



CITY OF
PORTLAND, OREGON

**OFFICIAL
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 8TH DAY OF DECEMBER, 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 Chuck Bolliger, Sergeant at Arms.

1891 TIME CERTAIN: 9:30 AM - Presentation of the 1993 Lowenstein Trust Award (Presentation introduced by Commissioner Lindberg)

Discussion: Commissioner Lindberg reviewed the history of the Lowenstein Award, established by the late Steve Lowenstein.

David Judd, member of the Trust Committee, presented this year's award to Ginny Nelson of Sisters of the Road Cafe, which feeds 200-300 people every day in addition to providing other services.

Disposition: Placed on File.

Item 1926 was pulled from Consent. On a Y-5 roll call, the balance of the Agenda was adopted as follows:

CONSENT AGENDA - NO DISCUSSION

1893 Accept bid of Jasco Construction Services for customer service area remodel project for \$93,464 (Purchasing Report - Bid No. 58)

Disposition: Accepted; prepare contract.

1894 Accept bid of Columbia-Cascade Construction, Inc., for Materials Testing Lab Remodel II for \$69,050 (Purchasing Report - Bid 62)

Disposition: Accepted; prepare contract.

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Mayor Vera Katz

***1895** Authorize Mangiamo! Catering, a company partially owned by a City employee, to participate in the bidding process for catering services for the City of Portland (Ordinance)

Disposition: Ordinance No. 167161. (Y-5)

***1896** Authorize application to the Economic Development Administration for a second-year planning grant of up to \$125,000 (Ordinance)

Disposition: Ordinance No. 167162. (Y-5)

***1897** Pay claim of Coffman Excavation, Inc. (Ordinance)

Disposition: Ordinance No. 167163. (Y-5)

***1898** Authorize contract with Quality Through Leadership & Associates for customer service and business planning services to the Office of Finance and Administration (Ordinance)

Disposition: Ordinance No. 167164. (Y-5)

***1899** Authorize Intergovernmental Agreement with State Board of Higher Education, Oregon Health Sciences University, for Police Bureau employee health monitoring program (Ordinance; waive Code Chapter 5.68)

Disposition: Ordinance No. 167165. (Y-5)

Commissioner Earl Blumenauer

1900 Set hearing date, 9:30 a.m., Wednesday, January 5, 1994, to vacate a portion of NW 10th Avenue and NW Hoyt Street at the southeast corner of Block 116, Couch's Addition (Report; Petition C-9849)

Disposition: Adopted.

1901 Set hearing date, 9:30 a.m., Wednesday, January 12, 1994, and initiate the vacation of a portion of public right-of-way at the northwest corner of SW Jefferson Street and SW 18th Avenue (Resolution; C-9857)

Disposition: Resolution No. 35218. (Y-5)

***1902** Amend contract with OTAK, Inc., to provide additional engineering services for the SW Terwilliger bikeway project (SW Boones Ferry Road to SW Taylors Ferry Road) (Ordinance; amend Contract No. 28536)

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Disposition: Ordinance No. 167166. (Y-5)

Commissioner Charlie Hales

1903 Accept completion of Sellwood Park playground, make final payment and authorize project manager to release retainage (Report; Contract No. 28837)

Disposition: Accepted.

1904 Accept completion of Westmoreland Park playground, make final payment and authorize project manager to release retainage (Report; Contract No. 28838)

Disposition: Accepted.

***1905** Authorize carryover of excess accumulated vacation hours for two employees of the Bureau of Fire, Rescue and Emergency Services (Ordinance; waive City Code Chapter 4.16.040)

Disposition: Ordinance No. 167167. (Y-5)

***1906** Authorize carryover of excess accumulated vacation hours for four employees of the Bureau of Fire, Rescue and Emergency Services (Ordinance; waive City Code Chapter 4.16.040)

Disposition: Ordinance No. 167168. (Y-5)

***1907** Contract with Sellwood-Moreland Improvement League, Inc., to manage the Oaks Pioneer Church at Oaks Pioneer Park (Ordinance)

Disposition: Ordinance No. 167169. (Y-5)

Commissioner Gretchen Kafoury

***1908** Authorize contract with Columbia-Cascade Construction, Inc., for Materials Testing Lab Remodel II for \$69,050 and provide for payment (Ordinance)

Disposition: Ordinance No. 167170. (Y-5)

***1909** Contract with Portland School District for \$12,000 to provide the TLC/TnT Peer Mentor Project for low income at-risk youth and provide for payment (Ordinance)

Disposition: Ordinance No. 167171. (Y-5)

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- *1910** Contract with Faith Tabernacle Church and Lazarus Art Society to carry out a children and teen art instruction program and provide for payment (Ordinance)

Disposition: Ordinance No. 167172. (Y-5)

Commissioner Mike Lindberg

- 1911** Accept completion of contract with Buckaroo Thermoseal, Inc., for roofing Phase B project, release retainage and make final payment (Report; Contract No. 28087)

Disposition: Accepted.

- 1912** Accept contract with Hollinger Construction, Inc., for replacement of the Whitwood pump station and rehabilitation of the Springville pump station as complete, waive liquidated damages and authorize final payment of \$117,360 (Report; Contract No. 28115)

Disposition: Accepted.

- 1913** Accept completion of the SE Division St., 39th to 60th, sewer reconstruction and make final payment to S-2 Contractors, Inc. (Report; Contract No. 28589)

Disposition: Accepted.

- 1914** Accept completion of the NE 62nd and Hancock sewer relief Phase I and make final payment to Brundidge Construction, Inc. (Report; Contract No. 28591)

Disposition: Accepted.

- 1915** Accept completion of the Tryon Creek infiltration/inflow rehabilitation projects, approve Change Orders 1 and 2, and make final payment to Werbin West Contracting, Inc. (Report; Contract No. 28635)

Disposition: Accepted.

- *1916** Contract with Christine Bourdette to create and install a sculpture at the Inverness Jail (Ordinance)

Disposition: Ordinance No. 167173. (Y-5)

- *1917** Amend contract with Woodward Clyde Consultants to increase the contract duration by seven months (Ordinance; amend Contract No. 27779)

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Disposition: Ordinance No. 167174. (Y-5)

- *1918** Authorize contract and provide for payment for the Kenton Basin CSO sump project, Unit 1-3 (Ordinance)

Disposition: Ordinance No. 167175. (Y-5)

- *1919** Authorize the Bureau of Water Works to advertise for professional services for programming work on the Water Bureau's Customer Information and Billing System (Ordinance)

Disposition: Ordinance No. 167176. (Y-5)

City Auditor Barbara Clark

- *1920** Cancel sewer assessments (Ordinance; amend Ordinance No. 164820)

Disposition: Ordinance No. 167177. (Y-5)

- *1921** Cancel sidewalk assessment (Ordinance; amend Ordinance No. 155622)

Disposition: Ordinance No. 167178. (Y-5)

REGULAR AGENDA

Mayor Vera Katz

- 1922** Direct participation in the Cities/County Coordinating Committee (Resolution)

Discussion: Mayor Katz said this is a draft of the work plan and includes agreement about the process to be used in dealing with such issues as annexation, child abuse and domestic violence, community policing, consolidation of general services, data processing, consolidation of emergency management, etc. She said the resolution also includes assignments so the City and County can begin moving towards consolidation on many of these issues.

