioner Gretchen Kafoury

866 Transmit Bureau of General Services report on location options for the Emergency Operations Center (Report)

Discussion: David Kish, Director, Bureau of General Services (BGS), introduced Aaron Fagere, the 9-1-1 facility architect. He reminded Council that eight weeks ago Council asked General Services to determine if the Emergency Operations Center (EOC) could fit into the new 9-1-1 facility although originally it had been determined that it would not be in that building, so no space was set aside for it.

Mr. Kish said they reviewed four options, including remaining at Kelly Butte and retrofitting it, a fairly expensive choice. They also looked at putting the EOC into the 911 site without the Fire Information System (FIS). This is Option 2, which BGS is recommending. The third option is to locate the EOC in the new building, with the FIS, but because of the way the building was designed this would add 3,000 square feet. Option 4 is a scaled down Option 2 which calls for phasing the EOC into the new building but deferring the purchase of some of the new radio equipment that would be necessary for the EOC to operate. This is the option preferred by the Office of Finance and Administration.

Mr. Kish said BGS recommends Option 2 because it would allow them to borrow the whole package at one time and make \$750,000 in improvements rather than phasing them in over several years. Regarding the option of

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consolidating with Multnomah County, Mr. Kish said discussions are underway but there has not been enough time to get any answers.

Mayor Katz asked if the Police and Fire Bureaus had reviewed the options.

Mr. Kish said they concur with either one, with the provision that they be allowed to review the floor plan. That will probably cost an additional \$20,000 because the walls will have been buttoned up by then.

Commissioner Hales said he is increasingly frustrated with the direction the City is taking here. He said the EOC should rightfully be called a DOC, a Disaster Operations Center, as it will be used only when there is a disaster. He questioned the necessity of dedicating space for a facility that will only be used on an infrequent basis. He asked how many square feet were being used.

Mr. Kish said he thought there were about 20,000 feet in Kelly Butte and about 40,000 planned for the new facility. He said the new facility will accommodate more employees because of the addition of the fire dispatch people.

Commissioner Hales said there was an awful lot of common space in the plan. He asked how many conference rooms were planned for the facility and what they are used for on a daily basis.

Gary Schrader, Bureau of Emergency Communications (BOEC), said there are two large conference rooms and a classroom area.

Commissioner Hales asked why the equipment now shown in permanent stations could not be put in a storage room instead of having dedicated space that will only be used infrequently.

Mr. Kish said neither Option 2 nor 4 add any space. He said the committee felt it made sense to put the emergency management staff in the EOC and the Fire Bureau said they could move its Information System elsewhere or leave it where it is. The construction costs reflect requirements for an additional generator needed to provide an uninterruptable power source in case of a disaster.

Commissioner Hales asked if this was in addition to the uninterruptable power source for uses other than the computers, which have them already.

Aaron Fagere, architect, 520 SW Yamhill, said to keep the costs as low as possible the building originally had two 350 kilowatt generators which power

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the operations floor, the computer rooms and a limited number of other rooms. It does not operate the HVAC system for administration or any of the dual-use rooms called for under the current EOC plan. To put these rooms on the HVAC a 600 kilowatt generator is needed and a judgment call was made that a second kilowatt generator would give less risk of failure for the 911 system. He said the only space that becomes dedicated full time to EOC is the space that was designated for FIS, a fairly small space. All other spaces are dual use.

Commissioner Hales asked what the use of the other common space in building would be when there was a disaster. Would classes still be meeting in the classrooms, for example.

Mr. Fagere said they are reusing virtually all the common spaces to accommodate the EOC.

Mr. Schroeder explained additional dual uses of the space.

Commissioner Hales asked how one could go from a 20,000 square foot facility to 40,000 square feet with only a few more positions and not a lot of space that is not used for EOC activities.

Mr. Kish said a very large part of the building is the electronics shop being moved from 17th and Jefferson, upwards of 10,000 square feet. He explained what the additional construction and other costs would be.

Commissioner Hales asked about the additional radio costs.

Mr. Kish said in Option 4 they are planning for \$50,000 but in Option 2 extra money would go for the ham and CB radios and all the other communications equipment that needs to be replaced.

Commissioner Blumenauer said he understood the urgency of this request was so that they could go ahead with the structure for the generator.

Mr. Kish said they need to proceed with about \$200,000 worth of wiring and electrical stuff connected with the larger generator.

Commissioner Blumenauer said the points Commissioner Hales is raising do not relate to items that have to be done for construction and do not have to be done now.

