



CITY OF

**PORTLAND, OREGON**

**OFFICIAL  
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 22ND 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; Linda Meng, Senior Deputy City Attorney; and Chuck Bolliger, Sergeant at Arms.

Agenda No. 1515 was pulled from Consent. On a Y-5 roll call, the balance of the Consent Agenda was adopted as follows:

**CONSENT AGENDA - NO DISCUSSION**

**1497** Accept bid for Ferrellgas for the Annual Supply of propane for \$28,272 (Purchasing Report - Informal Quote)

**Disposition:** Accepted; prepare contract.

**1498** Reject all bids for 28 personal computers (Purchasing Report - Bid 12)

**Disposition:** Accepted.

**1499** Accept bid of Chown, Inc., for \$9,463 for Group I and of Grainger for \$38,645 for Groups II through VII for the annual supply of miscellaneous hardware supplies for a total of \$48,108 (Purchasing Report - Bid 15-A)

**Disposition:** Accepted; prepare contract.

**1500** Vacate a portion of SW Zion Street, under certain conditions (Ordinance by Order of Council; C-9834)

**Disposition:** Passed to Second Reading September 29, 1993 at 9:30 a.m.

**Mayor Vera Katz**

**1501** Give preliminary approval for revenue refunding bonds in an amount not to exceed \$7,500,000 (Resolution)

**Disposition:** Resolution No. 35182. (Y-5)

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**\*1502** Ratify a settlement agreement with the Portland Firefighters Association regarding the transfer of duties from Fire Alarm Dispatch to the Bureau of Emergency Communications (Ordinance)

**Disposition:** Ordinance No. 166960. (Y-5)

**\*1503** Authorize lease-purchase agreements and full faith and credit obligations (Ordinance)

**Disposition:** Ordinance No. 166961. (Y-5)

**\*1504** Settle claim of Josephine Carter-Holmes (Ordinance)

**Disposition:** Ordinance No. 166962. (Y-5)

**\*1505** Agreement to provide photographic developing services to Washington County (Ordinance)

**Disposition:** Ordinance No. 166963. (Y-5)

**\*1506** Authorize amendment to an agreement with ODS Health Plan for the provision of employee benefit dental plan services (Ordinance; amend Contract No. 18220)

**Disposition:** Ordinance No. 166964. (Y-5)

**\*1507** Authorize intergovernmental agreement with Multnomah County to create a legal entity to continue the work of the Regional Drug Initiative (Ordinance)

**Disposition:** Ordinance No. 166965. (Y-5)

**Commissioner Earl Blumenauer**

**1508** Set hearing date, 9:30 a.m., Wednesday, October 13, 1993, to vacate a portion of SE Lafayette Street west of SE 26th Avenue (Report; C-9839)

**Disposition:** Adopted.

**\*1509** Agreement with CH2M Hill Northwest, Inc., for bridge seismic retrofit prioritization (Ordinance)

**Disposition:** Ordinance No. 166966. (Y-5)

**Commissioner Gretchen Kafoury**

- \*1510** Amend contract with the Portland Development Commission to increase resources available for rental housing production (Ordinance; amend Contract No. 28528)

**Disposition:** Ordinance No. 166967. (Y-5)

- \*1511** Authorize intergovernmental agreement with the Building Codes Agency for administration of electrical plant inspections by the Bureau of Buildings (Ordinance)

**Disposition:** Ordinance No. 166968. (Y-5)

- \*1512** Amend contract with Grady and Associates to remodel the Permit Center and Bureau of Buildings' ninth floor space as well as create the Building Records Center space (Ordinance; amend Contract No. 28683)

**Disposition:** Ordinance No. 166969. (Y-5)

- \*1513** Increase contract with GeoEngineers, Inc., for environmental services for Front & Davis Garage (Ordinance; amend Contract No. 27160)

**Disposition:** Ordinance No. 166970. (Y-5)

- \*1514** Authorize a revocable permit to Washington County Consolidated Communications Agency for use of space on the City's tower and in its building on Council Crest (Ordinance)

**Disposition:** Ordinance No. 166971. (Y-5)

**Commissioner Mike Lindberg**

- 1516** Accept contract with Buckaroo-Thermoseal, Inc., for repair of gatehouse roofs as complete and authorize final payment of \$6,139 (Report; Contract No. 28637)

**Disposition:** Accepted.

- \*1517** Amend contract with Alden Analytical Laboratories, Inc., to conduct tissue analyses for the Columbia Water Quality Program and provide for payment (Ordinance; amend Contract No. 27476)

**Disposition:** Ordinance No. 166972. (Y-5)

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**\*1518** Authorize a contract for the Sumner Sanitary Sewer System, and provide for payment (Ordinance)

**Disposition:** Ordinance No. 166973. (Y-5)

**\*1519** Authorize a contract with the lowest responsible bidder for the Alder Basin Relief and Reconstruction Phase-1, Unit-2 and provide for payment (Ordinance)

**Disposition:** Ordinance No. 166974. (Y-5)

**\*1520** Authorize a contract for the Rose City Sanitary Sewer System and provide for payment (Ordinance)

**Disposition:** Ordinance No. 166975. (Y-5)

**\*1521** Approve Change Order No. 1 on contract with Westinghouse Electrical Supply Company for the Ankeny Pump Station equipment purchase of motor starters and transformers, and authorize payment (Ordinance; amend Contract No. 28801)

**Disposition:** Ordinance No. 166976. (Y-5)

**\*1522** Purchase furniture and furnishings through an Oregon State Price Agreement and provide for payment (Ordinance)

**Disposition:** Ordinance No. 166977. (Y-5)

**\*1523** Call for bids for the construction of the sodium hypochlorite facilities at Mt. Tabor and Washington Park open reservoirs, authorize a contract and provide for payment (Ordinance)

**Disposition:** Ordinance No. 166978. (Y-5)

**1495** **TIME CERTAIN: 9:30 AM** - Adopt the Arterial Traffic Calming Program to enhance livability for residents along residential Neighborhood Collector streets by addressing traffic problems through the use of education, enforcement and engineering tools (Resolution introduced by Commissioner Blumenauer)

**Discussion:** Commissioner Blumenauer explained how earlier discussions about traffic problems on collector streets resulted in the development of two pilot projects, one on NW Cornell and one on NE 15th. He said these pilot projects introduced measures that had never been done before and, as a result of their success, they are being applied Citywide. He said there is no program like this anywhere in the country and he is immensely proud of the work that has been done.

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Goran Sparrman, Director, Bureau of Traffic Management, said this program attempts to relieve traffic congestion and reduce speeding on residential streets. This innovative program requires that each project include an educational and enforcement component in addition to the engineering aspects.