Disposition: Resolution No. 35219. (Y-5)

Commissioner Earl Blumenauer

- *1923** Modification No. 2 to the City of Portland/Tri-Met Westside Light Rail Design Services Agreement for design services related to the Bureau of Water Works, Bureau of Environmental Services, and the Bureau of Planning (Ordinance; amend Contract No. 27263)

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Disposition: Ordinance No. 167179. (Y-5)

Commissioner Charlie Hales

1924 Accept contract with Cedar Landscape, Inc., for Brentwood Park site improvements as complete, authorize final payment and release retainage for a total of \$3,497 (Report; Contract No. 28596)

Disposition: Accepted. (Y-5)

***1925** Authorize contract with Hank Childs Golf Shop, Inc., for concession services at Rose City Golf Course (Ordinance)

Disposition: Ordinance No. 167180. (Y-5)

Commissioner Gretchen Kafoury

***1927** Authorize Intergovernmental Agreement with the City of Fairview for access to the City of Portland's 800 MHz Trunking Radio System (Ordinance)

Disposition: Ordinance No. 167181. (Y-5)

***1928** Authorize Intergovernmental Agreement with the City of Gresham for access to the City of Portland's 800 MHz Trunking Radio System (Ordinance)

Disposition: Ordinance No. 167182. (Y-5)

***1929** Authorize Intergovernmental Agreement with the Oregon Liquor Control Commission for access to the City of Portland's 800 Mhz Trunking Radio System (Ordinance)

Disposition: Ordinance No. 167183. (Y-5)

***1930** Authorize Intergovernmental Agreement with the City of Troutdale for access to the City of Portland's 800 MHz Trunking Radio System (Ordinance)

Disposition: Ordinance No. 167184. (Y-5)

Commissioner Mike Lindberg

***1931** Amend Contract with Montgomery Watson to conduct Phase II work to implement Balch Creek Stormwater Management Plan and facility designs for stormwater detention and water quality projects (Ordinance; amend Contract No. 27743)

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Disposition: Ordinance No. 167185. (Y-5)

City Auditor Barbara Clark

1932 Assess property for sewer systems development charges through October, 1993 (Hearing; Ordinance; Z0497 through Z0503)

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

1933 Assess property for large lot deferral charges through October, 1993 (Hearing; Ordinance; L0033 & L0036)

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

1926 Accept energy rebate of \$13,829 from Portland General Electric for installation of energy efficiency measures at the new Emergency Communications Center (Report; Previous Agenda 1887)

Discussion: Ron Comstock, Portland General Electric (PGE) Marketing and Sales Account Executive, presented an Energy Smart savings award based on savings by General Services and the Emergency Communications office of over 10 per cent on the design and construction of the new 9-1-1 building. He said this represents savings of over 146,000 kilowatts annually in the operation of that facility. He also presented a check to the City for its efforts.

Disposition: Accepted. (Y-5)

S-1892 **TIME CERTAIN: 9:45 AM** - Request that Oregon Department of Transportation (ODOT) not build Phase III of the East Marquam Project; request that ODOT spend funds allocated on Phase III on a transportation master plan for the Central Eastside, on alternative transportation modes, on construction of southbound access to I-5 as part of a transportation master plan (Resolution introduced by Commissioner Hales)

Discussion: Commissioner Hales noted presentation of the report of the citizens advisory committee last week outlining a vision for the future of the Eastbank. He said in only one case did he disagree with the committee's recommendations and that is whether to build the Water Avenue ramps, an issue the committee was divided about. He said the resolution today deals only with the transportation issues contained in the report and proposed actions in other areas will be dealt with at another time. He said this comes at a time when the whole region is making changes to the transportation program and when new ideas are being accelerated through the Joint Policy Advisory Committee on Transportation (JPACT), on which Commissioner Blumenauer serves,

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and through other public bodies. He said this resolution makes a commitment to maintain the City's leadership in the region in approaching land-use and transportation needs differently than other cities might do.

Commissioner Hales commended the committee for its open and objective process and for the amount of time it spent struggling with the issues. This resolution does two things: 1) recommends that the State not build the Water Avenue ramps and; 2) sets some objectives for use of the funds not spent to build the ramps. He said they hope the funds will be used for alternative transportation projects and to accelerate the move from a highway-based transportation system to a more balanced one. They also hope funds can be used for a master plan effort to study a different transportation system for the Central Eastside. He said even if the State is unwilling to spend these funds on such a study, as ODOT has indicated, the City should find another way to fund it. Finally, the resolution states that southbound access to the Central Eastside Industrial area is a good objective but a better route should be found than the Water Avenue ramps.

Commissioner Hales said construction of the ramp is inconsistent with the future of Eastbank as envisioned by the Central City plan and the advisory committee. The ramp was a mistake in the first place and there is no fiscal justification for spending \$19 million on it. He said the burden of proof should fall on the ramp advocates, but acknowledged that there is a risk that, as a result of this resolution, the rest of the region may spend the money on traditional highway projects somewhere else in the metropolitan area and not agree with the City on the need for a more balanced transportation system. He said he thinks the risk is worth taking rather than depending on the freeway system too long.

Commissioner Hales moved the Substitute, explaining that the only substantive change in the Substitute was requested by the Office of Transportation and adds the words "and asks the Portland Office of Transportation to return to the Council with a specific list of projects."

Commissioner Lindberg seconded and the Substitute passed.

Commissioner Blumenauer said there was a meeting last night about reprioritizing the regional construction budget. He asked Council to clarify its priority regarding the three areas signalled for reallocation of the \$19 million budgeted for the ramps.

Commissioner Hales said any of those three areas would be worthy uses of those funds, if they are freed up. The feasibility of any of those will depend on Commissioner Blumenauer's negotiations and the disposition of those funds by JPACT, Metro and the State. All three are possible, if

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not equally likely. He said the resolution should give equal weight to those uses although whether JPACT will do so remains to be seen.

Commissioner Blumenauer said he hopes some of the regional partners will speak so there can be a more specific discussion about the likelihood of that happening. He said Council should craft an approach that is as focused as possible in order to get some of the money back for the benefit of the City. He questioned whether the best strategy is giving all three objectives equal value.

Mayor Katz asked that testimony be limited to the Water Avenue ramps issue and transportation planning.

Loren Wyss, Chair of the Tri-Met Board, said the Board has no opinion on the Water Avenue ramps but wishes to remind Council of the longstanding process for allocating funds within this district, noting that it involves JPACT making a recommendation to ODOT which then makes the final determination. He said it is particularly important that the City, if it gives up the \$19 million, make a recommendation that will be of greatest benefit to Portland and transportation options in the future. He asked for Council support in making sure that Tri-Met's transit plan be adopted, adding that the plan will require an investment of \$72 million of which only \$48 million is available. This is the cost of the basic plan and does not cover any expansion. If Tri-Met does not get the money its other options are to take it out of its general fund, which does not have that much, or add another tax, possibly a gas tax, which would however supply only a small amount of that shortfall.

Jack Burns, 516 SE Morrison, implored Council to turn this resolution down, arguing that the ramps are essential to the Central Eastside Industrial sanctuary. He said loss of the ramps will set area businessmen back ten to 15 years and give them uncertainty about access forever. He said \$80 million in investment dollars is ready to go in there with a goal of raising employment to 30,000, providing high paying jobs right in the center of town and keeping the neighborhood from decaying.