Commissioner Hales questioned the whole tone of the proposal, given that the City now has an EOC and radios, even though they are not up to date.

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When he sees \$300,000 slotted for radios, he wonders how much that kind of thinking is affecting the other project costs. He said the explanation about the larger generators makes sense as does installing the conduits, although where they go will depend on Council's decision about whether the EOC function can be done in other space or whether the FIS space is the right place to put it.

Commissioner Blumenauer said his concern now is going ahead with all the electronic purchases as opposed to dealing with the actual construction requirements. He said a lot of this is open to question but co-location discussions are proceeding and there will be additional opportunities to crank down on the other elements. He said he thought they were talking about Option 4, which is the construction go ahead and that there would be opportunities to deal with the electronic issues over time.

Mr. Kish said George Houston of the Fire Bureau can talk about what kinds of radios would be needed in an emergency and some of his staff could talk about the current state of the radios and what they need to have to fit the Bureau's needs.

Commissioner Hales said what he is trying to get at is whether creativity is being used here rather than standard bureaucratic bloat.

Mayor Katz asked what would be wrong with going with Option 4 and dealing with the other issues later.

Commissioners Blumenauer and Hales said that would be fine.

Mr. Kish asserted that staff has brought creativity to this project, arguing that this is a low budget for this kind of operation and that a remarkable job of value-engineering has been done. He said Option 4 is the absolute minimum they need in order to proceed.

Mayor Katz asked if Council was ready to adopt Option 4 and then get to resolution on the radios later and how these fit in with the purchase of new radios for police officers.

George Houston, Division Chief, Fire Bureau, said he has appointed an EOC oversight committee with members from all the bureaus involved as well as representation from local, state and federal jurisdictions. He said he is giving them 60 days to return with recommendations about how the EOC should be configured. He said FEMA offers pass-through grant dollars for communications equipment and he intends to make sure that what is designed will qualify for federal reimbursements.

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Commissioner Blumenauer said he hopes to have a more intensive discussion in several weeks to show how all the pieces fit together. He moved to proceed with Option 4. Commissioner Kafoury seconded.

Disposition: Accepted as amended; Adopt Option 4. (Y-5)

867 Approve changes in methods for providing services of the Facilities Services Division of the Bureau of General Services (Previous Agenda 784)

Discussion: Commissioner Kafoury said they have not finished all the research Council requested about temperature levels. She said they will be back with that information within a month.

Disposition: Referred to Commissioner of Public Affairs.

City Auditor Barbara Clark

868 Assess property for sewer system development charges through May, 1993 (Hearing; Ordinance; Z0432 through Z0439)

Disposition: Passed to Second Reading June 16, 1993 at 9:30 a.m

869 Assess benefitted property for the costs of the improvement of NW 13th Avenue from NW Davis Street to NW Johnson Street (Second Reading Agenda 820; C-9755)

Disposition: Ordinance No. 166606. (Y-5)

***860** Transfer appropriation within certain bureau budgets and between funds; adjust resources and requirements in various funds (Ordinance)

Discussion: Cay Kershner, Clerk of the Council, noted that amendments had been distributed that morning.

Mayor Katz said they were not substantive in nature.

Commissioner Blumenauer moved approval of the amendment. Commissioner Kafoury seconded and the motion carried. (Y-5)

Commissioner Hales asked about the allocation of \$263,843 for public safety under the new requests. He noted Council approval two weeks ago of a \$400,000 transfer to contingency for furniture and questioned the \$137,000

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difference now. He also asked about \$20,000 allocated to fire information system office furniture which may or may not be needed, depending on whether that system goes into the emergency operations center.

David Kish, Director, Bureau of General Services, said he was not sure but the numbers in the previous ordinance for furniture were correct. He said this may just be transferring appropriations to the proper place as he is not aware of any increase.

Commissioner Hales said the amounts given here are less, noting that \$400,000 had been moved into contingency earlier and now, when it is being spent, it has somehow been reduced to \$263,000.

Mr. Kish said he is not aware of what the Office of Finance and Administration is doing here.

Commissioner Hales said this document shows \$263,000 for public safety facility furniture but a week or so ago \$400,000 was transferred to contingency to fund that purchase. He asked about the difference.

