



CITY OF
PORTLAND, OREGON

OFFICIAL
MINUTES

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 3RD DAY OF NOVEMBER, 1993 AT 9:30 A.M.

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

1700 **TIME CERTAIN: 9:30 AM** - Approve Fair Housing Enforcement Pilot Program (Resolution introduced by Commissioner Kafoury)

Discussion: Commissioner Kafoury said this is a proposal to enforce fair housing laws, noting that the Fair Housing Advisory Task Force issued a report last Spring that listed a number of things to be done. She said they have tried to find a way to be very frugal and at the same time improve the existing system.

Terry Anderson, Commissioner Kafoury's assistant, said the proposed program will provide more immediate redress to complaints and better documentation of the nature and extent of the problem. She said this program reflects a desire to use the existing services in the community to best advantage and a reluctance to add a bureaucratic enforcement piece into City government by building a program at the Metropolitan Human Rights Commission (MHRC) as originally recommended by the Advisory Task Force. That is the most significant change since the original report was issued.

Madelyn Wessel, Deputy City Attorney, described the proposal, noting that the intake and screening would be done through the already established Housing Center which could weigh the various issues involved and send on for enforcement only those cases where discrimination seems to be a factor. The next stage, enforcement, starts with testing by the Fair Housing Council, and another group, not yet determined, will provide further investigation, attempt resolution or issue restraining orders if there is clear evidence of discrimination. That group will be selected through an RFP process. Finally, paths for legal enforcement are laid out when cases cannot be resolved.

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Commissioner Kafoury said an RFP is being prepared because a number of community groups have expressed interest in providing the enforcement services. She said at this point they do not recommend involving the MHRC because it would be a completely new function for it while other agencies already have existing mechanisms to deal with screening.

Ms. Anderson said the additional budget cost will be \$66,000. The annualized budget is \$109,000. She said an advisory committee will evaluate the program.

Mayor Katz said she understood there was \$44,000 set aside in this year's budget.

Ms. Anderson said \$22,000 was set aside in the Supplemental Budget for the first six months. To continue it, approval during next year's budget process would be needed.

Mayor Katz said that means there are enough resources for the remainder of this fiscal year.

Cynthia Ingebretsen, Fair Housing Council of Oregon, 520 SW 6th Ave., Suite 1050, said this year the Council has a grant to conduct 120 tests in the State and Clark County. She said testing is very important because it provides independent evidence of discriminatory acts and strengthens the testimony of the complainant. She described the process, noting that not everyone who has a housing problem has a fair housing problem. Last year the Council received 909 calls, completed 394 intakes and did 169 tests, with approximately 40 per cent showing some evidence of disparate treatment. Of the 169 tests, a disproportionate number, 36 per cent, were in Multnomah County.

Hannah Callaghan, attorney at Multnomah County Legal Aid and a member of the Fair Housing Advisory Task Force, said there is a tremendous need for fair housing enforcement. She said they are swamped with calls about fair housing and welcome the City putting some money into enforcement. They agree there needs to be more coordination between the agencies involved in fair housing and that it is a good idea to turn to non-profit agencies to deal with this problem rather than increasing government bureaucracy.

Cecile Pitts, Multnomah County Community Development, 2115 SE Morrison, and a member of the Fair Housing Advisory Task Force, described the makeup and work of the Task Force. Their three recommendations were: 1) a fair housing enforcement program; 2) increased educational efforts and; 3) an audit component. She said they expect to be a fiscal partner with the City as well.

Peg Malloy, Executive Director, Portland Housing Center, said the current

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referral system is a hodgepodge and this program will help by allowing the consumer to call one phone number.

Disposition: Resolution No. 35204. (Y-4)

Agenda No. 1703 was pulled from Consent. On a Y-4 roll call, the balance of the Consent Agenda was adopted as follows:

CONSENT AGENDA - NO DISCUSSION

1702 Cash investment balances September 23 through October 20, 1993 (Report; Treasurer)

Disposition: Placed on File.

1704 Accept bid of Advanced American Diving Service, Inc., for Dam No. 1 log boom replacement Bull Run Watershed for \$83,128 (Purchasing Report - Bid 33)

Disposition: Accepted; prepare contract.

1705 Accept bid of Landmark Ford for furnishing four compact pickup trucks for \$61,065 (Purchasing Report - Bid 36)

Disposition: Accepted; prepare contract.

1706 Accept bid of Portland Motorcycle Company for furnishing seven police motorcycles for \$57,708 (Purchasing Report - Bid 37)

Disposition: Accepted; prepare contract.

1707 Accept bid of Moore Excavation, Inc., for Albina Basin CSO Sump Unit 6 for \$377,115 (Purchasing Report - Bid 40)

Disposition: Accepted; prepare contract.

1708 Accept bid of Peek Traffic Signal Control Company for furnishing traffic control signal equipment for \$227,785 (Purchasing Report - Bid 41-A)

Disposition: Accepted; prepare contract.

1709 Accept bid of Gresham Ford for furnishing pickup trucks for \$328,538 (Purchasing Report - Bid 42)

Disposition: Accepted; prepare contract.

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1710 Accept bid of Beko's Welding , Inc., for annual supply of standard inlet frames and grates for \$25,625 (Purchasing Report - Bid 45-A)

Disposition: Accepted; prepare contract.

1711 Accept bid of Taylor Electric Supply, Inc., for furnishing high-powered sodium vapor street lighting for \$179,356 (Purchasing Report - Bid 46-A)

Disposition: Accepted; prepare contract.

1712 Amend Purchasing Report awarding contract on Bid No. 13 furnishing backhoe loaders (Purchasing Report - Council Calendar No. 1678)

Disposition: Accepted.

1713 Accept bid of Landmark Ford for furnishing two pickup cabs for the Bureau of General Services (Purchasing Report - Informal Quotation No. 94233B)

Disposition: Accepted; prepare contract.

1714 Vacate a portion of SE Lafayette Street west of SE 26th Avenue under certain conditions (Ordinance by Order of Council; C-9839)

Disposition: Passed to Second Reading November 13, 1993 at 9:30 a.m.