Catherine Galbraith, Bosco-Milligan Foundation, opposed the resolution, pleading with Council to recognize that the Grand/King corridor is strangling in through-traffic fumes. She said her organization is involved in restoring a building in the area which she fears people will not be able to get to. She said the employment base of the Central Eastside Industrial area desperately needs access and this resolution is not based on fact nor fiscally responsible. She said for the first time she believes this process has divided the East from the Westside of town.

Bruce Burns, Central Eastside Industrial Council, criticized Council's

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intent to overrule the majority of the citizens committee who favor building the Water Avenue ramps. This breaks a long-standing promise to the Eastside and, if passed, this area will remain the only quadrant in the inner City with no freeway access. He contended that dozens of businesses have withheld investments waiting for the ramps, adding that his own company has exported 250 jobs to the suburbs based on the lack of transportation access. He said many retail businesses, not just automotive and truck-related businesses, are hurting because there is no access and MLK, Grand and the Westside downtown are suffering from an excess of traffic. He said there should be a lot more than the 17,000 jobs, which are due to individual, not City, efforts.

Ken McFarling, 7417 SE 20th Ave., 97202-6213, supported the resolution.

Don McClave, Portland Chamber of Commerce, said lack of transportation has long been recognized as a limitation on growth in the Central Eastside. He said they are greatly concerned about cancelling the ramp project after so many years of study when no alternative is offered, placing the Central Eastside business district in limbo. He said it is imperative that Council promptly identify a new solution and secure new funding. He added that any further study of I-5 should not question the future of the Central Eastside as an industrial sanctuary. Care should be taken that future actions do not discourage the creation of new jobs for inner-City residents.

Howard Glazer, 2378 SW Madison, commended Council on its vision and courage in adopting this resolution. Land-use decisions should be made to serve the quality of life and transportation goals other than highways.

Nick Frezza, Eastside businessman, said this decision does not serve the people the Council represents and only reinforces the outrageous proposal to remove an entire section of I-5, the major conduit for travel from Mexico to Canada. He argued that the lack of localized access is detrimental to air quality, contending that if there were southbound access, cars and trucks could leave the district about ten minutes sooner than they do now. He said it is wrong to hold the Central Eastside hostage from freeway access and objected to wasting more money on repeated studies.

Don Sterling, a member of the Advisory Committee, noted that the recommendation of the committee for removal of the freeway was not unanimous. He opposes removal because it undermines the City's credibility, particularly when no one has any idea how to pay for removal or what will be substituted for the Water Avenue ramps. He suggested that the City stay in the game on the ramps while continuing to study alternatives. He said there are lots of things not to like about

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the ramp but it serves an important role in the delivery of services which cannot be delivered by streetcar. He said the McLoughlin ramps are intended to move traffic without going down Grand and King, thus relieving congestion there. He accused Council of going about this backwards.

Ron Gould, 4926 SW Corbett, adamantly opposed the resolution, contending that a good decision was made four years ago and should not be changed. He said the Central Eastside needs this access more than it does a park, noting that an Association for Portland Progress report on the Parks Bureau reflected a \$35 million infrastructure need.

Jim Hubler, Senior Vice President, Freightliner, said Eastside business owners have made long term decisions based on the promise of southbound access. Passing this resolution will erode confidence in the City's planning process and should be denied based on issues of fairness, priorities and jobs.

Frank Phillips, 1 SE 2nd, said he is an area businessman who supports moving the freeway, adding that lack of accessibility has not affected the growth of his business. He said the question is do you spend \$20 million for a ramp on a dead horse or look to the future.

Juliann Lansing, 380 SE 27th, said the money for the ramps should be spent on poor people and the homeless.

Mayor Katz said the money cannot be used for anything but transportation.

Pamela Reamer-Williams, speaking on behalf of the Oregon Trucking Association, Oregon Drayman and Warehousemen Association, the Oregon Dump Truck Association and the Oregon Towing organizations, said passage of this resolution will further erode taxpayer confidence and in doing so Council is not representing either the east side, the taxpayers or businesses. She said the legacy of this action will be killing the goose that lays the golden egg and urged Council to keep its commitments and not waste more time and money.

Ed Sammons, owner of Oregon Transfer Company, supported building the Water Avenue ramps. He said a correct analysis was made in 1989 when the issue was reviewed and the decision was made not to remove the freeway. Both the Water Avenue and McLoughlin ramps are vital to regional growth and passage of this resolution will stall essential projects. In order to become a distribution hub, Portland must have the necessary infrastructure.

Richard Lishner, 2545 SE 37th, 97202, supported removal of the freeway

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and submitted a walking map of downtown Portland 20 years in the future to show what the City might look like without it. He said this is not a class issue, it is a generational issue.

Fred Nussbaum, 2614 NE 43rd, 97213, supported the resolution. Building the ramp is not a guarantee that the Central Eastside will remain a sanctuary as once the ramp is built and better access is provided, property values increase. Also, when capacity is added to the freeway, the result may be the same or worse congestion. Businesses will move out to suburbs anyway and some groups will have to give up something in order to make our City better overall. He said the ramps must be looked at in terms of the larger picture and their interference in any riverbank development.

Greg Wentworth, 101 SE Grand Ave., Wentworth Chevrolet, said a strong job base is needed in the Central Eastside and businesses have worked for years justify the need for access.

Bob Nagel, 2101 SE 7th Ave., opposed the resolution, noting this makes the decision of the citizen's advisory committee meaningless. He also contended that Commissioner Hales' statements about financing and transportation planning are based on deliberate misrepresentations.

Drew Bolliger, 511 SE Belmont, said Central Eastside businessmen feel like they have been betrayed.

Earl Bolliger, 511 SE Belmont, said money is in short supply and after talking to Mr. Warner at ODOT, he learned there will be no reallocation of funds. He said the ramp is absolutely vital.

Ron Buel, 2817 NE 19th, supported the resolution, congratulated Commissioner Hales on his vision and Council for its courage. He said the Water Avenue ramps would soar 90 feet in the air in a corkscrew spiral and require trucks to cross high speed rail lines which merge over two lanes of traffic, creating an unsafe traffic situation. He said it would be in the best interest of the City for its JPACT representative to support preservation and future use of these funds in the Eastbank area. Second, he asked that the Transportation Master Plan accomplish the following objectives: 1) expeditiously deal with southbound access; 2) develop a plan to resolve access and safety problems surrounding the Oregon Arena, Convention Center and Coliseum; 3) accomplish these objectives in a way that integrates with the realignment or removal of I-5 and; 4) develop an economic action plan for job creation along the Eastbank.

Moshe Lenske, 4314 SE Crystal Spring Blvd., commended Council for

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taking this action and putting many different kinds of projects within one context.

James C. Stark, Northwest Wholesale Distributors, opposed the resolution and said he feels betrayed by this action which breaks a long-standing promise to neighborhoods and has such a negative impact on the livelihood of area employees. He cautioned that by taking this approach, nothing will be done.

Brian McCarl, 3015 SW 1st, #100, supported the resolution, noting that ODOT itself admitted the ramps are poorly designed, will degrade traffic on the freeway and pose a serious safety problem by merging truck traffic at slow speeds onto the Marquam Bridge. He argued that the decision not to expand the freeway is to the future of Portland what the Downtown Plan, the decision to close Harbor Drive and not to build the Mt. Hood freeway were to the future of downtown transit area and development of Waterfront Park and Riverplace. He described some of the investments, including Pioneer Place, which were attracted to downtown because of the projects there.