Crysttal Atkins-Conwell, Project Manager, Arterial Traffic Calming Program, said a little over a year ago Council set up the Collector Recovery program to deal with the negative impacts caused by excessive traffic volumes and speeds on neighborhood collector streets. She said the plan presented today is the result of the dedicated work of three separate committees.

Ms. Conwell showed slides depicting the difference between neighborhood collectors, which are part of the City's arterial street system, and local service streets, which are intended to serve only the immediate residents. She said this program seeks to strike a balance between moving traffic efficiently and keeping neighborhoods liveable. She described similarities and differences in this program and the existing Neighborhood Traffic Management Program. Differences include adding a larger balloting area and not using diversion devices due to the need to accommodate higher traffic volumes. She said a three year ranking-cycle was designed to prioritize segments of the approximately 275 neighborhood collector streets based on seven criteria, including speed, volume and density. Based on the rankings, two or three projects will be undertaken every year, one of which will be undertaken jointly with other programs, such as those for bikes or pedestrians.

She also showed slides to illustrate some of the devices that were tested in the two pilot projects, on Cornell and 15th, noting that speeds had dropped from 40 to 30 miles per hour after installation without any diversion of traffic to other streets.

Jerry Spellman, member of the Citizens Advisory Committee, urged adoption, noting the large amount of time put into this plan by committee members.

Bud Erland, 2234 NE Couch, member of Reclaiming Our Streets Task Force member, said all residents are affected by the conflict between automobiles needing to get from Point A to Point B as rapidly as possible and pedestrians, who find it impossible to cross busy streets.

Ken Corum, Chair, Citizens Advisory Committee on the NE 15th Avenue Project, said he did not appreciate how innovative this program was until he showed a visitor from St. Paul how the speed bumps work. He said this project has resulted in a drop in speed of approximately 10 miles an hour, to under 30 miles an hour. He said he hoped this program can be extended to the rest of the City.

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Marianne Fitzgerald, Chair, Southwest Neighborhood Information Transportation Chair, asked for more citizen and neighborhood involvement in selecting the two projects. She also requested that seven, instead of two projects be done each year and that their selection be geographical throughout the City. Otherwise, because of the density criteria, they will never see this program in Southwest Portland, at least in its first five years. She said a few speed bumps in Southwest would go a long way to calm traffic there. Finally, they are happy to see that the plan calls for coordination of at least one project per year with other City programs as there has not been much in the past.

Commissioner Blumenauer said it is a personal crusade of his to extend some of the devices. He said these two projects are the base commitment which can be made within existing resources but they are now looking at reprioritization during the budget process.

Mickey Blizzard, Sensible Transportation Options for People, said Portland seems to be the only place in the United States where traffic calming measures are actually being implemented. She said this program is important because it focuses on making communities more liveable, not just making cars move. She said the feedback to date has been extremely good and serves as an example to other jurisdictions trying to grapple with traffic problems.

Grant Coffey, Traffic Liaison, Portland Fire Bureau, said this addresses not only liveability issues but also ensures that there is a coordinated program, rather than a mish mash. He said he had reservations at first about this program but has found that Fire Bureau accessibility issues are fully addressed with this program.

Commissioner Blumenauer said this program would not have been possible without support from Emergency Services and the Fire Bureau every step of the way and is an excellent example of coordination between bureaus.

Nina Canfield, Foster/Powell Neighborhood Association and SE Uplift Transportation Committee, cited problems in her neighborhood as a result of being bounded by four major pedestrian-unfriendly arterials. Other concerns are the use of an old "park and ride" lot as a weekend used car lot and the diversion of traffic into the residential area as a result of a new Hot & Now business at 82nd and Powell.

**Disposition:** Resolution No. 35183. (Y-5)

**REGULAR AGENDA**

**\*1515** Lease agreement for space at Metro Building for the Police Bureau (Ordinance)

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**Discussion:** Commissioner Hales said he believes the Bureau facilities plan needs to be completed before the East Precinct work goes too far, so that Council knows the long term direction of the Bureau in terms of facilities.

Mayor Katz said she understood the Bureau committed to a community policing office at the Metro Building when that building was on the drawing board, long before this year's budget.

Commissioner Blumenauer asked if this was the space envisioned several years ago by the Public Safety Committee for the Lloyd District.

David Kish, Director, Bureau of General Services, said it is. For awhile the Lloyd Center provided some space but Police feel this location will serve not just the Lloyd Center but also the Convention Center and Broadway business district.

Commissioner Kafoury said the question is where is the overall Police facilities plan.

Mr. Kish said the Police Bureau hired a consultant to prepare a facilities plan which was completed about a month ago and included community contact centers.

Commissioner Hales said he would like to review that plan.

**Disposition:** Ordinance No. 166979. (Y-5)

**Mayor Vera Katz**

**\*1524** Authorize a pilot catastrophic leave sharing program (Ordinance)

**Discussion:** David Shaff, Bureau of Personnel, said they have been working on this program for the last four years so that they do not have to come to Council on an individual basis as they have in the past. He said the project has been reviewed by all the unions and has generally gotten high marks. One issue raised concerns not allowing employees to donate leave they would otherwise lose. He asked that Council approve this pilot and see how it works rather than changing the "use it or lose it" policy at this point.

John Werneken, AFSCME Local 189, said they support this pro-family measure ordinance although there are several aspects they may wish to revisit in the future.

**Disposition:** Ordinance No. 166980. (Y-5)

**\*1525** Contract with Northwest Strategies, Inc., to perform management services for 1994 US Conference of Mayors annual meeting (Ordinance)

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**Discussion:** Mayor Katz said she learned about the commitment to host this conference after she took office and was told it would be almost impossible to cancel. She said she wanted full Council discussion about this so everyone knows what and why the City is doing this.

Marge Kafoury, Director, Office of Government Relations, said Mayor Clark bid for this conference five years ago. She said these are very high profile conferences which often attract presidential candidates and high-ranking government officials. She said since the City does not have the resources to meet all the requirements for hosting this, staff decided to seek an independent contractor to perform the necessary management services. A selection committee has recommended Northwest Strategies.

Nancy Gosteran, Northwest Strategies, said they believe they have the experience and expertise to make this a success.

Mitzi Scott, Northwest Strategies team member, said her job will be to raise the money. She said the usual way to raise funds is to find sponsors for the various events. She plans to thoroughly investigate the opportunities in Portland but will also seek national participants.

Commissioner Lindberg asked how many people are expected.

Ms. Kafoury said about 1,000 delegates but that does not include families, the press or others. The economic benefit estimate ranges from \$1.5 to 3.8 million, with costs estimated at between \$300,000 to \$500,000.