Mayor Vera Katz

***1715** Issue Multifamily Housing Revenue Refunding Bonds in an amount not to exceed \$7,500,00 for the University Park Apartments Project (Ordinance)

Disposition: Ordinance No. 167063. (Y-4)

***1716** Establish two positions in accordance with the Personnel Rules adopted by the City Council (Ordinance)

Disposition: Ordinance No. 167064. (Y-4)

***1717** Pay claim of Lillie Mae Jordan (Ordinance)

Disposition: Ordinance No. 167065. (Y-4)

***1718** Authorize an agreement among the City of Portland, acting through its Police Bureau, and other units of local government to participate in and to fund the activities of Metropolitan Explosive Disposal Unit (Ordinance)

Disposition: Ordinance No. 167066. (Y-4)

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***1719** Authorize amendment to Tri-Met intergovernmental agreement to reflect increased police staffing levels of the Tri-Met Unit for FY 93/94 (Ordinance)

Disposition: Ordinance No. 167067. (Y-4)

***1720** Authorize agreement with Portland Community College for training services for Police Bureau (Ordinance)

Disposition: Ordinance No. 167068. (Y-4)

***1721** Increase petty cash for the Bureau of Police in the amount of \$2,000 (Ordinance; amend Ordinance No. 152321)

Disposition: Ordinance No. 167069. (Y-4)

***1722** Increase and establish change funds for the Bureau of Police in the amount of \$375 (Ordinance; amend Ordinance No. 152321)

Disposition: Ordinance No. 167070. (Y-4)

Commissioner Earl Blumenauer

1723 Accept petition and transmit resolution to institute proceedings for the street and storm sewer improvements on SW Palatine from SW 43rd to SW 45th Avenue (Report: C-9855)

Disposition: Accepted.

1724 Direct the City Engineer to prepare plans, specifications and cost estimates for the street and storm sewer improvements on SW Palatine Street from SW 43rd to SW 45th Avenues. (Resolution: C-9855)

Disposition: Resolution No. 35205. (Y-4)

***1725** Amend Ordinance No. 152321 as amended by Ordinance No. 162388 to increase a petty cash checking account for the Office of Transportation Director in the amount of \$2,500 and the Bureau of Maintenance in the amount of \$1,500 (Ordinance; amend Ordinance No. 152321)

Disposition: Ordinance No. 167071. (Y-4)

Commissioner Charlie Hales

1726 Accept completion of Kenton Park Renovation, approve Change Order No. 4, make final payment and authorize project manager to release retainage (Report; Contract No. 28197)

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Disposition: Accepted.

- 1727** Accept contract with Rollins and Greene Builders, Inc., for improvements to Matt Dishman Center as complete, authorize final payment and release retainage (Report; Contract No. 28444)

Disposition: Accepted.

- 1728** Accept contract with Lloyd H. Kessler, Inc. for Argay Park improvements as complete, authorize final payment and release retainage for a total of \$8,233 (Report; Contract No. 28833)

Disposition: Accepted.

- 1729** Amend report to Council (Agenda No. 1821, October 28, 1992) on contract with Koll Construction, Inc., for improvements to Matt Dishman Center, accept contract as complete, authorize final payment and release retainage (Report; Contract No. 27272)

Disposition: Accepted.

- *1730** Accept a grant from the Administration on Aging in the amount of \$32,254 for FY 93/94 for Project CARE Coalition products dissemination (Ordinance)

Disposition: Ordinance No. 167072. (Y-4)

- *1731** Contract with Delanie Delimont for a sum not to exceed \$9,423 to provide staff support in disseminating four model projects for Commission of Aging (Ordinance)

Disposition: Ordinance No. 167073. (Y-4)

- *1732** Authorize an agreement with the Portland Metropolitan Softball Association for the exclusive privilege of operating all concessions at the Delta Park location for a period commencing April 1, 1993 and terminating March 31, 1998 (Ordinance)

Disposition: Ordinance No. 167074. (Y-4)

- *1733** Authorize purchase of a vacant property located at Lot 5, Block 1, Skeie's subdivision of Rats, 19, 20, 21 and authorize acceptance of deed and payment of expenses (Ordinance)

Disposition: Ordinance No. 167075. (Y-4)

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Commissioner Gretchen Kafoury

- *1734** Contract with Portland Community Design, Inc., for \$12,000 to provide architectural and design services for non-profit developers carrying out HCD-eligible projects (Ordinance)
- Disposition:** Ordinance No. 167076. (Y-4)
- *1735** Contract with the Housing Development Center to provide technical assistance to non-profit housing developers serving Portland in the amount of \$119,100 and provide for payment (Ordinance)
- Disposition:** Ordinance No. 167077. (Y-4)
- *1736** Amend contract with Grady and Associates to remodel the Permit Center (Ordinance; amend Contract No. 28683)
- Disposition:** Ordinance No. 167078. (Y-4)

Commissioner Mike Lindberg

- 1737** Accept final certificate of completion and approve Change Orders for Mill Park Sanitary Sewer System and provide for final payment (Report; Contract No. 27873: C-9777)
- Disposition:** Accepted.
- 1738** Partially release retainage for the Airport Way No. 2 Pumping Station (Report; Contract No. 27584)
- Disposition:** Accepted.
- 1739** Partially release retainage for the Airport Way No. 3 Pumping Station (Report; Contract No. 27584)
- Disposition:** Accepted.
- *1740** Authorize contract with the US Geological Survey for assistance in ground water data interpretation (Ordinance)
- Disposition:** Ordinance No. 167079. (Y-4)
- *1741** Increase the Bureau of Environmental Services change order authority by \$58,000 for additional work on the Tryon Creek Wastewater Treatment Plant automation improvements (Ordinance; amend Contract No. 28040)
- Disposition:** Ordinance No. 167080. (Y-4)

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***1742** Authorize an amendment to the intergovernmental agreement with the Port of Portland for the orderly improvement and transfer of future water quality facilities in the Rivergate Industrial District (Ordinance)

Disposition: Ordinance No. 167081. (Y-4)

***1743** Authorize a contract and provide for payment for the Albina Basin CSO Sump Project, Unit 6 (Ordinance)

Disposition: Ordinance No. 167082. (Y-4)

***1744** Pay Multnomah County \$10,000 to restore a portion of Beggars Tick Marsh to provide flood storage and restore wetland habitat as part of the City's Johnson Creek Watershed program (Ordinance)

Disposition: Ordinance No. 167083. (Y-4)

***1745** Amend contract with Black and Veatch, Inc., to increase the scope of work and the amount and provide for payment (Ordinance; amend Contract No. 28549)

Disposition: Ordinance No. 167084. (Y-4)

City Auditor Barbara Clark

***1746** Reduce sidewalk assessments (Ordinance; amend Ordinance Nos. 157096, 166020, 166957)

Disposition: Ordinance No. 167085. (Y-4)

1701 **TIME CERTAIN: 10:00 AM** - Urge the citizens of Portland to support Oregon's system of public education by voting in favor of Ballot Measure 1 (Sales Tax) on November 9, 1993 (Resolution introduced by Mayor Katz)