George Crandall, American Institute of Architects (AIA) Urban Design Committee, supported the resolution. The 1988 Central City Plan urged that the River be the City's focal point and 10,000 people said do something about the Eastbank freeway. He said Council is not alone in its decision not to build the ramp, citing support from SE Uplift, Riverfront for People, the AIA, and the American Society of Landscape Architects. The Oregonian urged support also and even ODOT is not too excited about the ramps. This will save taxpayers money by preventing piecemeal expenditures of \$220 million and will not jeopardize the industrial sanctuary or jobs. That is a zoning issue alone. He said the AIA is ready to help find other ways to provide southbound access.

Don Genasci, 2217 NW Johnson, spoke in support, calling for implementation of alternative connections to provide access.

Robert Kryder, speaking on behalf of his brother who has a business in the ramp area, said closing the ramp will effectively close down his business. He said this is an historic district and the proposal to move the freeway will cost far too much money and cause too much destruction as far as Eastside businesses are concerned.

Randy Miller, president of The Moore Company, said there is built-in conflict between the two sides, with known consequences on one side and ambiguity on the other. If the ramps are killed, no one knows what the consequences will be. He said the City has a sanctuary that works now but no one knows whether the City will be able to replace those jobs and once the money for this project goes, no one knows what will happen.

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He said the result is confusion and a diminished ability to attract business.

David Lohman, Port of Portland, said the Port is concerned about the impact on regional providers of goods and services as it believes efficient freight movement is essential to maintaining the vibrancy of the economy. He noted that the Port, Metro and ODOT are beginning a major study, the Intermodal Management System, required by the federal government in order to identify freight movement patterns and problems. One problem is clearly the inadequate access from Central East Portland to I-5 southbound, a problem that will not be alleviated by light rail. He criticized the call for removal of a segment of I-5 without first determining how the regional functions it serves will be replaced. Regarding infrastructure funding, he said the Port believes it will be scarce for the foreseeable future and fears that projects critical to the region's future as a trade and transportation center will not get funded. He said the Port Commission voted unanimously to oppose the resolution and support building the ramps.

Ken Swan, 3225 NE 28th, said it is irresponsible to kill the ramps based on a vision of removing the freeway when there is no plan for it and when the City must plan for 50,000 additional people in the next 20 years. Congestion on neighborhood collectors on the Eastside constrains movement there. He said the Central Eastside did not choose to put the freeway along the river in the first place and a replacement should be built before any dismantlement takes place.

Peter Fry, 733 SW 2nd, opposed, arguing that the resolution is inaccurate in its factual base and intention. He said the City is proceeding knowing this cannot be implemented as proposed and does not comprehensively address the issues. He said the process violates many state planning goals and affects an amendment to the regional transportation plan without addressing any of the goals or the continuity of 16 years of planning. He cited a 1977 study which laid the groundwork for the ramps.

Andy Cotugno, Metro Planning Director, described how the proposed action fits in with the regional process. He said the funds can be spent on any transportation-related project anywhere in the State, which is a change from the last time Council considered this issue, three years ago, when the money was restricted for use in this area. He said ODOT is in the process of cutting some \$130-180 million worth of projects from its six-year program. He said this decision will make that process easier. Regarding reprogramming the funds, he said ODOT has already said it will not help pay for a study to relocate a freeway that works fine. Two, Metro has consistently tried to press the issue as to whether further cuts should be made in order to funnel some funds to alternative

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transportation modes, such as bus service in Clackamas County or better handicapped service. Passage of the resolution will help make that more possible. Third, there would not be enough time to identify an alternate to the as yet unidentified southbound access to include it with projects slated for this time frame. The resolution makes the region's job of balancing transportation needs easier and spending money on alternative modes at least possible.

Marcy McInnery, 6424 NW Winston, 97210, said construction of the ramps is inconsistent with the Committee's recommendation for removal of the ramps. She called the ramps a bad solution which leaves many access problems unresolved because of the steep grade and inadequate study. The debate should be about how to provide better access.

Harold Coe, Speeds Automotive, 120 SE Clay, 97214, said they have been told for years that they would have southbound access onto I-5 and he is disappointed about the elimination of the ramps after all this time and effort. He said there is nothing ugly about freeways.

Robert Butler, 824 SW 18th, 97205, commended Commissioner Hales on his courage and said City resources should be committed to fund a definitive study.

Earl Twetmeir, 3041 NE Alameda Terrace, supported building the ramps and asked Council why it appointed an advisory committee if it then does not go along with its recommendations. He said this causes an erosion of confidence.

Mayor Katz asked Jeanne McKeever what the citizen's committee heard regarding jobs.

Ms. McKeever said that came up when the committee talked about land-use issues and the degree of job growth in that area. Michael Harrison, Planning staff, prepared a paper indicating that job growth has climbed from 7,000 to 17,000.

Commissioner Hales said 1990 Census numbers show steady employment growth.

Mr. Cotugno agreed, noting that recent data indicates there has been some modest job growth.

Commissioner Kafoury asked if there was any linkage to the ramps. She said the perception is that failure to build the ramps will impact job stability and future growth.

Ms. McKeever said no, they had no hard information linking job growth

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to transportation.

Mr. Cotugno said Metro has been doing quite a bit of work in the 2040 Plan about how many jobs would go where if the urban growth boundary is maintained or expanded. The question of density versus expansion is really a residential question, not a jobs issue. He noted that the area has surplus employment capacity, more than is needed for 2040, and the competition for locating new jobs is significant as there are a lot of places business can go. Accessibility directly affects where they will go.

Mayor Katz asked if staff could track where those jobs go or if there was any data as to whether businesses in the Central City are moving to the suburbs or bypassing the Central City to begin with. She said it is important to know whether jobs are leaving or not leaving the Central City.

Mr. Cotugno said they are not tracking whether businesses are moving from the City to the suburbs. They are tracking sectors, such as Class A office or retail, and have found that Class A is a shrinking share of the economy and that the region is overzoned for that sector. He said Metro is tracking where growth has gone, not which businesses are going where. Regarding downtown employment, they have seen a slowdown in the market share of regional employment coming to the Central City because of the growth in self-employment.

Commissioner Blumenauer said Metro has tracked expansion of the type of jobs that have historically been in the Central Eastside. Those have left the Central Eastside and tend to be located in suburban industrial parks. That is a decided trend over the last 20 years.

Mr. Cotugno agreed.

Mayor Katz asked for the data Metro has on this. She said there are a lot of factors involved in the loss of jobs, including the growth in home-based jobs and restructuring of corporations. She raised the issue of the studies and asked Ms. McKeever to comment on the committee's report which states that the six out of the 13 who oppose building the ramps found there was inadequate documentation and that the City was unable to produce the original proposal or backup technical documents from the time the Council first approved the proposal in 1989. She asked if this statement still holds.

Ms. McKeever said the statement still holds. She said very early on the committee said it was nervous because there was not enough solid information on the Water Avenue ramps in particular and kept coming back to that issue, referring to it as the base case. A technical advisory work group, made up of representatives from various government

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entities, also met weekly to support the advisory committee. The committee asked for information from Transportation and other sources to make that base case early on in the process but was unable to find the information it sought.

Mayor Katz said last week Council heard that the kind of data they were looking for was not produced at that time. She asked Ms. McKeever to comment.

Ms. McKeever said Transportation staff was frustrated by the difficulty in going back that far to produce the base case information, even though this issue was in the forefront throughout this time period. She said they did have an environmental assessment from the Office of Transportation and recently received a traffic analysis. ODOT has added a hearings report on the environmental assessment.