Commissioner Lindberg asked for an estimate of the City's contribution.

Ms. Kafoury said a lot of costs have to be made up front and they decided to advance \$200,000 from the Trust Fund and hope to get money back.

Mayor Katz asked what revenues might come to the City specifically.

Ms. Kafoury said because there is no sales tax, the City itself will not directly see economic benefit. The benefit comes to the tourist industry -- hotels, restaurants, etc.

Commissioner Lindberg said he is glad this was not cancelled as it will provide the City tremendous visibility.

Commissioner Kafoury said she hopes the City will recoup the General Fund dollars that have been advanced.

Joan Biggs, Public Relations Consultant and member of the interviewing committee, said the committee unanimously believe the Northwest Strategies team has expertise to manage this event. She argued that anytime the City



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can bring an event of this stature it will help spread the word about Portland nationwide.

Mike Smith, Director of Convention Sales, POVA, said surveys show that convention delegates spend about \$623 each. The publicity it brings to Portland is also very valuable and allows them to piggyback onto the conventions of other related organizations.

Commissioner Kafoury asked why this transfer was not reflected in the budget process and whether there was any clear policy about tapping contingency.

Mayor Katz said the contingency issue has been before Council before but she could not say why this was not flagged for her until several months after she took office. She said she is very proud, however, that this is being held here and believes it falls under the contingency criteria.

Commissioner Blumenauer said on balance this is definitely worth it for the City, noting however, the City's experience with the Sister Cities Association convention where fund raising efforts fell short and the City had to make up the rest. He noted that the agreement does not indicate whether the \$200,000 is a grant or a subsidy and Council does not know if it will get any of the money back. He suggested that Council pin down how much it is going to invest so that a \$200,000 loan does not turn into a \$200,000 contribution. He said the question is what policy do we want to have for such events and what the safeguards are for taxpayers.

Commissioner Hales said the scope of contractors work (1-B) states that the contractor will be responsible for raising the cash. He asked where the exposure beyond the contract cost itself, \$97,000, came from.

Commissioner Blumenauer said he was referring to a memo from the Mayor stating that \$200,000 was being transferred to a trust account and would be paid back from surplus funds.

Ms. Kafoury said the contractor intends to have a final budget late this year which will answer these questions and determine the City's exposure. She said beyond that she can not say as they have not tested the market yet.

Commissioner Hales asked if there was anything in the contract that commits the City for anything beyond the contract amount itself.

Ms. Kafoury said no.

Commissioner Blumenauer said that is not what he was talking about. He was talking about the \$200,000 loan noted in the Mayor's memo.

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Mayor Katz said rather than debating this, every Council member should try to help the contractor raise the resources to make sure there will be zero liability to the City.

Commissioner Blumenauer said his interest is in clarifying the nature of the City's investment because "maybe a loan, maybe a grant" is not the way it ought to be done. He said Council should establish the range of subsidy and have a budget rather than slide into it.

Commissioner Kafoury said she thinks it is appropriate to debate appropriating such a major chunk of money.

Commissioner Lindberg said he believes this is a sound investment with a high value to Portland.

**Disposition:** Ordinance No. 166981. (Y-5)

**1496** **TIME CERTAIN: 10:30 A.M.** - Accept bid of Koll Construction for construction of North Precinct Community Policing facility for \$3,219,700 (Purchasing Report - Bid 2)

**Discussion:** Mayor Katz said this contract includes a commitment to have everyone in the community share in the economic pie and she is proud that this is "not the way we've always done it." She noted past disappointments regarding minority participation, adding that because this facility is in Northeast Portland and a part of the Albina Community Plan, the City can ask people to do things a little bit different. She noted that the usual minority participation level is six per cent but on this project it approaches 31.7 per cent. She thanked all those who had been involved in making this happen, including Deputy City Attorney Madelyn Wessel for a brilliant job of legal research supporting the increased level of participation.

Carleton Chayer, Purchasing Agent, called this a very special, model project, adding that the winning bid came in at \$280,000 less than architect's estimate and is \$72,000 less than the second bid. He described some of the special efforts made to maximize the participation of minority businesses and workers. Initial MBE participation after the bid opening was 13 per cent but that has increased significantly and now stands at \$644,792 or 31.7 per cent, employing 10 minority contractors. He too thanked the participants, including both Donald M. Drake and Koll Construction for their extra effort.

Mayor Katz asked the representatives of Koll Construction and the minority contractors working on this site to stand up. She thanked them and staff for going the extra mile to increase the numbers.

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Mayor Katz said she hopes the same team will continue working on other projects until the Code can be changed to institutionalize this process.

**Disposition:** Accepted; prepare contract.

**Commissioner Earl Blumenauer**

**1526** Authorize the Office of Cable Communications and Franchise Management to initiate the Community Access Capital Grant Program (Resolution)

**Discussion:** Mary Beth Henry, Office of Cable Communications, explained that the funding is the result of a commitment made by TCI. A Cable Access Committee will make recommendations about the use of this fund, adding that nothing like this has been done before.

Commissioner Blumenauer said if this is approved it will come to Council in about six months to deal with specific items. In the future these items will be incorporated into the budget.

Commissioner Hales said this is a result of the state of the art franchise negotiated by the Cable Office.

**Disposition:** Resolution No. 35184. (Y-5)

Mayor Katz left and Commissioner Lindberg assumed presidency for a short time.

**1527** Establish and appoint members to a Citizens Advisory Committee for the Portland Office of Transportation's Pedestrian Program (Resolution)

**Discussion:** Commissioner Blumenauer said this is skewed a little bit towards the West side because some of the most serious pedestrian problems are there.

Commissioner Lindberg said he thought it was a very good idea to split off the pedestrian and bicycle focus groups.

**Disposition:** Resolution No. 35185. (Y-4)

**Commissioner Charlie Hales**

**\*1528** Adopt Portland Parks and Recreation policies and procedures governing non-park use within Springwater Corridor (Ordinance)

**Discussion:** Commissioner Hales said this is one of a package of items before Council today for adoption. He said conversion of railroad corridors

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provides a new kind of park for the City and is catching on all over the nation. He said the financial impetus comes from ISTEA funds which were awarded after intense lobbying efforts by citizens. He said Parks consulted with other cities who have Rails to Trails and came up with this framework governing use. He added that the linear aspects must be protected in case it is needed in the future to provide rail transportation.

Craig Lomnicki, Mayor of Milwaukie, said Milwaukie is very excited about the recreational aspect and last month endorsed the plan and the agreement with the City. He thanked the City for taking the initiative in obtaining this property several years ago and for being the lead agency in coordinating this effort and obtaining the funds from ISTEA.

