



CITY OF
PORTLAND, OREGON

OFFICIAL
MINUTES

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 17TH DAY OF NOVEMBER, 1993 AT 9:30 A.M.

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

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

1800 TIME CERTAIN: 9:30 AM - Transmit report on the Capital Cable Access Panel recommendations (Report introduced by Commissioner Blumenauer)

Discussion: Commissioner Blumenauer said as part of the franchise agreement with TCI, three per cent of the gross revenues were allocated to a dedicated fund for capital projects. One project is an upgrade of the telecommunications capacity of Council chambers. He said a committee has been working diligently to determine the best use of the money.

David Olson, Director, Office of Cable Communications and Franchise Management, described the projects which will be funded during the first year. He said they have a set-aside for enhancements to the Council Chambers and Portland Building to enable the Council and other agencies to be heard live on the cable system, further opening the process to the public. That set-aside has not as yet been funded because it needs to be coordinated with the study now underway for overall City Hall improvements. They expect to begin that, however, in the next 12-24 months.

Commissioner Lindberg asked if any interim improvements were planned.

Mayor Katz said General Services did not want to proceed until Council decided what it wanted to do about City Hall renovations.

Commissioner Blumenauer said there is money available, \$40-50,000, that could be used if Council were to determine that something needed to be done immediately.

Mr. Olson said they can proceed earlier as long as it does not conflict with the overall plans.

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Commissioner Blumenauer noted that one proposal, from the Portland School District, was found to be too narrowly focused and while he understands the committee's decision he hopes to follow up with the School District so that in future years they will be better positioned to benefit from this fund.

Mr. Olson said they want to work with the schools to make sure they get help from this fund. He said they expect a more substantial proposal from the School District in the future.

Disposition: Accepted. (Y-5)

Agenda Nos. 1811 and 1814 were pulled from Consent. On a Y-5 roll call, the balance of the Consent Agenda was adopted as follows:

CONSENT AGENDA - NO DISCUSSION

- 1801** Request from petitioners for a hearing on the realignment of the North Marine Drive Project Phase II - Portland Boulevard to Rivergate (Communication)

Disposition: Referred to Commissioner of Public Works.

- 1802** Accept bid of Landmark Ford for furnishing two 1.5 yard dump trucks for \$44,082 (Purchasing Report - Bid 43)

Disposition: Accepted; prepare contract.

- 1803** Accept bid of WhiteGMC Trucks of Portland for furnishing three 55,000 GVW cab and chassis with 15 yard dump bodies for \$229,353 (Purchasing Report - Bid 49)

Disposition: Accepted; prepare contract.

- 1804** Accept bid of Goodyear Commercial Tire & Service Center for furnishing annual supply of tires; truck, tractor and implement, for \$123,447 (Purchasing Report - Bid 52-A)

Disposition: Accepted; prepare contract.

Mayor Vera Katz

- *1805** Agreement with the City of Troutdale to provide access to the Portland Police Data System (Ordinance)

Disposition: Ordinance No. 167115. (Y-5)

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- *1806** Agreement with the City of Fairview to provide access to the Portland Police Data System (Ordinance)

Disposition: Ordinance No. 167116. (Y-5)

Commissioner Earl Blumenauer

- *1807** Authorize agreement for public pay telephone long distance services with American Telephone and Telegraph (Ordinance)

Disposition: Ordinance No. 167117. (Y-5)

Commissioner Charlie Hales

- *1808** Amend contract with the University Hospital of the Oregon Health Sciences for physician/advisor and occupational health nurse services at a cost of \$132,185 (Ordinance; amend Contract No. 28523)

Disposition: Ordinance No. 167118. (Y-5)

Commissioner Gretchen Kafoury

- *1809** Contract with Multnomah County for implementation of the 1992 HOME Investment Partnership Program activities relating to affordable housing development in the amount of \$366,135 and provide for payment (Ordinance)

Disposition: Ordinance No. 167119. (Y-5)

Commissioner Mike Lindberg

- *1810** Authorize cost-sharing agreement with the US Forest Service to complete the final year of a two-year study on fire and windthrow disturbance in the Bull Run watershed (Ordinance)

Disposition: Ordinance No. 167120. (Y-5)

- *1812** Create a fund to provide for financial administration of the environmental remediation program as authorized by City Ordinance No. 167092 (Ordinance)

Disposition: Ordinance No. 167121. (Y-5)

- *1813** Amend Washington County Gravity Supply Line agreement (Ordinance)

Disposition: Ordinance No. 167122. (Y-5)

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- 1815** Amend City Code to add disconnection of sewer services as a collections action for delinquent sewer user fees (Ordinance; amend Code Section 17.36.100)

Disposition: Passed to Second Reading November 24, 1993 at 9:30 a.m.

