



CITY OF

PORTLAND, OREGON

**OFFICIAL
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 8TH DAY OF SEPTEMBER, 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; Ruth Spetter, Senior Deputy City Attorney; and Chuck Bolliger, Sergeant at Arms.

Agenda Nos. 1439 and 1446 were pulled from Consent. On a Y-5 roll call, the balance of the Consent Agenda was adopted as follows:

CONSENT AGENDA - NO DISCUSSION

1430 Cash investment balances for July 29 through August 25, 1993 (Report; Treasurer)

Disposition: Placed on file.

1431 Accept bid of Eudaly Brothers for Albina Basin CSO Sump Project - Unit 1 for \$404,235 (Purchasing Report - Bid 14)

Disposition: Accepted; prepare contract.

Mayor Vera Katz

***1432** Agreement with Metro not to exceed \$3,169 for enhanced police services for the summer zoo concerts (Ordinance)

Disposition: Ordinance No. 166922. (Y-5)

***1433** Authorize an intergovernmental agreement with Multnomah County to provide staff assistance to the Regional Drug Initiative (Ordinance)

Disposition: Ordinance No. 166923. (Y-5)

***1434** Pay claim of Portland General Electric (Ordinance)

Disposition: Ordinance No. 166924. (Y-5)

SEPTEMBER 8, 1993

Commissioner Charlie Hales

1435 Accept completion of Waterfront Story Garden, approve Change Order Nos. 1 and 2, make final payment and release retainage (Report; Contract No. 28202)

Disposition: Accepted.

1436 Adopt the Recovery Action Plan for Portland Parks and Recreation (Report)

Disposition: Accepted.

***1437** Application to the Administration on Aging for a \$188,408 grant to fund Housing Ombudsman demonstration projects (Ordinance)

Disposition: Ordinance No. 166925. (Y-5)

Commissioner Gretchen Kafoury

***1438** Increase scope of agreement with Aron Faegre Associates for architectural services for the Portland Public Safety Facility and provide for payment (Ordinance; amend Contract No. 27519)

Disposition: Ordinance No. 166926. (Y-5)

***1440** Contract with Central City Concern for \$223,970 for the Inebriate Pick-up Service and provide for payment (Ordinance)

Disposition: Ordinance No. 1669227. (Y-5)

***1441** Increase contract with Demuth Glick Consultants, Ltd., for planning services for Police Vehicle Storage Facility addition (Ordinance; amend PO 1015950)

Disposition: Ordinance No. 166928. (Y-5)

Commissioner Mike Lindberg

1442 Accept contract with Mocon Corporation for installation of water mains in SW Boones Ferry Road and SW Carson Street as complete and authorize final payment of \$13,579 (Report; Contract No. 28636)

Disposition: Accepted.

1443 Accept completion of the SE Bybee Boulevard, SE Milwaukie Avenue to SE 17th Avenue sewer reconstruction and make final payment to K & R Plumbing Construction Company, Inc. (Report; Contract No. 28659)

SEPTEMBER 8, 1993

Disposition: Accepted.

- *1444** Contract with the US Geological Survey for a preliminary hydrologic analysis of Bull Run Lake without advertising for bids (Ordinance)

Disposition: Ordinance No. 166929. (Y-5)

- *1445** Authorize a contract and provide for payment for the Fenwick Basin CSO Sump project - Unit 1 (Ordinance)

Disposition: Ordinance No. 166930. (Y-5)

- *1447** Authorize agreement with HB Engineers, Inc., for \$132,868 for engineering services for fountain improvements and provide for payment (Ordinance)

Disposition: Ordinance No. 166931. (Y-5)

- 1448** Authorize an intergovernmental agreement with Multnomah County for Private Plumbing Loan program administration services (Second Reading Agenda 1414)

Disposition: Ordinance No. 166932. (Y-5)

- 1449** Authorize an intergovernmental agreement with the City of Gresham for the construction of sanitary sewer facilities as part of a Gresham project (Second Reading Agenda 1417)

Disposition: Ordinance No. 166933. (Y-5)

City Auditor Barbara Clark

- 1450** Reduce sidewalk assessments (Second Reading Agenda 1419; amend Ordinance 166702 and 166901)

Disposition: Ordinance No. 166934. (Y-5)

- 1451** Approve Council Minutes for January 6, 1993 through May 27, 1993 (Report)

Disposition: Approved.