Discussion: Individuals speaking in support of the sales tax measure included:

Lucious Hicks, School Board member
Gabrielle Shannon, parent and school activist
Teresa Amigo, Child development specialist, Portland Public Schools
Kermit Washington, former Blazer team member
Ronnie Gail Emden, physician and parent
Kevin Kouns, 2270 SE 34th, 97214
Ed Bentoncord, principal, Rose City Park School
Loen Dozono, Azumano Travel
Jane Ames, parent and school activist
Carol Turner, Portland School Board member

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Marilyn Couch, 1705 NW 32nd, 97210
Walt Klemperer, 4942 SE 28th, 97202
Vicki Barrows, President, Portland Association of Teachers

Educators, parents and other interested citizens described the loss of services that have resulted since passage of Measure 5. They said the lack of money is tearing the schools apart, noting the Portland School District's current 11 per cent cut with larger ones scheduled to follow. They described the effect a crumbling school system will have on the economic climate of the region and the need for a highly educated work force. Several speakers noted the loss of students in the Portland schools this year and described some of the programs and resources that have been reduced and will be lost if additional funding for the schools is not provided.

Jeff Liddicoat, 668-5091, said he is concerned about the state of education in Oregon but calling for more taxes, especially a regressive one like the sales tax, is not the solution. He questioned whether there is a budget crisis and criticized how State funds are spent, particularly the large amount spent on economic development. He said the public sector should not be giving money to the private sector.

Mayor Katz said economic development dollars come from the lottery and the last legislature diverted some of them to spend on education. She noted that the City has diverted some funds to help the schools but there is only so much it can fund. She said this is not a perfect tax but the issue is how does the community educate its children for the 21st century and make sure all citizens have a quality of life.

Commissioner Hales said despite its faults this measure has real protection and people should not procrastinate about this because it is not perfect. Portland will not be a liveable city if there is not a sound and solid educational system.

Commissioner Kafoury said while we argue about whether this is the best tax we are losing the battle to educate our kids.

Commissioner Lindberg said we should look at taxes as our duty to our children and also noted what has happened in California where the education system is slowly disintegrating.

Mayor Katz said the District has identified up to 3500 children who were not in school last year. If the necessary resources are not provided to those both in and out of school, the community will suffer. Education and a well trained work force are needed to keep Portland and Oregon in the top 10 in competing with others all over the world.

Disposition: Resolution No. 35206. (Y-4)

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REGULAR AGENDA

1703 Accept bid of Alliance Corporation for Rose City Sanitary Sewer for \$4,362,049 (Purchasing Report - Bid 16)

Discussion: James Posey, National Association of Minority Contractors of Oregon (NAMCO) board member, said this contract epitomizes the complexity of some of the issues regarding minority contracting. The original contract involved one disabled person which appeared to be a pass-through. After NAMCO drew attention to this, staff broadened the base and brought in additional contractors to bring it more in line with Council's intent. He said a key element is compliance, both for quality and quantity.

Carlton Chayer, Purchasing Agent, said they worked with Alliance Corporation to broaden the base, noting that part of the problem was that the contract included materials as part of the MBE participation. Two minority contractors were added, bringing the participation up to 10 per cent.

Commissioner Lindberg asked how staff follows up on compliance.

Mr. Chayer said they monitor it at the 40 per cent level and upon completion.

Mayor Katz noted that they are only monitoring the larger contracts, not all of them.

Mr. Chayer said they monitor everything over \$100,000 and monitor lesser contracts as they can.

Mr. Posey said many contractors are trying to subvert Council's intent and staff needs to be alert.

Mayor Katz said Code revisions will be coming to Council in the near future so that the City's intent is clear.

Disposition: Accepted; prepare contract. (Y-4)

1747 Accept bid of Hydro-Temp Mechanical for computer room cooling modification for \$54,300 (Purchasing Report - Bid 13)

Discussion: Al Shropshire, representing the United Association of Plumbers and Steamfitters, Local 290, asked Council to reject this bid. He charged that Hydro-Temp is not a responsible low bid contractor, noting numerous violations of prevailing wage and hour laws as well as public work laws. He noted an investigation currently underway by the Bureau of Labor and Industries (BOLI) where the investigator is recommending exclusion from participation in future public works contracts. Mr. Shropshire urged Council

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to review the evidence he has provided which shows that the company has demonstrated a deliberate and continuing pattern of non-compliance with the law.

Mayor Katz asked about the BOLI hour and wage report and whether it was true that the hearing would not be held until 1994. She noted they were still on the list and had not been disbarred yet.

Carlton Chayer, Purchasing Agent, said Hydro-Temp is the apparent low bidder on this project. After receiving notice of the objections by Local 290, staff investigated the allegations and also conferred with the City Attorney. They talked to five prime contractors or public agencies as well as BOLI and found that Hydro-Temp had performed satisfactory work for all these agencies and contractors. BOLI informed them that Hydro-Temp has not been disqualified although it does intend to conduct a hearing on this, but sometime in the future. Staff has concluded, after reviewing with State statutes, that the company should be awarded the contract as they have not been disqualified.

Commissioner Hales asked, setting aside the question of the State statutes, what the purpose of our Code language regarding responsive and responsible bidders is if we have to comply with State law. What discretion does Council have, given that Code language.

Mr. Chayer said Council has the latitude and authority to deny this contract based on the Code. But in this case only one side of the story has been heard and not all the facts are known. Council could make a decision based on the BOLI investigation but that report was an internal document and not meant for public consumption. He said his recommendation is based on State statutes and known information at this time.

Commissioner Lindberg said it looked like an independent investigation was conducted; it just has not gone through all the levels of the governmental bureaucracy.

Mr. Chayer said they talked to BOLI and were told that many of the items that were looked into were based on allegations made by the union and BOLI freely admits they do not have all the information yet.

Mayor Katz noted several instances where findings were made that fringe benefits or prevailing wage rates had not been paid as required. She said that while the most recent issues have not been ruled on by BOLI there is a history of violations. She asked if that can be used as a guide post in determining whether Hydro-Temp is a responsible bidder.

Mr. Chayer said they talked about one of the violations to staff at the federal wage office who indicated that the infraction was very minor and the issue

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was settled when they talked to the contractor. They minimized the significance of the violation.

Commissioner Lindberg said he does not consider failure to pay proper fringe benefits a minor infraction.

Mayor Katz said there seems to be a pattern of violations. She asked if the Code is strong enough in terms of responsible and responsive to allow the City to not accept the low bid in this case.