- 1816** Authorize a contract with Cory Samia Consultants for assembly programs in the schools and at public events for the Bureau of Environmental Services for \$16,850 (Second Reading Agenda 1795)

Disposition: Ordinance No. 167123. (Y-5)

REGULAR AGENDA

- *1811** Contract with Turner Construction Company in the amount of \$171,807 for construction management services related to the Water Pollution Control Laboratory (Ordinance)

Discussion: Commissioner Lindberg asked that this be referred to his office.

Disposition: Referred to Commissioner of Public Utilities.

- *1814** Amend agreement between the City of Portland and Merina and McCoy, CPA's, P.C., to extend the contract to December 31, 1993 (Ordinance; amend Contract No. 28584)

Discussion: Commissioner Lindberg asked that this be referred to his office.

Disposition: Referred to Commissioner of Public Utilities.

- 1817** Accept bid of Hydro-Temp Mechanical for computer room cooling modifications for \$54,300 (Previous Agenda 1747)

Discussion: Mayor Katz noted that when this was heard two weeks ago, a lot of questions were raised and Council had asked the Purchasing Agent and City Attorney to investigate this further.

Carleton Chayer, Purchasing Agent, said as a result of Council's request on November 3, his office contacted five owners and agencies, the Bureau of Labor and Industries (BOLI), the Oregon Building Codes agency and the U.S. Department of Labor, Wage and Hour Division, asking them to confirm in writing what they had indicated before regarding Hydro-Temp. Letters from these agencies and Hydro Temp were distributed to the Council, including a memo from BOLI on its report WH-60. Of the nine respondents, none have disqualified Hydro-Temp, some rebut the

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allegations and others give recommendations for Hydro-Temp. He said he found that the company was properly pre-qualified and had not been disqualified by BOLI. He said the Purchasing Manual defines a responsible bidder as one whose reputation, past performance, business and financial capabilities satisfy the needs for a specific contract. He recommended awarding the contract to Hydro-Temp.

Mayor Katz said an issue was raised about a pattern of complaints, including wages not being paid. She asked Mr. Chayer if that was considered in his decision.

Mr. Chayer said they did not consider that because BOLI informed them that those remarks were part of an internal document and BOLI has not substantiated the allegations, particularly regarding the \$7500. Nor has Hydro-Temp had a chance to rebut.

Commissioner Hales asked Mr. Chayer if, given the definition of a responsible bidder, someone were to demonstrate that a company had a serious pattern of labor law violations would he still award them the bid. Was there a sufficient pattern in this case?

Mr. Chayer said in this case he would award them the bid as he was unable to verify any of the allegations, which he believes is BOLI's responsibility. If they had been verified he would recommend the reverse.

Commissioner Blumenauer said Council has more latitude than the Purchasing Agent. What you see in the packet is that the evidence is not uncontroverted. He said it would be his intention in matters of this nature that there be a two-tiered recommendation. If Mr. Chayer could verify the allegations, the recommendation would be to reject the bid. If it were a grey area that may indicate a pattern, then Council could exercise its greater discretion. In this case, however, it does not appear that there is a clear cut pattern yet. He said this project is necessary for completion of the new Bureau of Emergency Communications facility and they would like to bring this to resolution quickly.

Nancy Ayres, Deputy City Attorney, said in terms of the Council's broader discretion, it would need to make evidentiary findings to support any conclusion, including taking testimony and holding a hearing. She said she would not rely on the documents received third-hand.

Mayor Katz asked if the information in the BOLI report WH-60 was official and factual findings.

Ms. Ayres said no, it is a summary of the investigation by a BOLI employee and is intended to be forwarded to higher-ups to further investigate and determine whether a hearing should be scheduled. It is

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not meant to be an official finding.