REGULAR AGENDA

- 1439** Authorize contract with Grady & Associates to remodel the Permit Center and Bureau of Buildings' ninth floor space as well as create the Building Records Center space (Ordinance)

Disposition: Referred to Commissioner of Public Affairs.

SEPTEMBER 8, 1993

- *1446** Extend completion date to December 31, 1993, and increase contract with Fletcher Farr Ayotte, PC to \$22,561 for additional planning and architectural services (Ordinance; amend Contract No. 28378)

Disposition: Referred to Commissioner of Public Utilities.

Commissioner Earl Blumenauer

- 1452** Consider vacating a portion of SW Zion Street at the request of Peter Lynn (Hearing; C-9834)

Disposition: Approved. City Engineer prepare ordinance.

Commissioner Charlie Hales

- *1453** Agreement with Tashman Associates not to exceed \$40,000 to provide consulting services for infill development/redevelopment strategies (Ordinance)

Discussion: Alf Siddall, Planning Bureau staff, said Tashman Associates will refine the market analysis for housing and mixed use development, coordinate with the Liveable Cities project and identify neighborhoods where there are problems with private development.

Disposition: Ordinance No. 166935. (Y-5)

Commissioner Gretchen Kafoury

- 1454** Amend City Code by changing the distance at which sound producing or reproducing equipment may be plainly audible, when operated on a public right-of-way (Ordinance; amend Code Sections 18.12.020(b) and 14.12.160)

Discussion: Commissioner Kafoury said in general the City has not had a problem with street musicians and any problems that do arise are usually resolved voluntarily. She said all this ordinance does is extend the footage from 25 to 50 feet; it does not address the broader noise issues. The City is not recommending measuring decibels downtown because it is virtually impossible to do so. Nor is it recommending licensing or monitoring. She said downtown street music is important but workers also have a right to do their job without undue irritation. She said she would like to focus more on enforcement and be clear about what the Police are expected to do.

Paul Herman, City Noise Officer, said a 50-foot distance measure was part of the original ordinance until construction of the Transit Mall when too many people showed up with large stereos. At that time both Code sections dealing with noise in Title 14 and were changed to the 25-foot measure. In the past year there has been an increased number of street musicians and this spring

SEPTEMBER 8, 1993

he responded to a number of complaints from office workers. Independently, Police were responding to complaints by merchants. He said he issued one citation to a bagpiper while the Police issued three or four citations. He said this ordinance returns to the previous standard because of concern for ability of office workers to can carry on their work without the intrusion of music. Fifty feet takes sound up to about the 3rd floor. Other communities have different kinds of control, such as restricting the times of day, the length, the locations, or decibel levels. Decibel limits are hard to monitor downtown because of bus and other noise. He described recent sound measurements and said what is being proposed is a sound level about twice as loud as the basic Code allows.

Mayor Katz asked what the decibel level in the commercial Code was.

Mr. Herman said it was 70 decibels. He said that Code does not specifically fit because it says that sound from one property shall not cross onto another person's property and exceed 70. The street musician issue involves the public right-of-way.

Mayor Katz asked how the Police enforced this.

Mr. Herman said the Code was written intentionally to allow enforcement without the use of meters. From an enforcement standpoint, it is more useful to have a yardstick that does not employ a meter.

Commissioner Hales said the idea was not to make this scientific but have a standard that would not disturb a reasonable person. He said everyone using this standard has to exercise their own judgment rather than some Buck Rogers device. He asked what the practical effect would be of extending the distance from 25 to 50 feet.