Nancy Ayres, Deputy City Attorney, said Oregon statutes do allow Council to reject any and all bids if it finds it is in the public interest to do so. She said because Hydro Temp has not yet had a chance to present their side of the story regarding the BOLI investigation, she did not think the Council should rely on allegations. With regard to the other violations cited, she asked the Purchasing Agent to conduct his own investigation as to whether Hydro Temp appeared to be a responsible bidder. He talked to the federal bureau and found it was actually a paper work violation and people had been paid. The agency did not feel it was a significant violation. She said while there have been allegations and problems in the past, the question is whether Hydro Temp as a responsible bidder can perform the work for the City; whether they have been disqualified or disbarred are issues Council needs to consider as well.

Commissioner Hales said the City does not need to rely solely on other agencies' findings in order to conclude whether or not a bidder is responsible.

Ms. Ayres said responsible in State statutes has to do with whether or not they have been disqualified. If Council finds there is sufficient reason to find them irresponsible Council could reject the bid but would need to make a finding that it was in the public interest to do so.

Mayor Katz asked Council if they wanted to review this further or deny it outright based on the Code and the public interest in making sure that the correct wages are paid to workers.

Commissioner Kafoury said she would be glad to delay it but would not be comfortable denying it until the other side of the story has been heard.

Commissioner Hales agreed. He said one question is whether there a serious enough charge to warrant a hearing on the responsibility of the bidder. He said he thinks there is. Then Council needs to hold a hearing to give the contractor due process.

Mayor Katz agreed. She said the question is how serious is the history and suggested reviewing the allegations made two years ago as well as the allegations that are subject to the BOLI hearing scheduled for September, 1994.

Commissioner Lindberg asked if the experience of the company's other clients can be looked at in order to define a responsible bidder.

Mr. Chayer said that is who they discussed the projects with. They found no problems in the area of timeliness and cost overruns.

Disposition: Continued to November 17, 1993 at 9:30 a.m.

Commissioner Charlie Hales

- *1748** Accept a grant from Multnomah County in the amount of \$42,151 for FY 93/94 for operation of an integration program for senior citizens who have mental retardation/developmental disabilities (Ordinance)

Disposition: Ordinance No. 167086. (Y-4)

- 1749** Grant a ten-year property tax exemption to Trammel Crow Residential-Pacific Northwest for new multiple-unit rental housing (Second Reading Agenda 1685)

Discussion: Mayor Katz said the policy may need review since passage of Ballot Measure 5.

Mike Saba, Planning Bureau staff, said meetings are being set up to discuss policy background for this tax abatement program and determine if changes are needed.

Mayor Katz asked if this was a City policy under our housing programs.

Commissioner Kafoury said this meets the goal of the Central City Plan to increase residential housing downtown. Given the limited resources for providing tax breaks of any kind, she said it is time to revisit these exemptions because they are a direct reduction in the General Fund tax support the City receives.

Commissioner Hales said this application meets the standards we have now although it is now time to revisit this policy. He added that when the City does tax abatement it forgoes revenue but does not spend tax money or give a direct subsidy to a property owner.

Commissioner Kafoury said, however, that the City is foregoing revenues that could provide critical City services.

Commissioner Hales said without tax increment financing, the issue does need to be revisited. But under our current Code, this one flies.

Commissioner Lindberg said to further complicate it, Council does not know if the project would be built without the tax exemption.

Mayor Katz said this provides public resources indirectly in the hope that the assessed valuation of the land will increase enough to repay not only the abatement but additional revenues for full development of the property. She said they have not tested out how long it will take for the City to recapture those revenues.

Disposition: Ordinance No. 167087. (Y-4)

Commissioner Gretchen Kafoury

1750 Liquor license application for Coherent Concepts, Inc., dba Misohapi, 914 NW 23rd Ave., Restaurant liquor license (new outlet); favorable recommendation (Report)

Discussion: Michael Sanderson, License Bureau, said four neighbors and the Northwest District Association (NWDA) oppose this. The issue is noise disturbances, especially late at night. Applicant will focus on food and has agreed to close at 11 p.m. on weekdays and midnight on weekends to mitigate the concerns.

Mr. Sanderson read a letter from NWDA regarding their Board's decision not to endorse any liquor license requests until it has developed concise measures for equitable review of all applicants. The Board believes the infiltration and proliferation of liquor-related business is causing serious impacts to neighborhood liveability. They are exploring a cooperative effort with all interested parties and hope to involve a professional facilitator in this effort. Mr. Sanderson said the License Bureau bases its favorable recommendation on the closing hours proposed by the applicant. The Police Bureau is also favorable.

Commissioner Hales noted that restrictions imposed on other restaurants in this area have not been recommended here and asked if the applicant was within those parameters already.

Mr. Sanderson said in this case the licensee has agreed to address the problem voluntarily by restricting himself.

Mayor Katz asked when the license will be renewed.

Mr. Sanderson said in 1994.

Gary McGrew, License Bureau, said this will not expire until December, 1994 and will not be part of the renewal process the Bureau is about to begin.

John Stafford, license applicant, said he has been heavily involved with NWDA and recognizes both the problems and his responsibility. He said he has a restaurant in Northeast similar to this one which generates about eight per cent of its profit in liquor sales. There are a lot of bars in the area but this will be run as a restaurant where the liquor will complement the food. He said he feels the problems could be minimized with a better relationship with NWDA.

Commissioner Kafoury said the Bureau is working very hard on developing a new policy but given the current policy, access to these licenses should not be restricted.

Disposition: Favorably recommended. (Y-4)

1751 Amend regulations regarding housing and dangerous building code enforcement (Second Reading Agenda 1676; amend Code Title 29 and Chapters 24.10, 24.55, 24.80)

Disposition: Ordinance No. 167088 as amended. (Y-4)

City Auditor Barbara Clark

1752 Assess benefitted property for the costs of the construction of street improvements of NE Russell Street from NE 111th Avenue to easterly terminus and construct sumps (Hearing; Ordinance; C-9795)

Discussion: Dan Vizzini, Auditor's Office, said this a very small street project in Northeast Portland which came in about 15 per cent under the original estimates. They received no written remonstrances but have received phone calls from two property owners.

Ernest E. Johnson, property owner within the project, said he has no qualms about the price but has had no communications with the engineers about what he believes is sloppy work on the northwest corner of 111th and Russell. He said he has gotten nothing but jeers from the inspectors about his contention that the 20-inch drop off is a public nuisance, adding that it resulted in an accident to a child. He is now being asked to pay the doctor's bills and asked whether he or his ex-wife, as the owners, or the City, is responsible. He complained about his inability to reach anyone in the Auditor's Office.