Mayor Katz asked when that would be reviewed by them for final determination.

Ms. Ayres said not until Spring or later, if in fact it gets to the hearing level.

Donald Kool, representing the Plumbers & Steamfitters, Local 290, urged rejection of this bid. He said Hydro-Temp is not a responsible bidder and they should not be eligible to bid future projects for the City. He noted that Mr. Shropshire had documented at the November 3 meeting that Hydro-Temp been found guilty by the U.S. Department of Labor and BOLI for misclassifying some employees, failing to report some employees on certified payroll records, and for paying less than the prevailing wage rates and fringe benefits. Hydro-Temp has also been charged with over 100 new wage and hour violations and has violated state licensing law, failed to obtain proper permits, and violated apprenticeship standards. He said this is a text book example for the City to act upon, citing information documenting violations at Portland State University Science I, at OHSU North Hospital and Barlow High School.

Commissioner Kafoury asked why these institutions would then state that they had no problems.

Mr. Kool said when he uncovered the violations he went directly to the compliance division of the Buildings Code agency and the contracting agencies themselves had nothing to do with it. He said a hearing was held October 20 regarding the use of unlicensed plumbers at Portland State and failure to obtain proper permits. He said it took a year to get a hearing.

Commissioner Kafoury noted that Portland State said they do hands-on management of such projects and know the status of all the employees and had not found violations. She noted that his exhibits state that the company is guilty.

Mr. Kool said in one case the Buildings Code agency certified that one man working at the Portland State project had an expired plumbing license. By statute, a plumbing business may not employ a person as a plumber if he does not have a valid license. He said while the determination has not yet been written on the October 20 hearing, he believes it is cut and dried.

Commissioner Kafoury said unfortunately Council cannot make decisions based on allegations.

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Mr. Kool cited another project, at Sam Barlow High School, where permits were not pulled until after the job had been done. Mr. Troyer was fined \$15.00 and yet he installed a chiller in a high school which was never inspected by anyone.

Ken Troyer, President, Hydro-Temp Mechanical, responded to the allegations. He said they are training agents for the State of Oregon and the Apprenticeship Boards have not found them in fault of anything to do with the apprenticeships. The unions are trying to promote cross-training as a violation because they want to tie the hands of the plumbing and sheet metal apprenticeship programs. He said he is walking a very fine line and trying to do the best training he can.

Regarding the plumber who let his license expire, Mr. Troyer said it is not the company's responsibility to track that. He said he believes the result of the hearing on this will be that the company did not make any error.

Regarding the work at OHSU, Mr. Troyer said there was a large change order and both the owner and City knew what was going on. This too is being reviewed by the hearings officer. The City did not find any problem or double fine them because of the circumstances.

Mr. Troyer said they can provide documentation to support their side, adding that he is not here to fight the union but wants the freedom to train and operate within the guidelines and laws. He said as a training agent, his company has an excellent record in training minorities. He noted that the Federal Aviation Agency earlier found no merit in Mr. Kool's accusations. He said one of the major allegations in the WH-60 is not that wages are incorrectly paid but that benefits are miscalculated. He said they provided BOLI information about this but have not heard back.

Mayor Katz said they found wages in excess of \$7500 were due.

Mr. Troyer said that was totally incorrect and described how the situation regarding several employees arose.

Mayor Katz asked about the violations cited by the Buildings Code agency.

Mr. Troyer said that involved the personal plumbing license of Casey Stevens and is the matter before the Hearings Officer.

Mayor Katz asked Mr. Chayer about the current status of the complaints and preliminary findings and when final determination would be made.

Mr. Chayer said BOLI is currently investigating many of the allegations

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and the Buildings Code agency held a hearing on October 20. He talked to a representative who indicated that this is a grey area and even though he has recommended a \$500 fine there is a question as to whether the specific work involved is covered by the law. That determination will be made in February.

Commissioner Lindberg commented that if Council denies this contract, it would have to have an evidentiary hearing, duplicating the work of BOLI. He said Council should not do that. He said valid concerns have been raised and this should be tracked in terms of granting future contracts but it is not his intent to deny it based on what he has heard.