Mr. Herman said what is gained with the 50-foot measure is that the smaller fish can swim through the net because it is bigger. However, there are musicians who are incompatible downtown, including the bagpiper and others who are clearly audible a block away or who use amplification. This will help some of the people who have been cited, including the violinist and accordionist, but the real issue is enforcement.

Rob DeGraff, 2347 NW Overton, Association for Portland Progress, distributed a proposed downtown security policy for street musicians which was adopted by the Downtown Security Network this summer. He said it emphasizes cooperation between musicians and the neighborhood and sends the message that the City wants street musicians but does want to be involved in a lot of regulating and rule making. He said they would prefer that this be viewed as a neighborhood issue and offered to sit down with the police, musicians and business people to see if they can come up with some ways of doing business that meets everyone's goals for downtown.

SEPTEMBER 8, 1993

Lt. May, day-shift commander of Central Precinct and chair of the Downtown Security Network, said street musicians are one of the chronic problems downtown. He said a plan was arrived at which would target individuals who would not cooperate in a very congested area. The criteria was established that downtown merchants would approach those who they felt were violating the law, provide them with a copy of the ordinance and listen for 30 minutes after they have been asked to quiet down or move on before notifying the Police. Three citations were issued under this program.

Mayor Katz asked if they used a meter to verify volume.

Lt. May said no, the difficulty in using a meter is in differentiating noises. He said all those cited were clearly audible from more than 50 feet.

Joe Keating, United Community Action Network (UCAN), said street musicians are not trouble makers and rules for them do not work. He said UCAN supports a general laissez-faire attitude without heavy guidelines or the imposition of police unless there is a distinct problem which can be acted upon on an individual basis.

Commissioner Blumenauer asked how his suggestion is different from what Lt. May reported.

Mr. Keating said imposition of the rules seemed to take place after communication from City merchants to the police. He said he believes the street musicians are aware that they are creating an atmosphere downtown that Council supports and, if the Police are not doctrinaire in imposing the rules, things will be very mellow, except for an occasional problem.

Commissioner Blumenauer asked Mr. Keating to look at the proposed policy as it looks exactly like what he is recommending. He noted there had only been seven citations.

Mr. Keating said he heard from the street musicians that the rules were imposed without a general spirit of cooperation.

Paul Owens, outdoor piano player, said he would like to play more in the downtown areas but there are a lot of musicians who do not clearly understand what areas they are welcome. He said in some areas there is a feeling that the businesses will be believed first. He said he is trying to create love and beauty in the inner cities and needs to know that his input is valued. He said a 50 foot limit will solve the problem as it has to be handled on an individual basis. He said flexibility is the heart of it.

Tom Wood, PO Box 2346, 97208-2346, said it is a travesty that street musicians are cited. A noise ordinance for musicians is totally unjustified when you consider the Tri Met buses and traffic noise.

SEPTEMBER 8, 1993

Lita Lorenz, 5224 N. Vancouver, 97217, said every shopper she has talked to has been troubled by the loss of Alonzo Reed from the corner of Meier and Frank. She said music is not noise and should be exempted from the noise ordinance.

Colleen Larson, PO Box 1362, Beaverton, 97075, said she is a street musician and played a selection on her violin. She said it is important that people like herself be able to play on the street.

Zacharias, a street musician, said it is more than just a sound issue. He said he has been cited for noise and also for obstructing the sidewalk. He criticized the attitude of Police who overstep their authority and said strictly enforcing the 50 feet rule is wrong as there should be some give and take. He stressed the importance of street musicians to the diversity of downtown.

Victoria Larson, PO Box 1362, Beaverton, 97075, said one of major qualities of life is how do you treat people who are more helpless and harmless than you. She said street musicians are not trouble makers.

Commissioner Blumenauer asked if doubling the standard would exclude street musicians.