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Mayor Katz asked if he had sued the City.

Mr. Johnson said, no, he is waiting to pay the bill first. He said he was told by one City employee that he would have to pay for fixing this even though he believes this is what should have been done in the first place.

Teresa Culp, Office of Transportation, said Mr. Johnson is talking about the graded slope behind the newly constructed sidewalk within the City's right-of-way. It was graded on a 2 to 1 slope, which is the standard used for all sidewalks. Mr. Johnson had requested that the grade be flatter and City policy is that when extra work is done, the property owner must agree to pay for it. She said Mr. Johnson declined.

Commissioner Kafoury said she thinks if there are accidents on the property, he is liable.

Ms. Culp said the area he is talking about is within the public right of way so she does not know.

Mayor Katz said he needs an answer to his question.

Ms. Culp looked at photographs provided by Mr. Johnson and said she does not see anything that appears to be unusual.

Commissioner Lindberg moved to overrule the remonstrance (Y-4)

Disposition: Remonstrance overruled; Passed to Second Reading November 13, 1993 at 9:30 a.m.

1753 Assess property for sewer systems development charges through September, 1993 (Second Reading Agenda 1694; Z0490 through Z0496)

Discussion: Dan Vizzini, Auditor's Office, said these contracts are in the mid-County sewer area where they have been attempting to help property owners trying to refinance home mortgages. He noted the conflict between City liens and home mortgages and said they have been talking to banking industry representatives and now have two mortgage companies which are willing to take a second position behind City liens for FHA streamlined refinancing. They would like to see the rest of the mortgage companies fall in line as well and are very optimistic that they now have a solution that allows property owners to refinance their mortgages and keep the City lien where it legally belongs. He said he is still having discussions with local banks and Fannie Mae and Freddy Mac.

Disposition: Ordinance No. 167089. (Y-4)

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1754 Assess property for large lot deferral contracts through September, 1993
(Second Reading Agenda 1695; L0033)

Disposition: Ordinance No. 167090. (Y-4)

At Noon, Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 3RD DAY OF NOVEMBER, 1993 AT 2:00 P.M.

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

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

1755 **TIME CERTAIN: 2:00 PM** - Appeal of Logan Ramsey, applicant, against Hearings Officer's decision to deny application for a zone change from RF to CN2 in order to allow commercial development on the property located on the southeast corner of NW Cornell Road and Skyline Boulevard (Previous Agenda 1425; 92-00574 ZC)

Discussion: Tom Dixon, Planning staff, said he crafted a new finding to reflect the fact that the sewer is in the process of being extended to the Blue Pointe subdivision even though it is not close enough for Logan Ramsey to connect to it yet. He suggested that Council adopt this new finding and approve the zone change with conditions. At the earlier Council hearing Arnold Rochlin indicated that the neighborhood would not appeal the decision. This was based upon the determination by the Hearings Officer of the dimensions of the property. However, the Hearings Officer determined an area that was different from that presented in the staff report and therefore, staff would like Mr. Rochlin to submit something in writing outlining the neighborhood's agreement with Mr. Ramsey.

Mr. Dixon said Mr. Ramsey indicated to Council last time that he would provide information showing how his property would ultimately connect to the Blue Pointe Ridge subdivision. However, Mr. Ramsey has not responded.

Mayor Katz said she would like to wait until Mr. Ramsey has the opportunity to respond to the critical issue Council has identified and hear about the agreement from Mr. Rochlin.

Council agreed to continue this, leaving the record open one week with a week afterwards for review.

Disposition: Continued to November 17, 1993 at 2:00 p.m.

1757 Tentatively deny appeal, on LUBA remand, of the application by Dale Rhine to establish a non-conforming use on property located at 4031 and 4033 SE Milwaukie Avenue (Findings; Previous Agenda 1627; 91-00863 NE)

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Discussion: Kathryn Imperati, Senior Deputy City Attorney, asked that this be continued for two weeks.

Disposition: Continued to November 17, 1993 at 2:00 p.m.

1758 Appeal of Far Southwest Neighborhood Association against Hearings Officer's decision to approve the application of WGAS, Inc. for an eight-lot subdivision located at SW 55th Place (Previous Agenda 1648; 93-00225 SU)

Discussion: Tom McGuire, Planning staff, said Council held the record open to address a number of legal questions. A memo dated November 1, 1993 from the City Attorney's office addresses those issues including the lot line adjustment, which is a separate action and has already been approved by Planning staff. Therefore that issue cannot be included as part of the subdivision process.

Mayor Katz noted that issues related to the sliver and ownership had been raised by Council and that is what the memo relates to.

Mr. McGuire said the second issue is whether Tax Lot 7 could be included in the subdivision. Again, because it is in Mr. Parson's personal name, it cannot be included as part of the subdivision, which is in a corporate name.

Regarding the third issue, requiring a bond for offsite improvements, Mr. McGuire said the Code does require such bonds. The Hearings Office did not add a condition of approval specifically requiring a bond because it would have been redundant. Council, however, could add that condition if it denies the appeal.

Commissioner Hales said Code Section 34.40 requires a standard level of performance guarantee. He asked if there was the option for a higher level.

Linda Meng, Chief Deputy City Attorney, said there is no specific authorization in either Title 34 or 33 to increase that standard although there is no prohibition either. However, it would be somewhat questionable to change the Code requirements on a case by case basis without some authorization in the Code.

Mayor Katz asked if the record was closed.

Ms. Meng said the last hearing was continued and the record had not been closed. She said Council may take additional testimony if it wishes as additional information was submitted.

Commissioner Hales said he would like to take additional testimony.

Colleen Culbertson, Secretary, Far Southwest Neighborhood Association, said

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their question concerns the legal definition of the property at the time the application was stamped complete. She said when it was stamped complete on April 17 it included the sliver and part of Tax Lot 7. Changes were suggested afterwards, thus altering the piece of property. They have legal proof that the maps sent to the neighborhood all showed a straight north and south line and they need to know why the piece of property they are looking at today is different. She noted that the division of Tax Lot 7 into two lots is being held up because the City is still not happy about the easement and asked how it is possible for this subdivision to be approved if it is not possible for that one. She added that the City has admitted it was wrong in stating that Tax Lot 148 could be developed without Tax Lot 7.

Commissioner Hales asked if the sliver was included when the application was stamped complete on April 17.