Commissioner Blumenauer agreed with Commissioner Lindberg, adding that Council does not want to be a court of first resort and circumvent the established process for allowing due process. He said if there is a pattern of violations, it is his intention to bring it to Council and satisfy the evidentiary requirements. He said Council wants to make sure that business is not given to contractors who are not responsible but it appears in this case that the threshold has not been met.

Commissioner Hales said it was appropriate to raise these concerns. He said he thinks Council has the flexibility to disqualify someone for other than simply technical noncompliance with state standards. However, this case is not quite clear enough to enable the Council to substitute its judgment for State regulatory agencies or to say it has not met the spirit of City policies elsewhere.

Mayor Katz said there is a clear indication of complaints filed with State agencies though they have not worked their way up the bureaucratic ladder. She said she is reluctant to approve this but until that process is complete, Council has no other recourse but to accept it. She warned Mr. Troyer that the data raises serious questions about some of his practices and she would vote no on this bid if there were a better legal leg to stand on.

Disposition: Accepted; prepare contract (Y-5)

Mayor Vera Katz

- *1818** Adopt a Supplemental Budget for FY 1993-94 of \$126,904,305 and make budget adjustments in various funds (Ordinance)

Discussion: Commissioner Kafoury alerted Council to the fact that one of the items in the Housing and Community Development money is the Pancorp training project money that had been set aside to go to Portland Community College (PCC). She said it is a lot of money and Council needs to discuss whether to proceed with that training contract.

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Mayor Katz said she informed State Treasurer Hill that this was not just a leasing arrangement with one company but involved partnerships with a lot of local agencies and as the State meets its fiduciary responsibility it should clearly understand its responsibility in the community.

Commissioner Kafoury said Council should review the role and importance of this \$500,000 in terms of the broader economic development strategy. It should not automatically move ahead and assign this to PCC.

Mayor Katz said she does not think that will happen because everything is up in the air.

Disposition: Ordinance No. 167124. (Y-5)

Commissioner Gretchen Kafoury

- *1819** Enter into loan agreement with Bank of America of Oregon, First Interstate Bank of Oregon, N.A., Key Bank of Oregon, The Bank of California, N.A., United States Bank of Oregon, and West One Bank of Oregon and Key Bank of Oregon (Agent) to provide Community Development Block Grant float funding on behalf of Northeast Community Development Corporation for the Nehemiah Housing Opportunity Program in an amount not to exceed \$1,910,000 (Ordinance)

Discussion: Commissioner Kafoury said in the past several years they have explored creative ways to stretch the financial resources for housing. One difficult area has been construction loans and Council in the budget process indicated its interest in trying something new. This program will result in a net reduction of between \$500 and \$1,000 in the cost to families who purchase houses under this program.

Martha McLennon, Bureau of Housing and Community Development, said this is a float loan agreement with a consortium of five local banks to provide construction financing for Northeast Community Development. It allows the use of community block grants funds at the low market rate during the construction phase of these homes. As the houses are sold, the home buyer will reap a benefit of between \$500 to \$1,000 and City funds will be paid back as the first mortgage comes in.

Mayor Katz asked how many houses will be built by the end of this fiscal year.

Ms. McLennon said 30 will be completed by the end of the fiscal year. Forty-two houses are in the development pipeline, 37 of which have been sold. She said the program is scheduled to expire in June, 1995 but as long as the Nehemiah commitment is there and the banks are satisfied, an extension could be requested.

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Commissioner Hales asked if the City could anticipate a rollover of its capital in extensions of the agreement with ultimate disposition of the \$1.9 million principal balance to be a Council decision for some future year.

Ms. McLennon said the source of this funding is float financing and what you are doing is taking funds already budgeted for another purpose but not yet needed and using them in advance. Eventually the money will be returned for its regular purpose. She said this technique helps overcome complaints about how slow the City was to spend federal funds.

Commissioner Kafoury said this is a creative way to do a very complicated project with all kinds of funding sources.

Michael Trower, Director of Development, Northeast Community Development, said all purchasers to date are at less than 80 per cent of median income and two-thirds are less than 60 per cent. He said \$500 or \$1,000 can mean the difference between buying and not buying for them. He said they are committed to getting a total of 60 houses done by the end of this fiscal year.