Ms. Larson said it is very intimidating to have to worry that a policeman or security people will tell her daughter, a street musician, to move on. She said there should be no law or ordinance limiting them.

Commissioner Blumenauer said there is no problem with the vast majority of musicians and that is why only seven citations have been issued. He asked Ms. Larson what should be done about someone who is uncooperative or crosses the line.

Ms. Larson said you talk to them or accept them as part of modern life.

Commissioner Blumenauer said he has found the Police have been extraordinarily flexible. He said he wishes everyone was reasonable but has trouble with the notion that there should be no standard. He said without standards there could be violence.

Robert Soper, no address given, said he is one of the seven people cited, in his case for playing an acoustic violin outside of Nordstroms. He was told by store security that he could not play there and no one asked him to cooperate. He said he recently learned that the effort against the musicians is being directed by a District Attorney whose salary is being paid by the Association for Portland Progress. He said the ordinance is vaguely written and prevents musicians from legally playing their music on the sidewalk. The proposed amendment raising the standard to 50 feet does nothing to protect them from arrest or confiscation and will still have the effect

SEPTEMBER 8, 1993

of preventing street music. He asked Council to dispense with any standard and find a more objective way of measuring noise if it is an issue.

Mayor Katz asked him to share some of the ideas he had showed her staff.

Mr. Soper said he feels a bagpiper has every right to play downtown provided he has the common sense not to play too long. Perhaps there should be a time restriction in a specific geographic area. He said most musicians have enough common sense to know when to move to another spot.

Roberta Caster, aka Bob Galileo, said the ordinances are scaring street musicians away because they are afraid their instruments will be confiscated. She said she realizes that some kind of rotational order is needed but it must be done very cautiously. She said dragging off Alonzo Reed in handcuffs is appalling.

Grant Caster, street juggler and Tri-Met bus driver, said Alonzo and all the street musicians are a great plus for the City. There should not be any regulation on acoustic musicians, arguing that street musicians are able to monitor themselves, usually playing about 30 minutes in one spot.

Dennis O'Malley, 111 SW Front, 97204, Mr. Soper's attorney, said the noise disturbance section of the Code is different from the "plainly audible" at 25 feet or 50 feet portion. If you repeal the plainly audible standard you still have a noise disturbance standard. The end definition of "plainly audible" says that if anyone can detect a recognizable rhythm then you are plainly audible. He said that is not a very good standard for determining excessive noise disturbance and that is why the change from 25 and 50 feet will not make any difference because every single musician will be in violation even without amplification. He said even though there were only seven citations, the police confiscated the musician's instruments in two cases and as soon as musicians heard that they stopped playing.

Tom O'Keefe, United Community Action Network, said this is a non-issue which the downtown security network and police have made into an issue. He criticized the fact that an assistant district attorney, Laurie Abrams, is on the payroll of the Association of Portland Progress. People need the right to express themselves and street musicians need to be welcomed. The Downtown Network does not own the sidewalks and should not dictate policy.

Jesse Isaac, street musician, said his experience in Portland has been that street musicians are discouraged and work in an oppressive environment. He said he knows his flute can be heard more than 50 feet and not allowing any form of amplification is asking a bit much.

John Adams, craftsman, said statutes against musicians are in violation of the Constitution and freedom of speech protections.

SEPTEMBER 8, 1993

Commissioner Blumenauer asked police and staff to respond to the charges about strongarm practices.

Lt. May said these issues have been talked about for several years and he is sensitive that there could be some abuses. He said they attempted to lay out a procedure that would allow them to screen out the most offensive offenders. He said some people feel there should be no standard; other believe there should be one. People need to apply reasonable standards and attempt to get a reasonable compliance level. He said the procedure is written down and is more restrictive than the ordinance. It is an attempt to be fair and not tie up too many police hours.

Commissioner Hales said he has not seen that procedure.