Phil Kiddry, Gresham Architect, thanked City staff for their work.

Diana Jenson, Clackamas County Parks, said the Corridor offers them some unique opportunities to provide recreation activities for people in the region. She said Clackamas County has committed a \$100,000 match to Phase I of the Master Plan.

Dan Leadon, Multnomah County Transportation, said this is a great asset and a transportation connection for bikes between Gresham and Portland. The County has also made available some financial resources.

**Disposition:** Ordinance No. 166982. (Y-5)

- \*1529** Amend the Fiscal Year 1993-94 Budget to reflect the final local agency agreement with the Oregon Department of Transportation for improvements on the Springwater Corridor funded through the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991 (Ordinance)

**Disposition:** Ordinance No. 166983. (Y-5)

- \*1530** Authorize execution of Addendum No. 2 to the January 1992 intergovernmental agreement with the City of Gresham regarding the Springwater Corridor (Ordinance; amend Contract No. 27603)

**Disposition:** Ordinance No. 166984. (Y-5)

- \*1531** Authorize execution of intergovernmental agreement with Multnomah County for contribution to local match of ISTEA funding for Springwater Corridor improvements (Ordinance)

**Disposition:** Ordinance No. 166985. (Y-5)

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- \*1532** Authorize execution of a local agency agreement with the Oregon Department of Transportation to perform improvements on the Springwater Corridor funded through the Intermodal Surface Transportation Efficiency Act of 1991 to a maximum of \$2,159,000 (Ordinance)

**Discussion:** Commissioner Hales moved to amend the ordinance by adding language to the end of Subsection III to state that total funds to be received is \$218,205. Commissioner Lindberg seconded and, hearing no objections, the Mayor so ordered.

**Disposition:** Ordinance No. 166986 as amended. (Y-5)

- \*1533** Authorize execution of intergovernmental agreement with Clackamas County for contribution to local match of ISTEA funding for Springwater Corridor improvements (Ordinance)

**Disposition:** Ordinance No. 166987. (Y-5)

- \*1534** Authorize execution of intergovernmental agreement with the City of Milwaukie for contribution to local match of ISTEA funding for Springwater Corridor improvements (Ordinance)

**Disposition:** Ordinance No. 166988. (Y-5)

**Commissioner Gretchen Kafoury**

- 1535** Briefing on "Love Lights Our City" project (Previous Agenda 1482)

**Discussion:** Commissioner Kafoury said this project is reluctantly being postponed for the time being.

**Disposition:** Filed for no further consideration.

- 1536** Authorize the Bureau of General Services to call for proposals for temporary relocation of East Precinct (Resolution)

**Discussion:** David Kish, Director, Bureau of General Services, said this move is driven by the fact that the Bureau of Buildings deemed the current facility as dangerous under the earthquake Code. While seismic and other work is done, the Police must move into temporary space for a minimum of one year with the possibility of the space becoming a permanent precinct or other City agency facility. The Police are uncertain now as to whether they will actually renovate the current facility and next week an ordinance will ask for continuation of the East Side Facilities Study. Before making a final decision, a further look at other City and County bureau needs is in order. He said they hope to have that study completed by budget time next year.

Commissioner Hales asked if this was unforeseen during the budget process.

Mr. Kish said they had \$300-400,000 budgeted for renovation work on the East Precinct facility. That will pay for the interim move and the rent of temporary space. If they decide to stay at 47th & Burnside they will come back with a larger package to pay for seismic improvements.

Commissioner Hales noted that before that, however, the facilities plan will be competed.

Mayor Katz said she asked Chief Moose to contact the Fire Bureau and the County to explore opportunities for joint locations.

**Disposition:** Resolution No. 35186. (Y-5)

1537

Authorize the Bureau of General Services to call for proposals for professional architectural services for the renovation of City Hall (Resolution)

**Discussion:** David Kish, Director, Bureau of General Services, said this was included in the budget in order to update previous studies and determine what needs to be done in City Hall to bring it up to health, safety and seismic code standards. They have also included in this request the possibility of doing a complete historic renovation of City Hall. Their previous estimates for bringing the building up to Code were in the \$4- \$6 million range, which they expect to remain about the same. It will also include an estimate for restoring City Hall to its original grandeur to coincide with the birthday of City Hall, January 1, 1995. He said there is community interest in doing a complete renovation but it will cost in excess of \$10,000,000. While it is believed that a citizens committee could raise money for the project no one believes 100 percent of it could be raised privately and there would have to be some public participation, probably through a bond sale.

Mr. Kish said the report will come back in two sections. The first will show what needs to be done for health and safety reasons to meet Code requirements. He cautioned that once they find out the seismic condition, there will be pressure to move ahead and do something to fix the structural components of the building. The second piece of the report will describe the costs and requirements for a complete renovation.

Commissioner Blumenauer said he hopes this can be dealt with in the context of overall capital needs.

**Disposition:** Ordinance No. 35187. (Y-5)

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**City Auditor Barbara Clark**

**1538** Citizen Advisors recommendations on appeals to Police Internal Investigations Auditing Committee (Report)

**Discussion:** Joan Engert, Auditor's Office, said they would like to continue this two weeks.

**Disposition:** Continued to October 6, 1993 at 9:30 a.m.

**1539** Assess benefitted property for the costs of the improvements of NE Airport Way from NE 112th Avenue to the easterly line of Tax Lot 1, Sivars Industrial Park (Second Reading Agenda 1490; C-9720)

**Disposition:** Ordinance No. 166989. (Y-5)

At 11:50 am, Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 22ND DAY OF SEPTEMBER, 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; Ben Walters, Senior Deputy City Attorney; and Officer Chuck Bolliger, Sergeant at Arms.

**1540** **TIME CERTAIN: 2:00 PM** - Appeal of Don Olsson against Hearings Officer's decision to deny application for a four-lot subdivision with adjustments, located at SW 62nd Avenue and Garden Home Road (Hearing; 93-00217 ZC SU AD)

**Discussion:** Ben Walters, Deputy City Attorney, noted that the parties had submitted a written request for a one week continuance.

**Disposition:** Continued to September 29, 1993 at 2:00 p.m.

**1541** Tentatively deny appeal of Wilson Neighborhood Association and grant appeal of 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 (Findings: Previous Agenda 1426; LUR 91-00336 CU ES IR)

**Discussion:** Kathryn Imperati, Senior Deputy City Attorney, said the findings were not filed by the deadline on Friday. She requested that this be continued to September 30 which appears to be agreeable to attorneys on both sides.

**Disposition:** Continued to September 30, 1993 at 2:00 p.m.

Cay Kershner, Clerk of the Council, noted that an item had been filed on the Four-Fifths Agenda.