Disposition: Ordinance No. 167125. (Y-5)

City Auditor Barbara Clark

1820 Form the Westside Light Rail Underground Utilities Local Improvement District (Hearing; Ordinance; C-9853)

Discussion: Dan Vizzini, City Auditor's Office, said this project has been under discussion for some time, particularly with the neighborhood association, Tri-Met and Portland General Electric. He noted that one remonstrance has been filed, adding that the Office of Transportation filed a report recommending that it be overruled.

Commissioner Blumenauer moved that the remonstrance be overruled. Commissioner Hales seconded. (Y-5)

Commissioner Blumenauer said this is a critical piece in the Light Rail project and he hopes Council feels it worthy enough to hold an informal on the overall project after the first of the year. This allows a small amount of the total cost to be allocated to some of the benefitted properties. He noted that the remonstrances were less than two per cent.

Disposition: Remonstrances overruled; passed to Second Reading.

At 10:40 a.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 17TH DAY OF NOVEMBER, 1993 AT 2:00 P.M.

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

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

- *1821** Protect and conserve natural resources within the Fanno Creek Watershed (Amend Comprehensive Plan, Zoning Maps and Title 33, Planning and Zoning; Previous Agenda 1427)

Discussion: Cay Kershner, Clerk of the Council, said there had been a request for a continuance.

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

REGULAR AGENDA

Commissioner Charlie Hales

- 1824** Tentatively grant 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 (Findings; Previous Agenda 1798; 92-00763 CU)

Discussion: Kathryn Imperati, Senior Deputy City Attorney, said Steve Janik, attorney for the opponents of this application, has just filed multi-page written comments on the findings. The applicant has requested that adoption of the findings be continued two weeks.

Disposition: Continued to December 1, 1993 at 2:00 p.m.

- 1826** 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 1757; 91-00863 NE)

Discussion: Kathryn Imperati, Senior Deputy City Attorney, recommended that the findings be adopted.

Disposition: Findings Adopted. (Y-3; Commissioner Hales and Mayor Katz recused)

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***1822** Amend the Comprehensive Plan map and change the zone of property at 7027 NW St. Helens Road to make changes to the OS and IH zones and remove the (c) overlay from a portion of the IH-zoned area, with Adjustments (Ordinance; 93-00547 CP ZC EN AD)

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

Tom Dixon, Planning staff, said this Comprehensive Plan map zone change also involves an environmental review with adjustments. The purpose of the amendment is to correct alleged mapping errors that applied an environmental overlay zone to an area that was later discovered not to have a significant resource value. In addition, the zoning lines between the OS and IH zones were based on outdated topographic maps that have been updated and corrected to reflect what exists there today. The subject property, at St. Helens Road, is the former site of the Rivergate Rock Quarry and is now used to store vehicles impounded by the Police. The adjustment eliminates the requirement that parking areas be paved and contain interior landscaping.

Mr. Dixon said the proposal adds a net increase of almost one-and-a-half acres of open space zoning, although it is inconsequential because the topography makes it unusable anyway. He said it makes sense to allow industrial uses on the lower and flatter part fronting on St. Helens Road while the upper part is basically undevelopable. Under the proposal, the Bureau of General Services proposes to add two more structures.

Commissioner Lindberg asked if the autos had been confiscated under City ordinances.

Commissioner Blumenauer said yes, for prostitution, drunk driving and other purposes. Basically all the storage has been consolidated.

Mr. Dixon said the Northwest Hills Natural Areas Protection Plan is the basis for correcting the mapping error. That Plan relied on updated topographic information to evaluate the site and determined that the area containing the environmental zoning did not protect a significant resource. Past activity on the site has eliminated any resource value. The overlay was based on an older topographic map, not on field observations, as was the Northwest Hills Natural Areas Protection Plan. The request is supported by both staff and the Hearings Officer.

Mr. Dixon noted two typographical errors.

Council determined that these were scrivener's errors.

Commissioner Blumenauer said people should not feel it is necessary to

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note such minor errors to Council and suggested that the Code be changed to address this.

Disposition: Ordinance No. 167126. (Y-5)

- 1823** Amend Title 33 of the City Code relating to the Columbia South Shore Plan District, Environmental Zone, Adjustments, and Definitions, amend Official Zoning Maps, and adopt Natural Resources Protection Plan for the Columbia South Shore (Second Reading Agenda 1797)

Commissioner Hales thanked the planner, Duncan Brown, for his work on this project.