Mayor Katz asked if there was a traffic count or any destination information.

Ms. McKeever said that information was not available although the committee was particularly interested in either old or new information about auto and truck destinations.

Commissioner Blumenauer said a memo from Felicia Trader, Director of the Office of Transportation, speaks to the availability of the document.

Mayor Katz said she does not know if it had actual counts about who is using the road and the destinations.

Commissioner Blumenauer read the memo which states that the directions from the committee to the bureau indicated the review would only involve existing information. Commissioner Hales asked ODOT to provide an origin and destination study of trucks and general traffic; ODOT responded that this information was not available, suggesting that PDOT do some computer modeling. Some was done but PDOT staff could not complete the information within the six-month time frame because the base line truck information is not available in the region. Metro and the Port are working on developing this model but do not currently have it. He said the Council made a decision to protect the Central Eastside, starting in the Goldschmidt administration, and to provide transportation improvements to enhance truck movement. He argued that there was no disconnect between land-use and transportation as the transportation improvements were designed to support that land-use function, rather than driving it.

Ms. McKeever said the committee was very supportive of the tie between land use and transportation. The split came when they looked at

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specific transportation improvements and the technical data. That is when the committee got hung up because of the enormity of the amount of money and because the committee was asked to make specific recommendations.

Bill Wyatt, 2644 NE Alameda, member of the Citizens Advisory Committee and former member of the Central City Plan Steering Committee, said one pivotal piece of information not contained in the report is that only eight members voted to support the underlying land use at all. Five members opposed continuing the industrial sanctuary and called for mixed-use. The decision to support the ramps was a close vote and the relationship between the adjoining land use and the Water Avenue ramp was clear to everyone. As for the data, he said it has never been available, adding that billions of dollars of transportation-related decisions have been made in the community with less information than this committee saw. He said he would love to have the destination and trip analysis but it is not available now, nor was it available during the Central City plan when they spent \$2 million generating information.

Mayor Katz said she talked with the Task Force about the lack of integration between land use, transportation and economic development. One of the issues raised was how to improve what the City has been doing.

Joanne Allen, 1908 NE Multnomah, CAC member, said many of those who voted against the ramp favored the industrial sanctuary but believe it is an incubator business space and those who move out have had major expansions that preclude remaining. While southbound access is necessary to the industrial sanctuary, there were major concerns by committee members about the safety of the ramps.

Don Sterling, CAC member, said all of the anecdotal testimony supported the need for access both to the south and to the west. He said he learned what a jewel that sanctuary has been since it was established in 1980 and believes sanctuary does not mean having industry just until something better comes along. It means you provide ways of getting around the Central City. He noted the high unemployment in Northeast and cautioned Council not to do anything that will hurt the sanctuary. He supported keeping the Water Avenue ramps until Council knows it has something better.

Mayor Katz said a much larger majority of the committee did want to maintain the sanctuary.

Mr. Sterling said if Council recommends freeway removal it will put a cloud over the region for the next 15 years.

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Margaret Kirkpatrick, CAC member, said the seven committee members who voted for the Water Avenue ramps based their decision on the intuitive belief that the ramp is a necessary part of the infrastructure needed to support that area. She said Commissioner Hales seems to recognize in the resolution the intuitive need for southbound access and if the City is going to plan for industrial uses, the need for infrastructure is common sense.

Mayor Katz said if general fund money were being used to fund this project much harder data would be demanded.

Commissioner Kafoury said she is very concerned about the public's perception of what Council is doing. Sincere people believe by doing this the Council is undercutting and potentially destroying an area and a job base that is very important to the City.

Mayor Katz said the resolution points up the fact that the Central Eastside Industrial area is a critical industrial sanctuary. She read a statement from the Business Roundtable Economic Development policy report indicating their belief that the industrial area is critical to the economic health of the City. She said the issue is spending \$20 million for some ramps based on data which the Council does not have. That is being rethought but she is committed to making sure that companies remain in the Central Eastside.

Commissioner Kafoury said she is trying to emphasize that the majority of the Central Eastside believes this decision will jeopardize that growth.

Commissioner Blumenauer said it would be helpful for the Roundtable to review the resolution and see if it matches with its policy. He also noted that the resolution has not been reviewed by the Portland Development Commission or the Planning Commission. By failing to have such reviews, Council is going to pass something that casts a cloud over the Eastside sanctuary. He said he believes in intermodal planning but does not believe that is what is being done today. Instead Council is killing a ramp, sending a message and moving on. That is unfortunate.

Commissioner Hales noted that last week Commissioner Blumenauer was anxious to get a decision about the Water Avenue ramp right away.

Commissioner Blumenauer said it should not be an afternoon's decision when you are doing something which runs contrary to a decision made 15 years ago that is part of the Central City plan. He said he cannot remember ever having the Port Commission come in and unanimously recommend against a resolution. This is serious business.

Commissioner Hales said the committee recommendations certainly have

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land use designations that need to be considered by the Planning Commission.

Commissioner Blumenauer asked for clarification of the City's strategy regarding use of the \$19 million that will not be spent on the ramp, particularly given the fact that ODOT has indicated it will not fund the study. Should the first priority be alternative transportation modes or the southbound access.

Commissioner Hales said the question is whether the JPACT representative has enough flexibility if all three objectives are listed in the resolution. He said because of the new flexibility in use of the funds he believes the old rules no longer apply.

Commissioner Blumenauer said the best chance to get the money back will be alternative transportation modes unless someone can come up with an alternative package for southbound access.

David Knowles, Interim Director, Bureau of Planning, said Council is breaking the mold in terms of the process but could direct staff to develop a strategy to get as much of the benefit of those dollars as possible. At this stage it is helpful to have some flexibility and the City does not need to specify allocation of those dollars but could instead direct the JPACT representative and the Planning Bureau to develop a strategy with the regional partners to try to get the benefit of those dollars.

Commissioner Blumenauer said the difficulty is that a planning study is not feasible and if you go for construction, you have to have a project, which the City does not have. He said it is important not to have frustrated expectations and not put forward something that is not going to happen.

Mr. Knowles said there is nothing improper about the City expressing a desire for the use of particular funds but whether that can be accomplished remains to be seen and will require the work of everyone in PDOT and Planning. Council should express its interest in use of those funds for all of those purposes.

Commissioner Hales noted that the Substitute asks Transportation staff to come back with alternative projects. He said that is an effective set of instructions for the staff and the JPACT representative.

Mayor Katz said she suspects there will be continued meetings to develop strategy to meet Metro's time line. She said all parties are concerned that the strategy be built but she believes it will be ready at the necessary time.

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Commissioner Blumenauer voted against the resolution. Aside from ramps, he is concerned with ambiguity about the future of the industrial sanctuary. He said this will bring different kinds of jobs to the Central Eastside, not blue collar ones, and development pressure could gentrify area as the property becomes more expensive. He said this sends a troubling message about City priorities and about the integrity of the planning process. He said there is a need to stick with plans and have people count on the City, adding that it is bad planning to change a 15-year promise in one Council session, without a tenth of the public process that went into other plans. He pledged, however to go to JPACT to fight to get as much money as possible for the City because he wants the City to retain its credibility. He said making this change could create a lot of problems in the future because it invites people to take every issue to the wall and overstudy and politicize them.