Mayor Katz asked Lt. May to make that available as well as the General Order issued to Police on this issue.

Commissioner Lindberg said since the process is complaint driven it sounds like it gives property owners a lot of power if they do not like musicians outside their store.

Lt. May said he did a lot of screening and elected not to enforce the ordinance in about a dozen cases.

Mayor Katz asked if that did not put him in a difficult situation.

He said yes.

Mayor Katz asked what other major cities did.

Mr. Herman said he did not have any specifics but different communities approach it differently. Cambridge, Mass., for instance, has a permit system which allows a certain number of decibels, an approach he believes would only add another level of regulation. Some smaller communities probably do not have any restrictions.

Mayor Katz asked him to talk to some of the street musicians.

Mayor Katz asked Mr. DeGraff why the street musicians were prosecuted in court.

Mr. DeGraff said he understood these cases were not handled any differently than any other citation. He said Laurie Abrams in the District Attorney's office has spent an infinitesimal amount of time on this issue, and the idea that the business community hired a district attorney to get rid of street musicians is totally in error. He said they are trying to find a balance between allowing street music while protecting office workers and others from excessive noise.

SEPTEMBER 8, 1993

In the overwhelming number of cases, problems are dealt with by the musicians. He said he believes a standard is necessary so that the lowest common denominator does not ruin the situation for everyone and lead to increased conflict.

Commissioner Lindberg asked Mr. Herman if playing a violin or flute would violate the current ordinance.

Mr. Herman said he did not agree with Mr. O'Malley. A clearly audible rhythm has to be sustained. Most unamplified instruments, particularly the flute, in general do not exceed the 50 feet standard. He said there is nothing sacred about a 50-foot standard but, because noise rises, it is the effect of music on those working several stories above the street which drove the complaint process and caused the citations to be issued. Fifty feet is a workable standard but enforcement is as critical as the level.

Commissioner Lindberg asked if another section of Code also deals with noise disturbance.

Mr. Herman said yes but that Code section is so subjective he would rather use the 50-foot standard.

Commissioner Kafoury said this change is a liberalization of the Code but the real issue is what the City wants to do about enforcement. She said she hopes Council can make it clear that the City values musicians and does not want to harass people. She said the Bureau rejected licensing and decibel limits. It also talked about rotation but again this would be an enforcement issue. She said Council must decide what direction it wants to send to the community and the Police.

Commissioner Blumenauer said the City is moving in the right direction with this and he believes this ordinance and recommendations from downtown merchants are not at variance with what Council is hearing from the street musicians. He said he favors extending the standard but not adding more regulations as that would be counterproductive.

Commissioner Hales noted that this is a liberalization of one piece of the current Code, a numerical standard, which is only a small part of the whole. The rest of the ordinance and how it is enforced is a question of judgment. He said he believes there has to be some regulation because of those 10 per cent who do not use good sense.

Commissioner Lindberg said he wants to see the General Order as the issue is how it is being enforced, not what is on the books. He said he is not yet confident that the General Order has not been overdone because 90 per cent of the musicians should not be intimidated.

SEPTEMBER 8, 1993

Commissioner Lindberg said after hearing today's testimony he believes 50 feet may be restrictive but also understands how bureaucratic other kinds of restrictions could be. He said this might be adopted in the interim while further investigation is done. The reality is that if 50 feet is in the Code, a businessman unhappy about a musician would have the right to enforcement. Handcuffs and confiscation do sound like the wrong tone.

Mayor Katz said she would like to see examples of what other major cities do in terms of time and rotation. She said she sympathizes with the musicians but is also aware of office workers who may not be able to continue their work because of the noise. She also does not want to put the Police in an awkward situation about enforcement. Mayor Katz said she would like to see officers, the APP and the City involved in a good will policy with street musicians so they clearly understand the expectations. That may help solve some of the rotation issues although it may take a little longer and perhaps this should be an interim measure.