Ruth Roth, Office of Finance and Administration, explained that the original source for the money was the 911 reimbursement from the State. She said the amount of dollars transferred from the Emergency Communications fund was \$310,500 for the BOEC share of the furniture. Additional furniture purchases would come from other sources. She said the ordinance that passed several weeks ago allowing purchase of the furniture reflected dollars from the Communications Fund as well as portions from Emergency Communications and the FIS.

Disposition: Continued to June 9, 1993 at 2:00 p.m.

At 12:37 a.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 9TH DAY OF JUNE, 1993 AT 2:00 P.M.

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

OFFICERS IN ATTENDANCE: Cay Kershner, Clerk of the Council; Linda Meng, Chief Deputy City Attorney; and Officer Chuck Bolliger, Sergeant at Arms.

839 Pay claim of Richard McGary (Ordinance)

Discussion: Mayor Katz asked that this item be reconsidered. Commissioner Blumenauer so moved and the Mayor so ordered.

Mayor Katz said she understood the City Attorney's office wanted to delete the language which refers to "approximately \$10,000 in attorney fees" because it is not accurate.

Commissioner Blumenauer moved to delete that language. Commissioner Hales seconded and the motion carried. (Y-5)

Commissioner Kafoury moved that the item be repassed. Commissioner Hales seconded and the motion carried.

Disposition: Ordinance No. 166589 as amended. (Y-5)

***860** Transfer appropriation within certain bureau budgets and between funds; adjust resources and requirements in various funds (Ordinance)

Discussion: Mayor Katz noted that this had been continued because it had an emergency clause and four Council members were not present when it came up for a vote in the morning.

Disposition: Ordinance No. 166607 as amended. (Y-5)

870 **TIME CERTAIN: 2:00 PM** - Appeal of the Bureau of General Services against Hearings Officer's decision to deny application to construct an 180-foot-tall radio tower and single-story electronic equipment building located at 11525 NW Willalatin Road (Hearing; 92-00858 CU EN AD)

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Discussion: Commissioner Blumenauer asked if a hearing was necessary today.

Commissioner Kafoury said she thinks the presentation should be made.

Commissioner Blumenauer said he fully supports pushing harder on Bonneville Power Administration (BPA) for an alternative site and looking at alternative Code provisions about siting essential facilities without torturing the environmental protections.

Mayor Katz asked Planning staff for its recommendation about how best to proceed.

Susan Feldman, Planning Bureau staff, said they recommend proceeding. She said the Planning Director believes findings can be made in support of siting the tower at this location if the applicant meets the alternative site test, provides a mitigation plan, etc. If approved, there would be a 21-day appeal period. If appealed, the City could continue to pursue a possible BPA site and also find resources for a quick fix to allow emergency communication towers without setting a precedent.

Commissioner Blumenauer said he thought that should be done right off the bat rather than continuing with this hearing and forcing people to appeal in order to raise a valid point about the Code. He said no one disputes that the tower is needed.

Mayor Katz asked if three Council members were interested in proceeding. Commissioner Hales and Mayor Katz said they were interested in going ahead.

Commissioner Blumenauer said the applicant, the City, could withdraw if it wanted.

Commissioner Kafoury said we do not have the findings today.

Ms. Feldman cited the applicable Code criteria. The important criteria that have to be met are based on the number and proximity of other facilities in the area. The proposal should not significantly lessen the desired character and appearance of the area as all significant detrimental environmental impacts of the functional values will be compensated for through a mitigation plan. She added that the Hearings Officer found that the tower will significantly diminish the views of nearby residents and the public views of Forest Park, namely the view from the St. Johns Bridge.

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The Planning Bureau, however, believes the criteria can be met if the proposal meets the alternative sites test and includes a mitigation plan for the meadow and tree plantings. Regarding the height of the tower, Ms. Feldman explained that E zone regulations call for a 25-foot height limitation, which could be removed because of the Fanno Creek appeal. The purpose of the 25-foot limitation is to restrict scale and bulk. She said staff believes the mitigation plan will protect the views of nearby property owners and that the public need outweighs any negative impacts. With that justification, staff recommends approval although the applicant needs to provide findings as well as an alternative sites test. Ms. Feldman added that it is the burden of the applicant to show that this is the only suitable site.

Mark Bello, Planning Bureau, showed slides to illustrate where the tower would be sited and its effect on the view.

Spencer Vail, Planning Consultant, representing the Bureau of General Services, cited the importance of the 9-1-1 system, adding that this is one of the six radio antennae in the City and critical to its public safety plans. He said siting a tower in this area is imperative in order to serve the Cornelius Pass and north St. Johns area. He said they looked at other locations but believe this one is the most suitable.