Mr. McGuire said the sliver was a part of the original application which, when first submitted, also included a lot line adjustment at a different location in order to create a tract for the utilities. When the application was being reviewed the applicant revised the proposal and dropped the lot line adjustment creating the tract when they found they could instead put the utility lines into an easement, making the tract unnecessary. They then submitted revised drawings showing the future lot line adjustment.

Commissioner Hales asked if that occurred before or after the application was judged complete.

Mr. McGuire said afterwards, adding that it is not uncommon to revise subdivisions after the application has been declared complete. The information in the staff report and recommendation to the Hearings Officer showed the sliver.

Commissioner Hales said he did not understand Ms. Meng's memo. For him the question is what is the property subject to the subdivision application.

Ms. Meng said the subdivision approved by the Hearings Officer had the lot line adjustment in it and this is what was approved by her. The timing of the changes was not critical as the subdivision was not modified to any significant extent and the Hearings Officer approved it with the lot line adjustment already having been made. That is what is before Council.

Commissioner Hales said he does not understand how the City could approve something different than what was submitted.

Mayor Katz said the question is when can you stop modifying a proposal.

Mr. McGuire said modifications occur to subdivisions all the way up to and including the actual hearings process.

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Ms. Meng said the Hearings Officer can make minor modifications during the hearings process.

Commissioner Hales said the question is whether it was a minor modification and in this case he does not think it was.

Jeff Bachrach, attorney representing the applicant, said he is not sure exactly when the sliver showed up on the site plan. What he is sure of is that when the staff report was issued in June, it showed the sliver as being out of the subdivision. It was out when public notice went out in June and when the hearings officer heard this and approved it.

Mr. McGuire said the staff report and site plan that went to the Hearings Officer reflected the lot line adjustment and this is what the Hearings Officer heard. He said even if it were judged a major modification proper notice was given as it occurred early on during the staff review process.

Mr. Bachrach said the maps have not been changed since at least June. That is what has been approved all along and even if someone considered this a major change, the City has given ample public notice on numerous occasions. Finally, the applicant can define the site it submits for subdivision and it is not necessary to include all the property in common ownership. He said he is at a loss to understand any substantive or legal issue with the sliver.

Commissioner Hales said it appears to him that because of the technicalities of moving the sliver from one parcel and ownership to another, there has been a substantive change in the nature of the development and he is trying to determine if that is relevant to Council in making its decision. He said this whole exercise reminds him of trying to catch a greased pig.

Mr. Bachrach said it is possible there is no pig to catch.

Mayor Katz asked about the drainage issues.

Mr. McGuire said with regard to the offsite drainage improvements, the direction from Council was to see if bonding should be required to make sure the applicant was held to whatever was approved. Staff response was that the Code already has requirements for that.

Commissioner Hales asked if those were sufficient in the opinion of staff to adequately bond the required improvements.

Mr. McGuire said yes.

Commissioner Hales asked for a review of the additional requested conditions referred to in Mr. McGuire's memo.

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Mr. McGuire reviewed the conditions while noting that the staff recommendation was to not add any of the proposed conditions.

Commissioner Hales asked the basis for approving the eight lots.

Mr. McGuire said that referred to the two conflicting standards, minimum density versus the standard for cul de sacs and the number of units.

Mayor Katz asked if the City's erosion control regulations were to blame, as is asserted in a letter from the Busheys, for the problems at Sylvania Heights.

Stuart Parsons, applicant, described the erosion control method the City required, which led to clogging of the drain. He said what he did met City standards.

Fred Deis, Bureau of Buildings, said since the City and Mr. Parsons may be sued by one of the homeowners he is reluctant to testify as to fault on Sylvania Heights. What happened at Sylvania Heights may not be related to whether the erosion controls are adequate as other issues may be involved. He said he believes the City has adequate measures for erosion control in the guidelines.

Mayor Katz said she hoped that what happened at Sylvania Heights would not happen here.

Mr. Deis said he thinks they are unrelated and what happened at Sylvania Heights does not necessarily imply that the City has a problem with its erosion control measures.

Commissioner Hales said he believes the Hearings Officer erred in hearing this not as it was submitted and stamped complete but as it was modified. He moved that Council approve the preliminary plat as it was submitted and deny the appeal and the request for additional conditions.

Commissioner Kafoury said she is very uncomfortable about this process and the fact that this was not discussed earlier at the Commissioners' Assistants meeting.

Mayor Katz said unforeseen things come up and raise new issues.

Ms. Meng asked Commissioner Hales if he wanted to say the Hearings Officer acted inappropriately in deleting the sliver from the plans as submitted because that constituted a major modification.

Commissioner Hales said he believes you should be judged on the application when it is submitted and stamped complete. That should mean something

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and substantive changes should be viewed skeptically.

Commissioner Kafoury said changes are often made because City staff asks for modifications as they go through the process. That is what goes to the Hearings Officer.

Ms. Meng says a recent Court decision states that substantial modifications can be made after an application is stamped final. That is certainly the practice. You also need to look at whether that is a major modification to the subdivision, not to another piece of property. The deletion of the sliver has not changed the subdivision.

Commissioner Hales withdrew the motion.

Mayor Katz asked if Council has the ability to change the boundaries.

Ms. Meng said no because that sliver is not owned by WGAS anymore.

Commissioner Hales moved to deny the appeal and uphold the Hearings Officer's decision with the conditions as listed.

Commissioner Lindberg noted he had missed the first hearing and has not reviewed this.

Mayor Katz said she is very unhappy about this proposal and is still concerned about the standards for drainage and soil erosion. She said she believes the Code needs to be changed but based on the findings and facts she will reluctantly vote aye.

Commissioner Kafoury offered to present a briefing on the drainage issues but said she would like to have the questions laid out better in advance so the City attorneys and planners are not put on the spot.

Commissioner Hales said there will be complex cases like this where the Council has to examine whether the decision making process was valid. He said he thinks the Code was manipulated in this case and needs to be changed to make it function better. He said he considers it time well spent.

Disposition: Appeal denied. (Y-3)

1756

TIME CERTAIN: 2:15 PM - Appeal of Block 216 Partnership against Hearing Officer's decision to deny application to demolish an existing building and construct a surface parking lot at 901-917 SW Alder Street (Hearing; 93-00064 CU DZ)

Discussion: Ruth Spetter, Senior Deputy City Attorney, outlined the process.

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Mayor Katz declared a contact with Phil Geffner, operator of Escape from New York Pizza.