**FOUR-FIFTHS AGENDA**

**1539-1** Recommend the Portland City Council pause for 60 seconds in honor and remembrance of Reverend Booker T. Wells, Sr. (Resolution introduced by Commissioner Hales)



**Discussion:** Commissioner Hales read the resolution in remembrance of Reverend Wells.

**Disposition:** Resolution No. 35188. (Y-5)

**REGULAR AGENDA**

**Commissioner Charlie Hales**

- 1542** Liquor license application for C.Y. Investment Inc., dba CY's Parkrose Pub, 10810 NE Sandy Boulevard, Retail Malt Beverage (RMB) liquor license (renewal); unfavorable recommendation (Report)

**Discussion:** Gary McGrew, License Bureau, said the Bureau is recommending an unfavorable endorsement as corporation records indicate that Clarence Ray South, the agent, president, secretary and sole stockholder of C.Y. Investment, Inc. was found guilty in August of four felony and five misdemeanor counts of sexual abuse, promoting prostitution, prostitution, menacing and hindering prosecution. Because the criminal activity occurred on the premises, the License and Police Bureaus believe an unfavorable recommendation is merited. The attorney for CY Investment, Don Roach, recently provided documentation making Mr. South's wife the sole stockholder and director. Mr. McGrew said the Bureau was aware of this transfer when they made their recommendation but believes that merely rearranging the makeup of the corporation does not make the corporate applicant, C.Y. Investment, Inc., any less responsible.

Officer Perry Christianson, Portland Police, said he did not have anything further to add.

Don Roach, attorney for CY Investment, Inc., said since Mr. South's conviction he has fully divested from this company. The corporation is now a new entity with a new owner, Mrs. South, and although previously the bookkeeper, since August she has been involved in overall operations. He said while the corporation name remains the same, there are new parties involved and if it is a matter of transferring out of C.Y. Investment, Inc., into some other entity, they are prepared to do that.

Mayor Katz asked what the statute says about transfer of ownership.

Mr. McGrew said in this case the licensee is the corporation. The corporation principal committed the crimes, which occurred on the premises against employees, and the law supports a license cancellation. If someone applies as a new licensee, the Bureau will review that application, although there are no guarantees it will be approved.

Mr. Roach said if that is the interpretation, C.Y. Investment will be dissolved

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but usually corporations act through their principals and there is a different principal now.

William R. Lamb, a builder and friend of the Souths, said this conviction was an injustice to Mrs. Smith, who deserves this job as she has not been found guilty of anything.

Bill Robert Durham, Director, Parkrose Business Association, opposed granting this license in a neighborhood they are trying to revitalize.

Richard Vollonim, property manager of the building, said he has had no problems whatsoever with Mr. South, who has been a good tenant. Rejection of this license would not be right.

Mayor Katz noted the 25 indictments against Mr. South, adding that he was found guilty of attempted rape and six counts of sexual abuse involving nude dancers at the club.

Brad Stalding, General Manager, Cy's Parkrose Pub, said to deny Mrs. South the right to continue business is an injustice to her and all her employees. The Neighborhood Association and nearby neighbors have been creating more problems for them than they have for the neighborhood. He said they run a very clean business and this kind of entertainment is protected under the First Amendment. Their constitutional rights should not be denied.

Commissioner Kafoury moved to deny the application and support the unfavorable recommendation. Commissioner Blumenauer seconded.

Mr. McGrew said the Code states that a violation of the law provides a basis for an unfavorable recommendation. State law provides for cancellation if the owner commits a felony either on or off the premises or if the owner commits a misdemeanor on the premises.

Commissioner Blumenauer said he did not think someone who has been at home doing the books would have the experience to run an operation of this nature. He said citizens of Parkrose have tried to turn around a troubled area against the odds and there are enough places to purchase liquor without licensing someone with a record.

Commissioner Hales said that under OLCC rules, if there is a history of criminal activity, the City should make a negative recommendation. He noted that Council has made negative recommendations even when there was never any question of the applicant's character or record.

**Disposition:** Unfavorably recommended. (Y-4)

At 2:30 p.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 23RD DAY OF SEPTEMBER, 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; Kathryn Imperati, Senior Deputy City Attorney; and Chuck Bolliger, Sergeant at Arms.

**1543** **TIME CERTAIN: 2:00 PM** - Appeal of Barry D. Schlesinger for BPM Associates against Hearings Officer's decision to deny application for a conditional use for a parking structure in a CXd zone, located on the north half of Block 177, bounded by SW 6th, SW Washington and SW Broadway (Hearing; 92-00763 CU)

**Discussion:** Kathryn Imperati, Senior Deputy City Attorney, read the rules of procedure.

Mayor Katz asked members to declare conflicts of interest and ex parte contacts.

Council members and the Mayor noted contacts with representatives of both parties by themselves and their staffs.

Tim Barnes, Planning Bureau staff, outlined the issues in this case where the Hearings Officer denied a request for a parking structure committed to short term parking with two floors reserved for retail space. The original staff recommendation was approval, based primarily on Downtown Parking and Circulation Policy (DPCP) No. 2-7 which states that the City may approve new short term parking structures as long as it is consistent with its short term parking strategy. The City does not have a document entitled short term parking strategy but in a previous conditional use case the Council identified various City policies as constituting such a strategy. In that case Council stated that its strategy is to provide an adequate amount of short term parking at appropriate locations to support the retail core. For approval, the applicant must demonstrate that there is sufficient demand and that this particular structure and location can meet that demand.

Mr. Barnes said staff found that the site is in a depressed section of the downtown core where there is a dearth of short term parking and there is compelling evidence that the structure would meet a demand for parking in the retail core. The Hearings Officer denied the application based on insufficient evidence to support short term parking at this site as he believes the applicant did not use the correct study area, which is the entire retail

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core, but instead demonstrated need based on a two to three block radius from his site. He questioned whether a legislative process might have been required to develop a strategy and also felt the parking structure might be detrimental to the pedestrian character and incompatible with neighboring buildings and uses.

Mr. Barnes said the Planning Bureau continues to support the proposal, believing it will generate retail activity in this area, enhance the pedestrian environment and create better compatibility with nearby buildings. The Bureau realizes there are ambiguities in the approval criteria which they hope to resolve before the end of the year when the Central City Transportation Master Plan comes to Council. He cited policies which staff believe support the proposal and showed slides of the site.