Commissioner Kafoury recapped that, other than Commissioner Lindberg, Council members seem comfortable with the 50-foot measure.

Commissioner Kafoury said she is much more encouraged now that a dialogue has begun and believes that will do more good than anything else.

Mayor Katz stressed the advantages of a good will agreement with street musicians.

Disposition: Passed to Second Reading September 15, 1993 at 9:30 a.m.

Commissioner Mike Lindberg

- *1455** Contract with CH2M Hill Consultants to revise the Columbia South Shore hazardous materials containment facilities design handbook (Ordinance)

Disposition: Ordinance No. 166936. (Y-5)

- *1456** Accept a \$4,712 grant from the Oregon Arts Commission to the Metropolitan Arts Commission (Ordinance)

Disposition: Ordinance No. 166937. (Y-5)

City Auditor Barbara Clark

- 1457** Historical exhibit celebrating the one hundredth anniversary of the construction of Portland City Hall (Report)

Discussion: Barbara Clark, Auditor, said Archives staff put this exhibit together, adding that it will go to Madison High School as part of a history

SEPTEMBER 8, 1993

project after it is shown in City Hall.

Disposition: Placed on file.

- 1458** Assess property for sidewalk maintenance through June 30, 1993 (Ordinance)

Disposition: Passed to Second Reading September 15, 1993 at 2:00 p.m.

- 1459** Assess benefitted property for the costs of construction of street improvements on NW Belgrave Avenue from NW Aspen Avenue to its terminus (Hearing; Ordinance; C-9785)

Discussion: Dan Vizzini, Auditor's Office, said no remonstrances were received but added that there was a sizable assessment on the Parks Bureau which will have to be dealt with in next year's budget.

Disposition: Passed to Second Reading September 15, 1993 at 2:00 p.m.

- 1460** Create the NW Doane Avenue and St. Helens Road Local Improvement district and provide for constructing a sanitary sewer (Hearing; Ordinance; C-9826)

Discussion: Dan Vizzini, Auditor's Office, said this is a hearing to form an improvement district in an area where there are a number of properties with failing systems and sewage flowing from a storm sewer into the Columbia, resulting in a public health hazard. He said no remonstrances have been received.

Disposition: Passed to Second Reading September 15, 1993 at 2:00 p.m.

At 11:25 a.m., Council recessed.

SEPTEMBER 8, 1993

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 8TH DAY OF SEPTEMBER, 1993 AT 2:00 P.M.

THOSE PRESENT WERE: Mayor Katz, Presiding; Commissioners Blumenauer, Kafoury and Lindberg, 4.

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

- 1462** Liquor license application for Lanita, Inc., dba (undecided), 7995 SE Milwaukie Avenue, Dispenser Class C and Restaurant liquor licenses (new outlet); favorable recommendation (Report)

Discussion: John Werneken, License Bureau, said the License and Police Bureaus found no grounds for not granting a favorable endorsement. A number of neighbors have remonstrated, however, based on concerns about parking. He said the Bureau's experience with restaurant licenses is that they are likely to be compatible with a neighborhood setting and it also found the applicants had been successful in the industry in the past.

Officer Larry Siewert, Police Bureau, said he talked to authorities in Key West, where the applicant previously operated a restaurant, and there is no record of any problems there.

Disposition: Favorably recommended (Y-4)

Mayor Katz excused herself after voting on Item 1462 and Commissioner Lindberg assumed the Chair.