Mayor Katz thanked staff and Mr. Galitzki for getting to a "yes-yes" solution on this.

Disposition: Ordinance No. 167127 as amended. (Y-5)

- 1825** 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 1755; 92-00574 ZC)

Discussion: Tom Dixon, Planning staff, said the findings have been altered from the initial staff report and Hearings Officer's decision to reflect what is happening out in the field today. The Blue Pointe subdivision has been approved for a sewer extension although the subdivision has not yet been platted because the bonding and permitted processes have not been completed. However, the Bureau of Environmental Services is sufficiently confident that the sewer extension will be completed, taking it close to the intersection of Cornell and Skyline and enabling Mr. Ramsey to make a future sewer connection. Staff concurs but has added a condition to the findings prohibiting any development on this property until the sewer extension is available for connection. Staff recommends adoption of the findings with the conditions of approval.

Commissioner Hales moved to grant the appeal, approve the zone change and adopt the findings as modified by staff. The motion was seconded by Commissioner Blumenauer.

Disposition: Appeal granted; findings adopted. (Y-5)

At 2:35 p.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 18TH DAY OF NOVEMBER, 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 Officer Chuck Bolliger, Sergeant at Arms.

1827 TIME CERTAIN: 2:00 PM - Appeal of Far Southwest Neighborhood Association and West Portland Park Neighborhood Association against Hearings Officer's decision to approve application of Portland Community College for the conditional use master plan for Sylvania Campus located at SW 49th Avenue and Hidalgo (Hearing; 93-00371 CU MS)

Discussion: Peter Kasting, Senior Deputy City Attorney, outlined the process and procedures.

Mike Hayakawa, Planning staff, said this is an appeal of a Master Plan which was approved by the Hearings Officer for a ten year period. He noted that in 1991 a conditional use was granted allowing construction of a number of new buildings and other projects but also requiring approval of a Master Plan in order to allow the buildings under construction to be occupied. Mr. Hayakawa noted that two neighborhood associations appealed this, raising issues almost exclusively related to transportation matters. Appellants ask Council to consider whether all the transportation impacts have been adequately addressed and mitigated, and whether the conditions imposed by the Hearings Officer are adequate. Neighborhood and college representatives have held many meetings on these issues and have reached an agreement which changes the Hearings Officer's conditions in four basic ways. These include changing the way traffic is measured, adding conditions regarding construction of the loop road and calling for the Transportation Demand Management goals to be measured over the life of the Master Plan. He cited a memo from staff listing the recommended conditions and noting their approval by both neighborhood associations and the college. In addition, representatives of the college and neighborhood associations have a document which includes these conditions but also includes several other agreements which are three-party agreements and would not be attached as conditions of approval.

Alice Jacobson, Executive Dean, Sylvania Campus, Portland Community College, said this has been a difficult process but they are pleased that they have approval to open the buildings and begin planning for a new

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classroom building and renovation of others. She said the neighborhood has educated them about its concerns and the college very much wants to make the surrounding areas more liveable. They believe this agreement will do that.

David Denz, President of West Portland Park Neighborhood Association, said he is pleased the process has worked.

E. L. Devereaux, III, Chair of Far Southwest Neighborhood Association, said this has been a long process with many bitter discussions but is an example of how a neighborhood can work with a developer to make things happen positively in the City.

Commissioner Hales moved to amend the Hearings Officer's decision to reflect the agreement presented today. Commissioner Lindberg seconded.

Commissioner Blumenauer thanked the parties involved for helping Council anticipate what it will be looking at throughout the metropolitan area as it deals with compliance with the transportation planning rule, reductions in vehicle miles travelled and other transportation impacts. He said he hopes the City will have the resources to allow it to be an advocate for this plan and see whether federal money is available.

Commissioner Hales said he is pleased that the negotiation process was successful and believes these conditions will bring about better integration of the campus and neighborhood, with less reliance on the automobile.

Commissioner Kafoury noted that this is one of several items brought to Council in the last month where adversarial parties have cooperatively resolved their issues and hopes this signals the way business is done in the future.

Commissioner Blumenauer asked staff to report back to Council in six to eight months on how this is working.