Ms. Imperati reviewed her memo of September 23 which noted the facility must be in conformance with the DPCP which in turn states (Section 2-7(c)) that the City may approve short term parking as long as it is consistent with its short term parking strategy. The issue is whether State law requires that Council legislatively adopt such a strategy before it determines whether the applicant's proposal complies with it. Ms. Imperati said she concludes that the Council does have a strategy in place which, although not adopted as a separate document entitled Short Term Parking Strategy, is adopted in a group of policies it identified as comprising the City's short term parking strategy in the Central Plaza case. She said this is sufficient to comply with State law and no further legislative action is necessary.

Mr. Dixon distributed some approval conditions that would be incorporated if Council approves this case.

Paul Schlesinger, appellant, reviewed his family's involvement with downtown Portland. He said they considered many plans for the Hiberium Building, which they own, before deciding upon this project which will have 40,000 square feet of retail space and 262 short term parking places. This half-block project will revitalize the area and meets the City's criteria.

Barry Schlesinger, BPM Partner, described the need for parking in that area, who it will serve and the benefits it will bring to an area currently suffering from vacant storefronts and office vacancy rates which top 30 per cent. He compared this area to a doughnut hole, with a ring of parking in the downtown core but a big hole in the middle. He argued that there is not enough parking to support offices, stores and hotels. He charged that opponents will manipulate the figures in order to maintain their control of the parking market. He described the mixed-use development that is planned and said they believe their 25-block study establishes the need for this project.

Steven Pfeiffer, attorney for BPM, focused on two issues. First, does the City

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have a criterion adopted in the Zoning Ordinance and, second, how does the criterion relate approval to other plan policies, goals and objectives. He said it is clear to them that the City has an established strategy but they are not saying that the 86-88 Conditional Use approval for the Central Plaza garage was the establishment of the policy. Rather they would argue that the policy was established prior to that with adoption of the DPCP and subsequent documents. The second criterion, relating the adopted standard to other policies and goals in the Plan, is also met. He said the statute allows you to take the planning scheme and various policies adopted legislatively into a context which constitutes the strategy as a whole. This interpretation was affirmed in Lake Oswego Properties v. Lake Oswego where they said that the policy is not a single standard and is the same approach taken by Council in the Central Plaza Parking Garage decision (CU 86-88). He said Council articulated the strategy then but left out express reference to a host of policies set forth largely in the Downtown Parking and Circulation Policy as the basis for the City's strategy. He noted at least five identifiable policies that encourage short-term parking and constitute an identifiable strategy. Mr. Pfeiffer said the primary flaw in the Hearings Officer's decision was to say that the radius selected in this case was not correct and that the entire retail core should be looked at.

Mr. Pfeiffer said BPM believes that parking at an appropriate location, not throughout the core, is the standard. He said the ratios that apply to long term parking do not apply to short term where the market is the test and where transit is not a viable alternative. He said they believe Council has defined the path and that they have done everything they can to demonstrate compliance with the policy.

Randy Pozdena, Managing Director, ECO Northwest, 888 SW 5th Ave., reviewed his company's analysis of the garage project. He said his firm determined both the relevant market and the need for the facility and found a clearly sufficient need for short term parking in the area to justify the structure. He noted a survey taken to determine the typical distance most patrons will walk to a parking facility which shows that two to three blocks is the maximum reasonable walking distance. Based on these findings a primary market area of 25 blocks around the site was defined. He said saying the relevant market is all of downtown flies in the face of market reality and the focus on appropriate locations. He described how market need was determined, noting a variety of indicators and conservative market criteria which support the need for additional spaces in the project area. Opponent's argument that Portland, with the county's tightest parking lid and the highest real parking prices on the West Coast, is awash with parking is false. Capacity surveys done by the Association for Portland Progress show very high utilization and opponents figures are suspect.

Mr. Pozdena cited the strong support for more parking from area retailers and hotel managers. Office and retail vacancy rates are higher than

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elsewhere in downtown. The project also supports transit and downtown preservation goals, noting that the share of trips to downtown on public transit that are not work-related have fallen 30 percent between 1977 and 1988. He said the tightness of short term parking puts downtown at a disadvantage with suburban retail centers. He concluded that the applicant has demonstrated clearly the need for short term parking and believes the project will enjoy more than enough demand to be successful and revitalize the area and support a transit-oriented downtown. The opponents have applied irrelevant criteria to an irrelevant market definition to make everything as confusing as possible.

Bruce Robinson, Kittelson Associates, 610 SW Alder, discussed traffic, pedestrian and transit considerations, and air quality and congestion impacts. He concluded that a short term parking garage would have minimal traffic impacts and accommodates and compliments other transportation modes, such as pedestrians, to the maximum extent possible, contributing to a balanced transportation system in the area. He said a short term garage is a utility that unlocks the value of the surrounding area and actually generates very few additional vehicles.

Speakers in support of the proposal included:

Al Gleason, 920 SW 6th, Pacific Corp., said the projects undertaken by the Schlesinger family make solid economic sense. This project will better the downtown core area at a time when City itself is no longer capable of providing public money for such projects.

Bob Ames, 1300 SW 5th, also called attention to the problems of downtown in a time of disappearing public funds, adding that it is rare that a project as good as this one comes along. These are first class developers who have chosen the best use for an under developed site.

Ann Morgenstern, 610 SW Alder, described her need for dependable short term parking and the trouble she has scheduling clients who cannot find parking spaces. She said Council should be ashamed of the way the City's parking lots, Alder West and Alder are maintained.

Fred Hilton, attorney at 610 SW Alder, #1200, seconded everything Ms. Morgenstern stated. He said it is obvious downtown is going down the drain, citing three buildings he knows of with close to 90 per cent vacancy.

Ed Sullivan, 111 SW 5th, said he believes the City's short term parking strategy complies with State statute 227.173.(1). The issue is whether the City's short term strategy must be incorporated into Title 33 or any of the various City plans and whether Council adopted these strategies as a tabulated list in a separate document. Council already interpreted this in another case involving a parking garage and granted the conditional use

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permit, issuing findings which stated that an overview of the Plan policies in the DPCP and Central City Plan formed the basis for the short term parking strategy. Those findings provided Council with a precedent for the matter before Council today. He said he believes Council can make a decision similar to the one made in the Central Plaza case without fear of any LUBA remand, citing an earlier case, Lee v. Portland, where LUBA stated that consideration of various relevant plan policies and Code sections were all that was necessary under this statute. He said he found the ground of denial suggested by the opponents has no basis in case law.

Bob Stutte, Norris and Stevens, Commercial Real Estate manager, said this area is a blight and there is no excuse for the City to have ground floor vacancies in the core. He also noted the enormous amount of vacancies downtown and expressed appreciation to the Schlesinger family for their desire to make such an investment here.

Brad Parrish, AMCO Parking, 1325 Fourth Ave., Seattle, WA, said they have found the Portland market very uncompetitive due to favoritism shown to City Center Parking.