Commissioner Hales said whenever public money is spent on a public work, it needs to stand on its own merit. The Water Avenue ramp fails on its merits; it is not a good transportation project or a good use of public money. Nor does it advance the goals of the City for liveability and prosperity. He said he is sorry that so many people have invested so much time and hope in what is ultimately a transportation project that fails on its own merits. The bigger question is about how the City is going to grow. What has harmed so many cities is growth which comes project by project because federal or state money is available rather than doing integrated planning. Integrated planning would have avoided building I-5 in the first place and avoided a lot of bad transportation decisions all over the region. He added that the Central Eastside Industrial district will be the beneficiary of that kind of planning although they do not believe that now, because too often in the past decisions were made on the basis of where the roads are. He took issue with Commissioner Blumenauer's statement that gentrification will happen if the ramps are not built. He said he does not want transportation decisions to drive the character of that community; he wants an integrated land use, transportation, services and housing plan to determine it. He said Council is now sending a signal, as it did when it took out Harbor Drive, that it wants to move away from freeway dependence and fitting communities around expanding transportation systems. He said the Central Eastside needs to be reassured that Council is not making a land-use decision that compromises the health of that district.

Commissioner Kafoury said she does not support the Water Avenue ramp and believes it is not a Portland solution. She also has concerns about its safety and design. However, her support for the resolution does not mean she supports removal of the freeway and spending resources that should be spent on much more pressing needs. Nor does she think it addresses the very legitimate concerns of the business

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community. She said the verbiage about protecting the industrial sanctuary is not adequate and there is an awful lot of work to do. She does not feel this abandons a past commitment but that is the perception and Council faces a big challenge in linking the rhetoric of economic policy vis a vis a perceived shaky district.

Commissioner Lindberg said this is a critical decision and is tied in with some larger decisions about the Eastbank. He said in reviewing past actions, he found that many of wisest decisions have been very unpopular, such as reserving property for Washington Park, killing the Mt. Hood freeway and building the transit mall. He has heard many times that similar decisions, such as Harbor Drive, would severely damage the City. He said the City must think its way, not spend its way, to the future and end up with more freeway spaghetti and make the river less accessible. Spending money on the ramps would be a step backwards. He said he understands why people criticize Council for not honoring past commitments, noting that he had advocated for this project in 1980, but it is important to be flexible to change. He said his vision is for a redeveloped riverfront not separated from its neighborhood and a strong central industrial district with access to the freeway in the future. He said he believes a way can be found to develop part of the riverbank and still retain a strong industrial sanctuary, noting the growth from 7,000 to 17,000 in the last decade and the fact that the committee's recommendation calls for taking only 12 out of 250 blocks from industrial use. He said this in no way should be characterized as a decision that destroys the Central Eastside Industrial district. He added that the ramp is a poor project, poorly designed to loom over the water, and a waste of taxpayers' money.

Mayor Katz said this issue is about the City's future and is another opportunity to plan for that future and sensible transportation options that support it. She said this is an opportunity to revisit poor decisions in light of changing needs and priorities and is also about using limited resources wisely. She said government needs to be careful about expending taxpayer dollars, adding if these were General Fund dollars, the City would not have spent billions of dollars in the past without data supporting the need for those expenditures. She noted that these are dedicated transportation funds and cannot be spent on other service needs. She said she does not want to spend \$200 million to support a freeway that probably will not be there in 20 years. She said the value of the Central Eastside is recognized in the economic development plan and she will personally support industries and businesses there. She also reaffirmed her support for finding a better southbound access and more efficient transportation routes. These goals will not be forwarded by a 15-year old plan, especially with the lack of supporting data. She said the Water Avenue ramp proposal is unsound, will degrade circulation in I-5, involves a dangerous curve and would force

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commercial trucks to cross over two lanes of traffic to get to I-5 South. It is a patchwork response that keeps the City locked into old plans that do not have integrated planning.

In response to the Central Eastside's desire for certainty about the future of the area, Mayor Katz said the master plan would provide that. It is ludicrous to think that every blue collar job will disappear and an honest discussion on this issue is needed. This resolution calls for integrated transportation planning and redirects the expenditure of \$200 million in freeway improvements. She said the issue is not over and there is a lot of work to do but if the City cannot dream about its future it will be caught in its past mistakes.

Disposition: Substitute Resolution No. 35220. (Y-4; N-1, Blumenauer))

AT 1:10 p.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 8TH DAY OF DECEMBER, 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; Pete Kasting, Senior Deputy City Attorney; and Officer Chuck Bolliger, Sergeant at Arms.

1934 **TIME CERTAIN: 2:00 PM** - Amend Title 33, Planning and Zoning, to implement Strategies for Fair Housing and streamline regulations (Ordinance)

Discussion: Commissioner Kafoury said a Task Force has worked hard to try to make siting of special housing for the homeless work better.

Ruth Scott, Task Force Co-Chair, said this proposal is based on the recommendations and work of the Task Force which represents a broad spectrum of people, including the clients themselves, with an interest in the siting of facilities for homeless and special needs persons. She said these strategies takes the City in a more positive and legal direction which over the years will be good for the neighborhoods, business districts and clients.

Jean DeMaster, speaking for the Planning Commission, said the Commission recommends adoption. She said no group on the committee got 100 per cent of what it wanted, adding that this action is being taken to meet Fair Housing requirements and consider how, if Portland gets more money for housing, that housing can be developed. The Commission looked at ways zoning could be changed to meet the requirements and reduce geographic concentrations of the homeless. The premise of the strategy is that all parts of the community have a responsibility to take their fair share of the homeless, the low income and those with special needs. This offers protection to particular neighborhoods with a high concentration of such housing facilities and makes shelter providers pass a certification process.

Mayor Katz asked staff to identify those areas which have high concentrations.

Jessica Richmond, Bureau of Planning, said this brings the City into compliance with the federal Fair Housing Act and addresses the needs not only of those who need special housing, but also of the neighborhoods and business communities. It also significantly streamlines the siting of such facilities and reduces the effort it takes

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for the City to administer the current regulations. Included in the proposal is a redefinition of the difference between residential and non-residential, changing the length of stay from 60 to 30 days. It also creates specific definitions for mass shelters (with dormitory-style rooms) and short term (individual sleeping rooms) housing and treats the two types very differently based on their impacts in residential neighborhoods. This also removes the cap on shelter beds and SRO hotel room beds north of Burnside and yet at the same time makes it easier for such facilities to locate outside downtown. She said if short term housing goes into an existing structure it will still require review in residential zones but is a Type II process. If they are going into a new or expanded structure, Type III review is required, except in commercial and employment zones where it is allowed by right subject to development standards. Mass shelters require a Type III process except in the highest density zones, although providers may circumvent land use review by meeting specific development standards, including certification by Multnomah County. Otherwise, they go through a Type III land-use review with approval criteria that are more difficult to meet. Ms. Richmond noted that most of the impacts of such facilities relate to program, not land-use, issues.

Mayor Katz asked who would be responsible for negative behavior.

Ms. Richmond said providers would be responsible, adding that the certification requires a good neighborhood policy.

Cathey Briggs, Housing and Community Development, addressed the certification process and the location policy. The idea is that behavior concerns should be addressed, but not through the land-use process. Multnomah County would be responsible for annually certifying that shelters meet some standards, including having a good neighbor plan between the provider and the neighborhood or business associations. That would have to be in place before providers could take advantage of the streamlined citing process. She said the committee was very concerned that the certification process be viewed as a safeguard for people living in the facility as well as neighbors, all of whom want to feel safe.