Tim Barnes, Planning Bureau staff, said the bottom line is that the Hearings Officer found that this application did not meet the approval criteria. Applicant is proposing a 64-space surface parking lot to provide accessory parking to the Pittock Block, a historic office building a block away. It will require demolition of an existing quarter-block building, resulting in a full block of surface parking. The applicant received a demolition permit from the Bureau of Buildings after going through a Landmark Review to see if it merited designation as a historic landmark. That review determined that it did not.

Mr. Barnes said the whole intent of surface parking regulations (Section 1-6 (a) in the Downtown Parking and Circulation Policy (DPCP)) is to discourage the removal of building to create surface parking lots. While the DPCP is liberal about building new structured parking it is quite restrictive about surface parking. The applicant has taken as their approval criteria DPCP Item 2-6 (b-4) which states that surface lots may be approved that are part of parking strategies developed by the City for particular areas. They contend their proposal meets such a strategy based on prior approval of a Conditional Use granted several years ago approving 250 new parking spaces in the basement of the Pittock Block, which for economic reasons were not built. Staff and the Hearings Officer, however, argue that the Conditional Use is not part of a parking strategy for a particular area. The applicant also notes Section 2-7 of the DPCP, a more generally stated standard pertaining to all new off-street parking, structured or surface. The Code says if two Code sections seem to conflict the one that is more specific and more restrictive takes precedence. The applicant is arguing here that the less restrictive standard should take precedence while Staff and the Hearings Officer contend that even if this application is approved the Code would not support findings in favor.

Mr. Barnes stressed that denial does not deny economic use of the site. Applicant could build structured parking here for the Pittock Building, with a guaranteed clientele, if it wishes. The DCPC allows them to build short term parking as well. He added that the revised Central City Transportation Plan (CCTP), which is due to come to Council soon, recommends liberalization of current policy in order to provide older buildings with more parking. However, it does not appear that the new recommendations will make it any easier to add surface parking. Another bonus about structured parking is that retail space is included on the ground floor.

Finally, Mr. Barnes said, the applicant is proposing parking for an historic building but they have not met approval criteria No. 5 which states that existing parking, whether structured or surface, can be used for historic buildings. However, applicant does own existing lots which could be used in

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that way. Summarizing, Mr. Barnes said applicant has not established conformance with the DPCP or met some parking strategy for a particular area. Nor does it meet the policy intent, which is to discourage surface parking and the removal of existing buildings. He showed slides of the site and noted recent retail investments in the area.

Steven Janik, attorney for the applicant, said this application evolved out of a problem at the Pittock Building which was remodeled in 1987. At that time the Pittock Block applied for a Conditional Use to put 250 spaces in the basement but this turned out to be physically and economically impossible. Because of the lack of long term parking nearby, however, tenants began to move out, including Cellular One. At the same time the Pierre Building, which the applicant owns, was falling apart and the owners found it was not cost effective to renovate it. The Pittock Building has made a commitment to take 64 stalls on the site of the demolished Pierre Building, subject to City approval. The lot is only for the Pittock Building and is allowed only because they cannot put any parking in that building.

Mr. Janik noted that the demolition permit is a separate process. Assuming the building is gone, the question is, what do you put there. He said staff saw the two as intertwined and thought if they said no on the parking they could stop demolition. The Hearings Officer made the same mistake in thinking that the building would not go if the lot was not approved. However, the Landmarks Commission decided not to designate this site as a historic landmark, knowing that decision would result in the building's demolition.

Mr. Janik said the building is going to be gone so the choice is between having a vacant dirt lot or a surface parking lot to serve the Pittock Block. The Hearings Officer erred in stating that removal of the building and the addition of surface parking would lessen the character of the area. He, Janik argued that every time the Hearings Officer found the surface parking lot would violate certain City policies, he based this on the absence of the building which is irrelevant.

Mr. Janik cited support from many business organizations and owners, with only one letter in opposition. He said the Hearings Officer's finding that DPCP 2-6 discourages surface parking lots is flawed because he seems to think that he should always turn down conditional uses in order to keep the buildings. That is not what the policy, which is a statement of general direction and not an approval criteria, says. He argued that in the last decade every other request for a surface parking lot in the downtown area where there was formerly a building has been approved by Council. He cited the Nordstrom lot, the Carriage House, the Rouse project, the block at 3rd and Alder and the Drake Hotel. He said their justification for the parking lot is that in a prior case, regarding the Nordstrom parking lot, the City had adopted a parking strategy which allows surface parking to support historic

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buildings. The Hearings Officer stated that you could not base a parking strategy in a prior case but that was before Council ruled against the Hearings Officer in the Schlesinger case and found that you can develop a parking strategy in a prior case. That case sets exactly the strategy for allowing surface parking which supports another historic building, the Pittock Block. Finally, Mr. Janik dealt with the Hearings Officer's statement that the Alder Street access violates City policy. However, the applicant withdrew that access before the Hearings Officer made his decision. To address concerns by the Hearings Officer and staff, the applicant offered to build retail kiosks along certain areas to add excitement at the street level.

Mr. Janik said there are two adequate bases in the DPCP to approve this application: 1) 2-6 which allows new surface parking as part of a strategy which is articulated in a prior case and; 2) 2-7 which allows parking to support the major rehabilitation of a building. He asked for reversal of the Hearings Officer decision. If denied, he requested that the record be left open and the matter continued as he would like an opportunity to respond to a staff report he has not seen.

Commissioner Lindberg asked how many spaces exist on the rest of block.

Mr. Janik said 225 but the 64 would serve only one client.

Commissioner Lindberg asked if they had considered structured parking.

Mr. Janik said it does not look economically feasible now.

Commissioner Lindberg asked if they could build another building on the vacant lot.

Mr. Janik said their long term goal is to build a building on the entire block but a quarter block building is not feasible. The question is the interim use.

Commissioner Lindberg asked if the commitment to build kiosks is certain.

Mr. Janik said yes.

Commissioner Lindberg asked if he recalled the basis for the initial parking policies that discouraged surface parking lots.

Mr. Janik said he believed the catalyst was the demolition of an historic building which was knocked down for a surface parking lot. He said the policy has worked well and in each of the cases he mentioned above Council found a good reason to allow surface parking.

Mr. Barnes noted that his memo (referred to by Mr. Janik earlier) was considered to be an inter office memo.

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Todd Slenning, owner of Alex Forma, said his concern is what will take the building's place if it is torn down. He said he fears a dirt lot will attract a number of drunks and aggressive panhandlers on a corner where there is already a problem.

Bill Naito, property owner, supported the application for the 64 spaces. He said they have been trying to get enough parking to keep the tenants in the B and C buildings, adding that the Pittock Building has been struggling desperately and the lack of parking is the reason Cellular One moved out. He said clearing that block might also attract an investor.