Barbara Setterlund, 11919 N. Jantzen Ave., #352, 97217, operator of a parking lot, said new competition for parking will be good for the City. She said this is a high quality project that will infuse a depressed downtown area with new retail spaces and the City has nothing to lose in approving a project funded with private dollars.

Fred Cash, Chair of the Democratic Party of Multnomah County, said they have a real need for more short term parking close to their office on SW Alder. They also are concerned about the domination by City Center and about the letters received from a number of initial supporters which seemed to back away from the project.

Peter Fry, Secretary, Downtown Community Association, said the Hearings Officer's decision to deny the application based on the need to look at larger sectors is a critical issue to them as they prepare their downtown plan.

Todd Schlenning, co-owner of Alex Forma at 9th and Alder and President of the Downtown Retail Council, said this project will help the vitality of downtown.

Bob Naito, representing H. Naito Properties, read a letter from his father, Bill Naito, confirming the dependence of retail tenants on short term parking for their customers and clients. He added that the Washington Street location is ideal for this project.

John Waudby, 1117 SW Stark, and an office worker in the Morgan Building at 720 SW Washington, said many of his coworkers believe there is not

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enough short term parking. This lack often forces people to park in handicapped spots, taking places away from people like him.

Steven Janik, representing DCP partnership comprised of members of the Goodman and Mark families, said it is unusual for them to oppose new development but they do so in this case because it is very bad use of a scarce resource, the few parking spaces left in the City's parking lid. If this garage is approved there will only be 183 spaces left under the lid. Offsets to the lid are not yet in place and not yet effective and thus Council must deal with the existing legal reality, which is the lid. The garage is a bad use of the resource because, if approved, there will not be enough spaces left for the next office building. The badly needed 1000 space garage proposed by the Portland Development Commission can not be built. The garage is also for the wrong kind of parking as the data shows that more is not needed and that during the time of peak short term utilization in downtown, City garages now have 356 vacant stalls and the garages and stalls in the applicant's study area have 1,323. He argued that the real need is for long term parking to support business and commercial buildings. He said the applicant admits that people who will use this garage are people already downtown and said the arguments made by the applicant and supporters are not supported by the facts and there is no legal reason in the DPCP to vote for this. He said there is no legal foundation to enable Council to vote for a garage because of the high vacancy rates in adjacent buildings. He said the reason those buildings are empty is because of the unrelated business problems of the owners. He said if the applicant has a retailer for 40,000 square feet, they will support what the Code allows which is 40 parking stalls for that retailer, not 462. The second argument, to get retail parking numbers downtown closer to that in the suburban malls, is directly contrary to City policy. He said retail malls have four or five stalls per 1,000 square feet of parking. Downtown there is an explicit rejection of those kind of market forces and that kind of parking ratio. He said the number used by Mr. Pozdena, three stalls per 1,000, is three times what the City allows. The fact that private money is being invested is also not a reason to vote for the garage as that is irrelevant under Oregon law.

Mr. Janik argued that all that is relevant is whether the applicant has met the requirements of the DPCP and the City's Comprehensive Plan. Council must judge this solely on the legal criteria and the facts in the record. It cannot create new policy and must resist political pressures from both sides. The appeal should be denied because there is no legal basis in the DPCP to allow it, the methodology used is arbitrary and the data is seriously in error. The Hearings Officer found no legal basis in the DPCP to allow this and said it did not meet the criteria in the Central Plaza case. The Hearings Officer found appellant did not prove need and that the proposal violates Downtown Plan Policy 1, Transportation Goal E and the historic preservation goal.



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Mr. Janik said the DPCP is very stingy with new parking and only one part even arguably applies, 2.7(c) which says you can have new short term parking if it is consistent with the City's adopted short term parking strategy. Because there is no adopted strategy the applicant is arguing that the Central Plaza case articulated such a policy. He said his clients disagree with the City Attorney on this point and believe the City cannot make up strategy in a case. The City Attorney is saying that the strategy is within the DPCP itself and even assuming that is true an applicant cannot carve out an area around its own property that has no policy basis and then claim need. That is why the Hearings Officer said there is no basis for this. Even if it is agreed that the Central Plaza case can be applied, the applicant has not met the standards of that case. That case added new stalls to an existing parking structure; it did not build a new structure. Second, the need established there was for retail only while this calls for a mix of office short term, hotel and retail. He said in that case the whole retail core area was studied because that is a relevant planning area in the DPCP. In this case the study area was contrived to make their case. He said the air quality standard study submitted by the applicant shows that air quality concentrations will be 9.27 when the State and federal standard is 9.0. For Council to approve this case, it must find that as a matter of law it disagrees with the Hearings Officer's interpretation of the State statute, that the applicant has squarely met the standards of Central Plaza, which they cannot meet, and conclude that there is need, which the applicant can not show.

Steve Siegal, consultant for the BCP Partnership, focused on the needs analysis submitted by the applicant, noting that the Hearings Officer found that the methodology is fundamentally flawed and, furthermore, that the data used was not accurate, the assumptions invalid and need was not demonstrated. He contended that the applicant tries to demonstrate a need for additional parking by drawing a two and three block study area which includes the buildings but leaves out the garages. Even within such a gerrymandered study area, however, the applicant's parking analysis makes three significant errors: 1) omissions and undercounts of the total parking supply in the study area adding up to a net undercount of 368 spaces and 2) failure to include the 608 US Bank Tower parking garage in the inventory even though the tower was included in the demand analysis; and 3) arbitrary assumptions about which of these parking spaces serve the area and which do not. He said applicant's two-block study area includes all the buildings but excludes the 19 parking facilities representing 6300 spaces on the perimeter blocks which serve these buildings. Not one of those 6300 spaces are deemed to be serving the two block area. For example, Pioneer Place is included in the two-block study area but the Pioneer Place garage and the 4th and Yamhill garage are excluded even though they are physically connected. He cited other inconsistencies involving the inclusion of Meier and Frank and Nordstroms but not nearby parking facilities.

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Mr. Siegal also criticized assumptions in both the applicant's three-block and two-block study areas about the destination of those who park in the "Outer Ring". He said they believe, based on an analysis conducted by Geffen Mesher & Co., CPAS, that 75 per cent of the parking in the "Outer Ring" serves the study area, not the arbitrary 50 per cent chosen by the applicant.

As for demand, Mr. Siegal asserted that the applicant made two major mathematical errors which led to an overestimation of parking demand for both hotel and office parking spaces. Over all, he said, his analysis found there are over 1300 parking spaces currently unoccupied and available for short term parking.