Mr. Vail maintained that the shadow of the tower would have a negligible impact on the E zone, given the fact there is already an existing water tower at the site. He described mitigation efforts, including replanting of the meadow and additional tree plantings. He said they believe the terms of the Code are very subjective and open to interpretation. That is why they feel their interpretation satisfies Code requirements.

Mayor Katz asked if other sites were considered.

Mr. Vail said the tower needed to be in this general area to overcome terrain difficulties. He said the BPA site is not available because of the moratorium on leasing space and it was also felt to be inappropriate.

Joe Blaschka, Jr., Consulting Engineer, said the BPA site would not be adequate in either size or height and would require building an additional tower as well as facilities for housing the radio equipment. Also, the BPA site is right next to Forest Park, which could raise the same complaints as this one did.

Mr. Vail said if something was built within Forest Park, a road would have to be built and utilities brought into an area where there are no people now. With selection of the Willalatin site, further intrusion into Forest Park would

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not be necessary. Mr. Vail said the tower was originally sited for the Protection (P) zone but they were then told to move in to the E zone.

Commissioner Hales asked if it could be put on top of the existing water tower.

Mr. Vail said it would cost \$50-60,000 to reinforce the water tower and the Parks Bureau would have to drain it during construction which would make it more subject to leakage when refilled.

Arnold Rochlin, principal opponent, appeared both for himself and Forest Park Neighborhood Association. He said his concern is that the City follow proper legal procedures and contended that Planning staff was compromised because the applicant was the City. He said he believes the Planning Director is required by the City Code to advocate the position of the Hearings Officer, which is for denial.

Mr. Rochlin said the negative impacts this tower would impose are prohibited by at least three City Code sections. Some of these are absolutes unless mitigation completely compensates for the impact; the burden of proof is on applicant to comply with every single criteria. He contended that neither staff nor the applicant have addressed the detrimental effect on scenic values, arguing that the Hearings Officer was unable to find approval criteria that would allow balancing the detrimental effects with the public need. He noted that the Hearings Officer had stated that he wanted to approve this but, based on the Code, found he could not.

Mr. Rochlin also criticized the appeal application which stated that the applicant had not been informed that a new regulation was pending. He contended that even if the new Code were to apply, the maximum allowable height would be 50, not 25 feet. It would allow exceptions to the 50 feet limit only to minimize environmental impacts, obviously not the situation here. He agreed that there needs to be a prudent public safety exception to the E zone but the only legal way to do that, as it stands now, is for the applicant to apply for a site-specific, quasi-judicial plan amendment and change the zone to allow the height. On a fast track, that could be done in eight to ten weeks. The Forest Park Neighborhood Association does not oppose locating the radio tower here if it is needed but believe it should be based on a lawful action. He said they look upon the Code as their shield and protection and any attempt to get around it is a dire threat to them.

Phillip Meyers, 115 NE Stafford, 97211, agreed with the Hearings Officer's decision that the tower simply cannot comply with EC requirements, its impacts cannot be mitigated and it will diminish the scenic and other values

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of Forest Park. He said a 180 foot tower meets neither the E zone or Open Space criteria and does not preserve the scenic resources. Under current zoning restrictions, the tower must not be built where proposed. He said the tower was put here because the initial intent was to install it on the water tower, which should itself be considered an industrial application. He also questioned the EC/P zoning given the drastic changes made during the inception of the Northwest Hills Natural Area Protection Plan. He charged that the Planning Bureau took all the land they could hope to control without proper notification. He said they believe there is no basis for the zone's current location as this is not a resource which needs such an extreme level of protection.

Mayor Katz asked the City Attorney about the responsibility of the Planning Director to represent the Hearings Officer in these proceedings.

Linda Meng, Chief Deputy City Attorney, said the Code does state that but she is not sure what the term "represents" means in this context.

Commissioner Blumenauer said it has been interpreted to allow the Planning staff to represent the view of the Hearings Officer. Representation is a facilitation. He said that section has been reviewed in the past and at one point staff did not even give staff recommendations in Council but that was judged nonsensical.

Les Blaise, 9630 NW Skyline, 97231, Environmental Chairperson for FPNA, said the Environmental Committee favors the tower but not the way it is being handled.

Pat Hamilton, no address given, said the park is for the public and asked if another site was considered since the last denial.

Mayor Katz said that is what they considered in the beginning and it does not seem as doable.