Disposition: Modify Hearings Officer's decision; prepare findings for December 1, 1993 at 2:00 p.m.

REGULAR AGENDA

Commissioner Gretchen Kafoury

- 1828** Liquor license application for Juan A and Dora Montebancho, dba Mambo Kings, 333 SW Park Avenue, Restaurant liquor license (new outlet); unfavorable recommendation (Report)

Discussion: John Werneken, License Bureau, said the issues involved

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are: 1) location of the building in an area that has had continuing problems and 2) who is the true owner and operator of this business, Juan and Dora Montebalanco, the applicants, or their son Antonio, "Bruno", Montebalanco, a person in whom the Bureau does not have full confidence. If the son plays only a minimal role in this business, then they believe his parents lack sufficient competence to operate a nightclub in a difficult location. Based on several phone calls from attorneys representing Antonio Montebalanco, Mr. Werneken said they believe there is additional evidence that this application is really on his behalf. In either case the Bureau recommends an unfavorable endorsement.

Mayor Katz asked if Juan and Dora Montebalanco had been involved in the business in the past.

Mr. Werneken said he believes Juan Montebalanco collected cover charges on at least one occasion.

Larry Sievert, Portland Police Bureau, said this outlet is located in an area that already has problems with street drinking and drug use. This location has been rejected twice before for a liquor license. The Police Bureau believes that adding another liquor license to a documented problem area would not be in the best interests of the City. They believe the true applicant is the applicant's son, Bruno Montebalanco, who is not listed on the application because of failure to obtain a favorable endorsement from the Police Bureau based on his criminal background, his financial history and repeated attempts to bypass the rules. Mr. Sievert reviewed some of the incidents, including assault with a bat on Dwight Purcell, failure to pay fines and passing numerous bad checks. He said Mr. Purcell is still trying to collect \$17,000 in damages from Mr. Montebalanco while the District Court is still trying to collect the fine for that conviction.

Mr. Sievert also cited many reasons why they believe Bruno Montebalanco, not his parents, is the true owner of this outlet. He noted that the parents, with their limited ability to speak English, are unable to appropriately interpret the law. The parents are only figureheads who have no control over their son and the only reason Bruno is not on the application is because he knows he cannot get a favorable recommendation.

Dora Montebalanco, speaking with the help of translator Evelyn Brenes, a License Bureau employee, objected to statements indicating she is not a responsible person and incapable of operating the business. She argued that she has been operating this business for three months and prior to that organized youth events. She said she and her husband are requesting the application, not her son. She said the fact that she does not speak English should not be a basis for denying her this application as

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she knows of businesses in Cornelius and other areas which are run by people who do not speak English. She said Dwight Purcell, who claims to have been assaulted, called and offered not to appear in Council if they paid him \$10,000.

Juan Montebalanco said it appears he is being discriminated against because he is applying for a liquor license. When they formed the Mambo Kings they solicited for a liquor license and were able to get temporary licenses on several occasions. Then they took the temporary license away because of Police intervention and he was told that the license would be issued only as long as his son was not on the premises. He said he is 84 years old and his son helps them without any benefit to himself.

Mayor Katz asked if all the information presented had been translated.

Ms. Brenes said yes.

Commissioner Hales said it is not uncommon for Council to consider the record of another family member in making a recommendation.

Bruno Montebalanco said he does not own Mambo King, his parents do. He offered to answer questions.

Commissioner Hales asked what role he would take in management of the club and if he would be working there.

Mr. Montebalanco said no and he would have no income from the business.

Joseph Wheeler, a customer of the Mambo King, said he appreciates the Latin music at the club and has never seen anything wrong. He argued that if Bruno Montebalanco is getting in trouble financially he should be given a chance to pay off what he owes.

Lewis Speros, another customer of the Mambo King, said if this club closes it will be a real disaster for a lot of nice people who like to dance to Latin music.

Dwight Purcell, Portland businessman, said he had an unpleasant experience with Mr. Montebalanco when he owned a business called Carpets for Less. He said he was assaulted with a bat and received a judgment against him.

Commissioner Kafoury moved to uphold the unfavorable recommendation. Commissioner Hales seconded.