Mr. Siegal contended that there is not one block in the study area that does not have a City parking facility within two blocks of it. He said while applicant claims that these facilities are being fully utilized, in the range of 85 to 108 per cent, a Geffin Mesher inventory of peak hour parking utilization rates found it to be in the 64 to 80 per cent range. The applicant appears to have erred by counting marked stalls which bear no relationship to the capacity of the parking facility. He concluded that whatever methodology is applied, need was not and cannot be demonstrated under current policy and parking ratios.

Mr. Janik said during the proceeding before the Hearings Officer, the opponents offered to go over their parking data with the applicant the caveat that if the Hearings Officer concluded that the data is wrong, applicant will revise the analysis. The applicant refused and did not respond. On the hotel demand issue, the applicant shrieked earlier that there was a chronic need for more hotel parking, while in fact the hotels themselves submitted letters stating that they did not need any more parking. Under the DPCP, he said, you cannot claim hotel parking spaces unless you have a contractual commitment with that hotel and in this case there are no such agreements which is why all the numbers ought to be changed to reflect a zero hotel demand.

In conclusion, Mr. Janik said there is no question that the Schlesingers are good people or that this will be a good addition to downtown. The issue, however, is whether, under the DPCP and this record, they prove their need. The Hearings Officer said no because they did not meet Central Plaza standards or study the relevant area. Council must apply the existing policies in the DPCP and on that basis the appeal should be denied. He concluded by requesting a continuance because substantial new material was introduced today by the applicant, citizens and the City Attorney.

Mayor Katz asked him to identify the new material.

Mr. Janik said they received a notebook from the applicant about two hours ago as well as a legal opinion from the City Attorney. Also, a number of

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people testifying today did not testify previously and they need a chance to review this material and prepare a response.

Commissioner Lindberg noted dozens of letters from business people who documented parking shortages in the area. He asked if the opponents are suggesting that these people do not know where to find parking or are asking for the same level of parking as found in suburban malls.

Mr. Janik said people's perceived satisfaction with parking is not a relevant approval criteria under the DPCP or the Central Plaza case. He said additional parking cannot be based on anecdotal evidence. The Hearings Officer also found that the assumption that people ought to be able to walk only two blocks from where they park had no rational basis in City policy.

Commissioner Lindberg asked if he is saying that citizen input is irrelevant and may not be legally admissible.

Mr. Janik said a decision should not be based on the number of signatures gathered; the evidence should rest on the carefully prepared analytic work.

Commissioner Hales noted the allegations regarding the applicant's failure to meet the needs standard. He asked Mr. Janik to state the standard numerically.

Mr. Janik said the applicant is arguing that, based on the Central Plaza case, anytime you can show a need for parking based on a supply-demand analysis in a sub area of the City, Council must approve that parking. Opponents response is that this is a distortion of Central Plaza because applicants used a contrived area, not one identified in the DPCP, and looked at three different types of parking, rather than only retail. There is no answer, however, to how much need there is. Because of the lack of a short term parking strategy there is nowhere you can state a specific need.

Commissioner Hales asked what policy this decision should depend on in respect to need if there is no strategy and no numerical standard.

Mr. Janik said it turns on the DPCP policies which formed the basis for turning this case down, although there is no numerical standard that states if you can prove this unmet need of x you get a parking garage but if you can only prove a need of half x you don't.

Dennis Gilman, 1313 SW Oak, said parking in downtown and the dominance of the automobile is not the real problem the City faces. He said the real estate community must build facilities that promote alternative transportation modalities. The parking lid is an extremely important asset.

Ms. Imperati said those comments are not relevant to this particular appeal.

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Mr. Pfeiffer disputed Mr. Janik's calculations, adding that there is no basis to conclude that approval of this will deprive any further construction downtown. He said opponent's contention that the Central Plaza case does not count in this case is also wrong, noting that the evidence presented in that case was highly anecdotal compared to the tenfold analysis of need that is present in this case. Regarding the suggestion that the two-block radius is unfair, he noted the 25-block study area in this case compared with a 22-block study area for Central Plaza. He said the Schlesingers are not relying on the the short term parking policies articulated in the Central Plaza case. Rather, they are saying that the policy and the source of the strategy is embodied in the overall policies before Council.

Mr. Pozdena said you do not have to indulge shoppers' preference about walking short distances but you do have to respect their market place preferences because they do have choices other than downtown. He noted the survey cited by the opponents which showed that a high percentage of parkers went to the peripheral garages with their validation tickets. He said the reason they do that is because there is no parking in the center and they have to go to the outside. He asserted that opponents continue to exploit the wrong market area, now implying a market area far in excess of 100 blocks and criteria for demand which have nothing to do with the market place.

Commissioner Lindberg asked whether the allegations made by the opponents can be evaluated.

Commissioner Blumenauer said Mr. Cassidy is available from Transportation to discuss whether there is some absolute standard, adding that the actual computation of the parking lid is available which indicates that even if this is approved by Council, there would be 427 spaces.

Mayor Katz asked that the analysis be distributed, adding that the issues are the capacity under the lid, the significance of the need, and how Council can judge the accuracy of the information.

Rich Cassidy, Bureau of Traffic Management, said the parking reserve has 970 spaces in it today which will be drawn down by 81 due to the impact of the federal courthouse, leaving 889 remaining. The bottom line is that there will be 427 remaining if Council approves this project. There are other spaces that have been allocated but not built that will probably return to the reserve when their approval time runs out.

Commissioner Blumenauer said the lid will not shut the door on development.

Mr. Cassidy said Transportation staff has been working with the Schlesingers on the theory that a short term parking lot would comply with the DPCP. He said they felt there was a reasonable way to demonstrate

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need based on past practice and a number of other common sense arguments which show need within a two or three block area. Siting is not an exact science as a number of factors must be considered.

Commissioner Lindberg asked if the Bureau of Traffic Management concurred with the methodology used by the Schlesingers.

Mr. Cassidy said yes.

Mr. Barnes noted that the new information is found in the first three pages of the material submitted by the Schlesingers today. The air quality report was submitted two weeks ago but was not submitted to the Hearings Officer.

Ms. Imperati said any party can request a continuance. She said it is difficult for her to distinguish new and old material but she believes that Mr. Janik would be entitled to a continuance.

Commissioner Blumenauer moved to continue the hearing one week and allow each side up to 15 minutes to discuss the new material at that time. Commissioner Lindberg seconded.

Attorneys for both parties agreed that they would limit the scope to addressing the new material.

Council approved the motion (Y-5)

**Disposition:** Continued to Thursday, September 30, 1993 at 2:00 p.m.

At 4:50 p.m., Council adjourned.

BARBARA CLARK  
Auditor of the City of Portland

*Cay Kershner*

By Cay Kershner  
Clerk of the Council