- 1461** Consider the LUBA remand of the application by the Housing Authority of Portland for conditional use, essential service provider and an interim resource protection review, in order to construct a 31-unit residential building to provide short-term housing, located at SW Bertha Boulevard near SW Chestnut (Previous Agenda 1426; LUR 91-00336 CU ES IR)

Discussion: Kathryn Imperati, Senior Deputy City Attorney, noted that Council had previously approved this application which has now been remanded by LUBA and the Court of Appeals on the basis that the City's findings on certain criteria were not adequate. These criteria have to do with the proportion of household and non-household living uses in the surrounding area and with physical compatibility issues. She cited extensions of the record since the remand hearing on July 22 and said at this point the written record should be closed. She noted that the Housing Authority of Portland (HAP) submitted an additional written memo yesterday which she recommends be rejected because it came in September 7, after the September 1 deadline for submitting written testimony. She also recommended that Council allow both sides to present argument concerning

SEPTEMBER 8, 1993

the material submitted since July 22 be limited to summarizing key points in and not introduce new evidence. Finally, Council will need to take a tentative vote on this matter.

Commissioner Kafoury moved to reject the memo submitted by the Housing Authority filed September 7. Commissioner Blumenauer seconded and the motion was adopted. (Y-3)

Jon Gilbert, attorney for the applicant (HAP), said since the last hearing they submitted the following new evidence: a land use map showing the use of each parcel in the Wilson Park and Multnomah neighborhoods; a revised listing of non-household uses with a listing of each use to assist in determining the overall character of the neighborhood and a letter from Steven Erickson, data analyst for Metro, responding to questions about the Multnomah County Tax Assessor's tax assessment base. The letter states that if there is any problem, it is only with the commercial, not the residential, property and those problems would, if anything, understate the intensity of commercial property development in the neighborhood. Also submitted was some additional design information which speaks to the approval criteria on adjacent residential properties and the proposed development's compatibility with those properties. He said this information was relied on by their consultant, Peter Wilcox, who earlier submitted a letter stating he found the property compatible and that there were substantial mitigation factors also present on the site. Contrary to opponent's assertions, this is not a new site plan, simply further design information consistent with site plans already in the record. They also submitted census data because of the opponents' assertions that their reliance on floor area ratio to establish intensity was incorrect. While not agreeing with these assertions, they did do an analysis using census figures and found there would be no significant lessening of the residential appearance of the neighborhood.

Michael Doss, representing Wilson Park Neighborhood Association, said they had no new information to add today. Regarding the data base, he said their expert, Applied Research Services, Inc. is the only one who submitted any comment on the data base and it found several problems which are included in the record, especially in comments submitted August 20.

Ms. Imperati confirmed that the applicant had no further rebuttal.

Mr. Gilbert noted that a 120 day extension had been requested by the opponents to keep the record open. The applicant opposes that.

Ms. Imperati said that request was made by the opponents in a written memo.

Mr. Doss said that request was a part of their August 20 letter.

SEPTEMBER 8, 1993

Commissioner Kafoury moved to not extend the record for 120 days. Commissioner Blumenauer seconded and the motion carried. (Y-3)

Commissioner Kafoury moved to prepare findings that support the new information submitted to answer the LUBA concerns and tentatively grant the application of the Housing Authority. She said that would deny the appeal but new findings would be needed to clarify the LUBA issues.

Commissioner Blumenauer seconded. He said some of the arguments advanced by the Wilson Park Neighborhood Association and others reduce land use planning to "paint by numbers". He said he believes there is adequate information to sustain Council's decision and is uncomfortable about turning a case like this into a battle of numbers and data manipulation which makes it hard for staff, neighbors and appellants to maneuver through the process.

Commissioner Kafoury said social service agencies are trying to find alternative procedures so that such protracted battles do not go on over the siting of critically-need facilities. The question is how to make sure that neighborhoods are comfortable and yet not take two years to get facilities sited.

Commissioner Lindberg said he does not find the neighborhood concerns, while valid, cause to reject the project, whether for physical compatibility, soil stability, stormwater retention, etc. He said emotions have been very strong but objectively he believes there is no other option but to vote yes for the project.

Disposition: Tentatively deny appeal; prepare findings for September 22, 1993 at 2:00 p.m. (Y-3)

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

BARBARA CLARK
Auditor of the City of Portland

Cay Kershner

By Cay Kershner
Clerk of the Council