Ms. Briggs said the County is planning to put performance standards regarding the good neighbor plan in its contracts with providers, most of whom are publicly funded. If problems with compliance are found during the annual recertification process, the facility may not be certified, in which case they will have to go through a Type III land-use process.

Commissioner Kafoury said there are two checks on providers: 1) the annual certification process and; 2) withholding of public funds. The

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intent is to consider this a binding commitment which if violated would lead to loss of funding.

Ms. Briggs said people in the facilities are often blamed for things, such as litter, they did not do.

Mayor Katz noted that many of these facilities would not have a social service component.

Ms. Briggs agreed they may only be providing basic shelter.

Mayor Katz said the concern of neighbors may be heightened when there are no sanctions if people do not go through alcohol and drug treatment in order to stay.

Ms. Richmond said the good neighbor plan addresses many of the issues that arise where there are no social services on site. If the plan is violated, the providers lose their money and the right to be there.

Mayor Katz asked if there is a hearings process.

Ms. Richmond said during the recertification process neighbors will be asked for comments but no formal hearing is required. Most of the shelter providers are interested in moving people out of homelessness and they expect to see fewer large shelters and less which do not have requirements for users to take positive action to move into longer term housing.

Mayor Katz said Planning may be able to adapt these provisions to its permitting process.

Ms. Briggs said the third leg of the strategy is a location plan to deal with the concentration of lower income people in a few areas. The policy will help guide how the City provides funding for subsidized housing when the population in the targeted area is below 50 per cent of median income and when more than 20 per cent of the housing units are already publicly-assisted. In order to site in such areas providers would have to meet six explicit exception criteria, not just that the land was cheap or there was a vacant building. The policy would be administered by Bureau of Housing and Community Development.

Lee Perlman, 512 NE Brazee, supported the intent of the document but expressed concern about the Eliot neighborhood, which has the third highest concentration of such facilities. They see this as a land-use issue and with so many of them already there and new ones planned, they fear Eliot may become a special needs housing slum. At the same time there is a decrease in housing available to the general public. Regarding the location policy, he said more control is needed over

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something that threatens to take over.

Commissioner Hales asked if the location policy was strong enough to avoid excess.

Luther Sturdivant, Chair of Ecumenical Ministries, said his organization unanimously supports this although the location policy may need further discussion.

Major Neil Hogan, Director of Recovery Road, said they are pleased with this but concerned about the lack of funding for implementation. Some issues for further review are the standards for maximum shelter bids within 1300 feet of another facility and whether present facilities will be grandfathered in. He said they would also like the good neighbor plan to be a two-way street as litter and loitering can go two ways in some areas. Finally, he expressed concern that monitoring of the certifications could create another bureaucratic level which is already built in through the good neighbor plan and mediation.

Chuck Currie, Burnside Advocates, said the advisory task force did an excellent job. Regarding the good neighbor policy, his organization believes the neighborhood associations should be partners and act in good faith. If they violate policy, their funding, like that of providers, should be pulled even though he has been told that is not possible. He urged adoption.

Helen Barney, Housing Authority of Portland (HAP), noted that HAP has spent over two years trying to site a facility for the homeless in Southwest Portland. She said the costs have been high and significantly reduced their ability to develop other facilities. This proposal will give clear guidelines for focusing such facilities in the future. Ms. Barney said HAP welcomes the location policy which will help provide certainty for both developers and residents. She emphasized that providers must build trust with the neighborhoods beforehand, adding that most want to be part of the solution but not absorb more than their fair share.

Susan Emmons, Chair of Housing and Development Commission, said her group unanimously endorse this proposal. This is a remarkable document which may also serve as a model for the entire country. She said the Commission is now rethinking how single people are sheltered and emphasizing more permanent housing and smaller facilities.

Commissioner Hales asked about the suggestion in a letter from SE Uplift for a technical amendment to substitute the words "Specified Community Uses in R zones" instead of "Short Term Housing in R zones".

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Staff and other Council members said they had not seen the letter.

Ms. Richmond said one of the hardest issues was whether the relocation policy was strong enough. What makes it difficult is federal Fair Housing law which says that disabled people cannot be treated differently from families. That is why last year the City amended its definition of household to include any number of related people and any number of unrelated people who meet the definition of handicapped, including people in drug and alcohol treatment, the mentally retarded, etc. They can not be treated any differently than a family just because they have a special condition, even though they may displace current low income residents. She said this proposal does not make the displacement situation any better or any worse but it will make it a little more difficult for an agency which receives public funding to locate in Eliot. In response to Major Hogan's concerns, she said all existing uses are grandfathered in when the Code changes and the existing shelters do not have to go through certification unless they relocate or expand.

Ms. Briggs said most of Eliot is an impact area according to the criteria and the location policy, which will be evaluated in three years, should provide a tool for making decisions about whether City funding would go to subsidize shelters and housing. However, compliance with other funders would be voluntary and the City does not have a lot of teeth to deal with federal funders as the Fair Housing Authority does not allow denial of access based on disabilities. She said the issue of people's disabilities is very difficult to build into a location policy. Ms. Briggs added that the certification process is a two-way street and neighborhood associations will not be able to simply drag their feet and refuse to cooperate. She said it would be hard, however, to deny neighborhood associations money as most are funded through coalitions. She said the task force report contains many strategies for building good neighborhood relationships and can be implemented administratively. Monitoring regulations were strengthened in response to concerns raised by neighborhood associations.

Commissioner Hales asked what is meant by the phrase "documenting local community need" on Page 51 of the report.

Ms. Briggs said one of the concerns was not to displace people because of a lack of services in their neighborhood. For instance, if there is a need for drug and alcohol treatment in an impact area which has not been met, there is an opportunity to meet those needs. The location policy is an effort to have people explain why a facility needs to be located in an impact area, other than just because land is cheap.

Mayor Katz asked staff for a response to the SE Uplift recommendation.

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

Commissioner Charlie Hales

1935 Amend Title 33, Planning and Zoning, to facilitate the siting of public safety facilities (Ordinance; amend Title 33)

Discussion: Steve Gerber, Planning staff, said this began with siting of the Willalatin Tower, a City public safety facility which needed to be located on the edge of Forest Park. The Hearings Officer denied the request based on approval criteria in the Code. However, because of the public need, Council approved an ordinance temporarily waiving the Code and directed the Planning Bureau to amend the Code to facilitate the rapid siting of public safety facilities in the future. The Planning Commission clarified the locational criteria and recommended giving priority status to public safety facilities.

Mr. Gerber said this ordinance creates a new subcategory of uses which allows government public safety facilities at a particular site if applicants can prove that the facility must be located there. The Planning Commission directed staff to clarify the locational criteria and staff decided to use the State administrative rules exception process to limit the number of sites that have to be looked at. Language has been added stating that applicants only have to address other sites in a general way and requires anyone challenging the location to identify another site and state how it could accommodate that facility.

Mr. Gerber noted that land use attorney Ed Sullivan has called for substituting the word "shall" for "must" in the proposed language. However, Planning staff believes they should stick with "must" to be consistent with the Code.

Cay Kershner, Clerk of the Council, noted that this was an emergency ordinance, although no asterisk denoting such appeared in the calendar.

Peter Kasting, Senior Deputy City Attorney, said as long as the clause was included in the document, Council could vote today.