Mr. Rochlin waived his right for a continuance.

Mr. Vail, in rebuttal, said a land use decision has to be made as to whether this is a good site for the proposed tower. They believe it is and the opponents believe it is too, although they think the vehicle for approving it is wrong. Development would not disrupt any native habitat and views would not negatively impacted. He stressed the need for the facility and consideration of the arguments in its favor.

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Commissioner Kafoury suggested continuing the hearing one week to allow Planning staff to explore with the City Attorney what might be approvable. At the same time, they could explore the possibility of getting a Code change and pursue an alternative site as well.

Commissioner Hales suggested denying the appeal outright so that Staff is not forced to justify something not warranted under the Code.

Ms. Feldman said findings would still be needed to show limited negative impacts if a zone change to residential was approved. She questioned whether a zone change was the right way to go or if there was another way to allow this.

Commissioner Blumenauer said this is a City project that everyone agrees is needed but real concerns have been raised about the process of dealing with the Code. He asked the City Attorney to draft a Code amendment for a public safety exemption to allow the tower. He said that could be done in two weeks, adding that part of the problem here is timing.

Kathryn Imperati, Senior Deputy City Attorney, said there are two ways to achieve this result. Council could adopt some supersiting provisions for emergency facilities to Title 33. She added that changes to Title 33 entail a legislative process which would take some time as they need to go before the Planning Commission prior to coming to Council. The other option would be to waive the applicable code criteria entirely for this project but the City Attorney has not had time to explore whether this is doable.

Mayor Katz said she favors amending the Code to add a siting provision for emergency facilities. She noted concerns about the time factor.

Mr. Kish said when this process was started nine months ago, General Services asked the Planning Bureau what process to go through and were told to seek a conditional use approval. They only found out in the last few weeks that there was a problem in applying these criteria. Unfortunately, towers have to sit on top of hills and tend to be ugly. Without this tower, 25 percent of the City will not have radio coverage.

Ms. Imperati said she had asked the Planning Bureau how long it would take to get a legislative Code amendment through and was told it would take approximately two and half months. A LUBA appeal would take approximately four months.

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Ms. Feldman said during the review process, staff made the applicant (the City) aware that the burden of proof was on it. She said it would take approximately three months to get a Code amendment on line.

Mayor Katz said there does not seem to be much choice. She said something may be needed in the Code to allow such facilities to be handled a little faster, especially when the neighborhood association is in support.

Mr. Rochlin said if Council members were to make a decision and then see the findings, that would be acceptable. If they used the findings as information to guide them in making the decision, he would have to have the opportunity to see and rebut those findings. He said if Council used the quasi judicial zone amendment procedure, they would not be limited to an R zone but could find one that allowed a 180 foot tower outright.

Commissioner Blumenauer said the question is whether Council wants to process this through a land use procedure when there may be an opportunity to do it some other way. He suggested getting help from the City Attorney.

Mayor Katz instructed BGS to see if another site was available. She also asked the City Attorney and Planning to see if the Code can be amended or if there is another way to get the tower approved.

Ms. Imperati said one other option may be to examine whether Council can adopt an ordinance simply waiving the applicable Code provisions for this particular application. If that can be done it would be simply a matter of bringing back an ordinance.

Commissioner Hales moved to deny the appeal. Commissioner Blumenauer seconded and the motion carried. (Y-4)

Disposition: Appeal Denied. (Y-4)

At 3:30 p.m., Council recessed.

June 10, 1993

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 10TH DAY OF JUNE, 1993 AT 2:00 P.M.

THOSE PRESENT WERE: Mayor Katz, Presiding; Commissioners Hales and Kafoury, 3.

OFFICERS IN ATTENDANCE: Cay Kershner, Clerk of the Council; Linda Meng, Senior Deputy City Attorney; and Officer Chuck Bolliger, Sergeant at Arms.

REGULAR AGENDA

Commissioner Charlie Hales

871 Liquor license application for Ho Suk Hwang, dba Foster Market, 6231 SE Foster Road, Package Store Liquor License (new outlet); favorable recommendation (Report)

Discussion: John Werneken, Bureau of Licenses, said the Bureau recommendation was favorable.

Mayor Katz asked if anyone wished to speak. Hearing no response, roll was called.

Disposition: Favorably recommended (Y-3)

At 2:04 p.m., Council adjourned.

BARBARA CLARK
Auditor of the City of Portland

Cay Kershner

By Cay Kershner
Clerk of the Council