Commissioner Kafoury said both the License and Police Bureau put in a lot of time investigating this. She said Council has turned down

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applications twice at this location. Given the information provided, there are serious questions about the management and financial stability of the people involved.

Disposition: Unfavorably recommended. (Y-5)

- 1829** Liquor license application for Restaurant Services, Inc., dba Panorama, 341 SW 10th Avenue, Retail Malt Beverage liquor license (new outlet); favorable with restrictions recommendation (Report)

Discussion: John Werneken, License Bureau, said the applicant has agreed to continue to maintain a staff of three security people outside and six inside in addition to service staff. There is evidence of some disturbing activities in this vicinity which have impacted the Ben Stark Hotel and others. However, after repeated visits the License and Police Bureaus have concluded that whether because of applicant's substantial investment in security, or for other reasons, it appears that the establishment can draw a large number of patrons and remain in compliance with the law. Therefore, they do not find grounds to deny the license at this time although they are concerned about the written record of weekly incidents of disturbing conduct submitted by an opponent to the application. He said the current owners are very willing to work to minimize and contain the problems so the Bureau is forwarding a favorable recommendation with a restriction that the applicant continue to operate as proposed, maintain its investment in security and keep the conduct of patrons within legal requirements.

Police Officer Larry Sievert said they monitored this location, particularly when it was known as Euphoria, which had many problems. Monitoring has continued since it was taken over by the Fish Grotto because of the constant foot traffic between this and other areas. They see no added crime because of this new operation and find no indications of loud music.

Mr. Werneken said an ongoing Stark Street work group of the Downtown Community Association's Public Safety Committee voted unanimously to support this application.

Ben Merrill, 534 SE Grand Ave., attorney representing RSI/Fish Grotto/Panorama, noted that his clients had instituted security arrangements on Stark Street which are in large part responsible for lowering drug traffic in that area. Noise abatement requirements are also being met. He noted support from the Downtown Community Association, adding that the City made 12 visits to the Panorama and did not find a noise problem. An OLCC inspector also found no noise problem. Mr. Merrill argued that Pittock Block business tenants are not impacted by this operation and that it is the bars in the Ben Stark Hotel, not their establishment, that produce most of the noise.

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Ted Runstein, 1000 SW 5th, landlord for the Fish Grotto, said he believes that while this property is within a problem area, the operation has improved and he does not think the problems are emanating from the Fish Grotto itself. He said this will certainly be an improvement over the teenage nightclub.

Adam Patel, Ben Stark Hotel, disputed previous testimony, contending that the noise from Panorama disturbs hotel tenants and requires restrictions. He said the Police have at least four citations on file but he has been unable to get copies of the Police reports. He said when the noise is turned up it goes straight into the hotel sleeping rooms, arguing that the sound tests were not conducted appropriately. He said certain restrictions must be put on this operation, particularly to cut the noise from people leaving the nightclub.

Doug Pickett, 222 SW Columbia, attorney for Geraldine Rose, the landlord, supported this application.

Scott Spencer Wolfe, Chair of the Downtown Community Association Public Safety Committee and Chair of the Stark Street work group, said they support the application even though they believe there are noise problems at times. However, they believe the current operators will be able to resolve any problems that arise.

Commissioner Kafoury moved to approve the application with the restriction. Commissioner Lindberg seconded.

Mayor Katz said she will be monitoring this herself.

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

1830 Liquor license application for Spring, Inc., dba Spring Market, 3032 SE Hawthorne Boulevard, Package Store liquor license (new outlet); favorable recommendation (Report)

Discussion: John Werneken, License Bureau, said this application has attracted some opposition because of problems attributed to transients and street drinkers. Another outlet a block away is suspected of being the supply source and they will be investigating that further. However, this operation is not a traditional mini-convenience store. It will include a restaurant and provide a broad spectrum of oriental products. The Bureau has no reason to believe these applicants will not be responsible.

Police Officer Larry Sievert said because of concerns about street drinking, they are monitoring this area carefully. He said he checked the applicants' background thoroughly.

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Commissioner Kafoury moved to adopt the report. Commissioner Lindberg seconded.

Disposition: Favorably recommended. (Y-5)

At 3:20 p.m., Council adjourned.

BARBARA CLARK
Auditor of the City of Portland

Cay Kershner

By **Cay Kershner**
Clerk of the Council