Disposition: Ordinance No. 167186. (Y-5)

1936 Appeal of Block 216 Partnership against Hearings Officer's decision to deny application to demolish an existing building and construct a surface parking lot at 901-917 SW Alder Street (Previous Agenda 1756; 93-00064 CU DZ)

Discussion: Mr. Kasting stated the procedures to be followed.

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Commissioner Blumenauer said he missed the first hearing and is not completely up to speed. He said as this goes on, if he does not feel comfortable about participating in a decision, he will withdraw. He asked if it was agreeable to the parties to proceed on that basis.

Stephen Janik, attorney for Block 216 Partnership, said they have no objection to Commissioner Blumenauer proceeding.

Mayor Katz said at the first hearing Council asked for the previous history on similar cases, which has been submitted.

Tim Barnes, Planning staff, disputed statements made by applicant regarding the relevance of prior cases to this one, arguing that only one of those cases has some viability as a precedent. Responding to applicant's assertion that there were errors in information provided by staff, Mr. Barnes said he found one error in his material but the rest is accurate. He questioned the accuracy of Mr. Janik's response.

Mr. Barnes said the intent of the regulations for surface parking lots is quite clearly to discourage them. The meaning of the criteria which would allow surface parking in certain limited situations is also quite obvious and applicant's proposal meets none of them. He said the argument being used by the applicant states that City goals and policies can be construed to form a parking strategy in support of this proposal. However, he contended, to do that Council would have to ignore many other goals and policies which conflict with this proposal. The fact that the building was demolished during the review process does not establish conformance with the approval criteria. Denial will respect the integrity of City regulations and discourage future demolition of buildings by removing the incentive and prevent surface parking from interrupting retail and office continuity. Planning continues to oppose this proposal.

Mayor Katz asked about the error.

Mr. Barnes said in the case involving United Carriage House (the Nordstrom lot), variances were granted for several approval criteria. He said he missed that but he did not think you could have a variance or adjustment to an approval criteria. He said it may be legally possible but it is not clear, noting that an approval criteria is meant to give flexibility to a regulation. It does strengthen that case as a precedent but this case was unique in that it took an old building that had been converted into over 200 structured spaces and turned it back into a retail building and then requested parking places for tenants. This was approved and the Hearings Officer found that the approval criteria had been met.

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Stephen Janik, attorney for the appellant, noted approval from the Landmarks Commission for demolition of a building which was no longer economically feasible and would have been removed even if approval for the surface lot was not granted. The purpose is to provide 66 parking stalls for use exclusively by tenants of the Pittock Building, a designated historic landmark which is losing tenants because it has no parking supply. Applicants argue that under Section 2.6 of the Comprehensive Plan it states that surface lots are to be discouraged, not prohibited, and the way that such lots are discouraged is by setting very tight standards. Within those standards, however, there are five alternative ways to justify a new surface parking lot, one of which (subsection D-4) says you can have a new lot if it is part of a parking strategy. He said they have learned that you can have a parking strategy that arises out of prior cases, contending that in the last 12 years the City has never denied a request for a new surface parking lot that involved the demolition of a building. He cited four such cases in support and asserted that a precedent can be relied upon unless it is distinguishable, which means there must be some fundamentally different fact on a relevant criteria or issue. To point out facts that are not germane is not to distinguish the case. Mr. Janik reviewed the cases and cited those instances where he felt that staff was in error in trying to distinguish them.

Mr. Janik said a new section added to the Downtown Parking and Circulation Plan in 1992 provides a fifth way to get a surface lot approved. Staff said that is the only way applicant could get his lot approved. That is not true, it simply adds a fifth alternative which states that if you want to serve an historic building and you already have an existing surface lot, you may do so. It does not say all the other alternatives go away. He said he does not believe staff has distinguished any of those cases which provide precedence in this case. Where Council has seen the need to serve buildings with inadequate parking by adding a new surface parking lot, it has consistently approved them, even if it has involved the demolition of an otherwise unusable building. He said applicant would very much like to serve the needs of the Pittock Block and add a parking lot.

Commissioner Hales asked Mr. Janik if he believed the heart of the strategy is the precedent set by Council in prior cases.

Mr. Janik said yes.

Commissioner Lindberg asked staff if there is justification in the Code for a surface parking lot if a lack of parking would make it unfeasible for a building to continue to operate. He said he recalls that the economic feasibility was not a factor that could be considered.

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Mr. Barnes said there is no criteria that addresses economic feasibility.

Mr. Kasting said the criteria under which surface lots are permitted are listed in Section 2-6 (b-4). The issue of economic obsolescence has to do with the relevance of the precedents.

Commissioner Lindberg asked if the previous cases should be relied upon if they applied in this case.

Mr. Kasting said that is the key issue. What Council is doing here is applying approval criteria to the facts of the case. The approval criteria in this case (DTCP Section 2-6; b-4 (b)) allows surface parking lots which are part of parking strategies developed by the City for particular areas or in response to temporary disruption caused by major construction projects. It is up to Council to interpret the Code and the phrase "parking strategies developed by the City for particular areas".

Commissioner Lindberg asked if Council could base its decision on the precedents and call that the strategy.

Mr. Kasting said Council's decision will have to clarify what that phrase means.

Mr. Barnes said this came up in the Schlesinger case where it was stated that there were case precedents that established that Council could construe goals and policies to be a strategy. Schlesinger, however, did not maintain that previous cases in themselves construed a strategy.

Mr. Kasting said he has been advised that Council may have addressed that interpretational issue in the Schlesinger case.

Mayor Katz said Mr. Janik tried to make a precedent case based on other decisions and she had asked for additional information on those cases.

Mr. Kasting said if Council has addressed the interpretation of this phrase in another case that would be relevant information. He asked Mr. Janik to identify whether such an interpretation was a part of the findings in the Schlesinger case.

Commissioner Hales moved to tentatively deny the appeal. Mayor Katz seconded.

Commissioner Hales said when he first looked at case he was under the impression that Section 2-6 (5) was more flexible. However, he now believes it applies only to existing parking lots, not to situations like this. He said, unlike the Schlesinger case, there are not sufficient

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policies to support an interpretation that would allow this appeal to be granted. Even though Council is acting quasi-judicially, he does not want to cross the threshold and rely on accumulated precedent rather than on the Code, standards and regulations. Sometimes these policies will require interpretation but he does not want to have a long list of previous cases to figure out what the policy is.

Mr. Kasting said findings in the Schlesinger case reference a number of legislative enactments, so while there may have been some references to prior cases, the findings also reference those enactments as embodying the short term parking strategy.

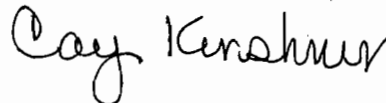
Commissioner Blumenauer said it is possible that Council by exception might grant the appeal but the intent of the policy is clearly not to tear down more buildings in order to build more parking lots. He said his office is currently engaged in efforts to get more flexibility for managing downtown parking but he believes the City should be very rigorous in the standards it sets for approving more surface parking lots. He said the City wants people to develop property downtown with buildings, not parking lots.

Mr. Janik asked that the decision and Council statements in the Schlesinger case be made part of the record in this case.

Disposition: Tentatively deny appeal. Prepare findings for January 19, 1994 at 2:00 p.m.

At 4:00 p.m., Council adjourned.

BARBARA CLARK
Auditor of the City of Portland



By Cay Kershner
Clerk of the Council