Phil Gettner, Escape from New York Pizza, said he had to lay off 16 people and it does not make sense to say this building has no historic significance and you can knock it down. He said the City should require that something else be put up if something is knocked down. He said you cannot let people with money make all the decisions; they want to make money and then sell the lot for \$30 million to someone who wants to build a big building. He said it is time for the City to make plans so that useful things are replaced. He also argued that kiosks are not going to work in the winter.

Mr. Gettner contended that no one should assume that parking is going to be as plentiful downtown as it is in the suburbs. If people want parking, they should go to Aloha. Panhandlers should be accepted as part of the community too and should not be used as a cop out for a business not doing well. He said the Goodmans could make money by keeping the building.

Mayor Katz asked about the 16 employees.

Mr. Gettner said he is not a victim of the Goodmans. He said 10 years ago nobody would rent to him and the agreement with the Goodmans had a 90 day destruct clause for 10 years. He said he did not relocate his store because it would take about \$150,000 to move and he did not want to go that much in debt. He said the laid off employees are the victims of this, not him.

Patrick Bogard, NE 81st Ave., said homeless people do need somewhere to go where they will not be disturbing any businesses. He said the Goodmans would not, however, leave a pile of dirt there if it does not turn into a parking lot.

Mr. Janik said if they could have made economic sense out of the building they would have, noting that the Goodmans have renovated over 10 downtown buildings, including the Kress Building, the Aero Club and the Public Service Building. This one would not work.

Mayor Katz noted that Mr. Janik had listed cases where surface parking lots were approved and asked Mr. Barnes if they were relevant to this case.

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Mr. Barnes said they are relevant but the other cases, such as the Rouse Project, met other criteria that this one does not, such as having major redevelopment. Just because surface parking with removal of buildings has been approved does not mean this one meets the approval criteria. He said this is not about whether you have a vacant lot; it is about a policy that discourages new surface parking lots. Applicant has still not established that they meet some kind of development strategy for a specific area. They cite the Schlesinger case but that was based on City goals from which a policy could be construed. In the proposed Central City plan, such an action would require that an interim development plan be in place prior to demolition of a building.

Mayor Katz asked for a matrix on the cases cited by Mr. Janik to see if they were long or short term and which goals applied.

Mr. Janik said every time the City has looked at a surface parking lot where a building was formerly located, the City approved it. In all of those cases, whether it was long or short term was not a factor. Staff is saying this is different than the Schlesinger case because that is short term and this is long term. There is no factual basis for that. He said the case involving the Nordstrom lot where buildings were knocked down and the north half turned into parking to support the historic United Carriage Building, required that 20 percent of the spaces be short term and the remaining 80 per cent for tenant parking. That was then the normal City requirement

Mayor Katz asked if that project met City redevelopment goals.

Mr. Janik said it did not, it was the renovation of an older building and allowing the parking it was allotted to be built a block away. That case is identical to this one.

Commissioner Kafoury said she thought those were part of larger developments such as the Rouse Project. She asked if the previous agreement for 240 spaces for the Pittock Block should be carried over as justification for this.

Mr. Janik said he is arguing that there is a present-day justification for the 64 stalls based on CU 111-81 (Nordstrom) which is identical on the facts and legal issues. Other similar projects were the Rouse Project (CU 201-86), Third and Alder and the Drake Hotel.

Mayor Katz asked for a matrix with the reasons for approval and a list of the similarities and differences in this case.

Commissioner Lindberg said one of the reasons why the surface parking policy was developed was to discourage tearing buildings down. He asked staff to acknowledge that the building will be torn down.

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Mr. Barnes said legally they can take it down.

Commissioner Lindberg asked if any distinction is made between preserving historic buildings and other buildings. He asked Mr. Barnes for a description of the development of the policy and the specific Code language regarding surface parking lots.

Commissioner Hales said there are a number of perception versus reality questions and he would like to express his intent today. He said he believes that Mr. Janik has made a case for separating the demolition issue from approval of surface parking. The alternatives are a vacant lot versus expansion of an existing surface parking lot. It is not preservation of an existing building and he believes the Landmarks Commission acted correctly in granting the demolition permit. This should be looked at not as the creation of a surface parking lot but as the 25 per cent expansion of an existing parking business. The surface lot is already there and while such lots should be aggressively discouraged the City needs a policy which would convince the owners to build something else here. He said he intends to support overturning the denial.

Commissioner Lindberg asked if he had arrived at the judgment that it was not a historic landmark.

Commissioner Hales said he is not trying to substitute his judgment for the Landmarks Commission's which found it was not historic.

Commissioner Lindberg asked whether the Landmarks Commission looked at the building to see if it was economically feasible to restore even it was not historic.

Mr. Barnes said the Commission determines only if it should be designated a landmark.

Commissioner Lindberg said then in effect they are not opposing demolition.

Mr. Barnes said they are neutral. He said the Goodmans submitted information that it was not feasible to restore the building. Because the Commission did not judge it a landmark, it did not deal with that information.

Commissioner Kafoury said there is no question in her mind that the City's policy on surface parking lots is to discourage them. She said the attempt to link the 64 spaces to the historic building is clearly addressed in the rules which state that it must be part of an existing proposal, not a new one. She said she does not see that Council has a whole lot of leeway to approve this, even though it is only a quarter block, but will be happy to review the new information.

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Mayor Katz said she tends to agree with Commissioner Kafoury that based on City policies, surface parking lots should not be perpetuated. She will review the previous cases, however.

Mr. Janik said he would like to keep the record open to review the staff report as well as the new informational requests. He said he will want a chance to disagree with what staff provides.

Mayor Katz said this would not be another hearing, only an opportunity for Council to raise questions and make a decision unless it determines that there should be additional public discussion.

Commissioner Hales said he needs interpretation from staff and the City Attorney as to whether his opinion about the policy is correct.

Mr. Janik said staff appears both to be searching for information and preparing some kind of advocacy.

Mayor Katz said she wants to see interpretation on the prior cases both from him and from staff.

Mr. Janik said he believes he has the right to rebut the staff interpretation at a continued hearing.

Mayor Katz said she will give him five to 10 minutes.

Ms. Spetter said the information requested by Commissioner Lindberg will not be new either, simply laying out the Code sections that have already been discussed.

Disposition: Continued to December 8, 1993 at 2:00 p.m.

At 4:20 p.m., Council adjourned.

BARBARA CLARK
Auditor of the City of Portland

Cay Kershner

By Cay Kershner
Clerk of the Council