



CITY OF

## PORTLAND, OREGON

OFFICIAL  
MINUTES

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 5TH DAY OF OCTOBER, 1994 AT 9:30 A.M.

THOSE PRESENT WERE: Commissioner Kafoury, Presiding; Commissioners Blumenauer, Hales and Lindberg, 4.

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

1591

**TIME CERTAIN: 9:30 AM** - Honor and Celebrate Tri-Met's 25th Anniversary (Resolution introduced by Commissioner Blumenauer)

**Discussion:** Commissioner Blumenauer said he cannot think of a more important relationship than the one between the City and Tri-Met, noting that 25 years ago the City played a significant role in rescuing a failed system and launching one of the country's transit success stories. He noted both the direct and indirect contributions Tri-Met has made to the City.

Bill Robertson, President, Tri-Met Board of Directors, acknowledged the importance of their regional partnerships, adding that on every major Tri-Met undertaking Council members have helped them out.

Commissioner Lindberg said just a few years ago Tri-Met was chosen as the best transit system in the nation and he still believes it is. The incredible challenges ahead indicate how vital it is that the partnership continue.

Commissioner Hales said the kind of forward thinking and capital investment that has built this system has been a real boon to the livability of Portland. He said he is also very appreciative of the fine service and work force that Tri-Met has.

Commissioner Blumenauer said in the next 25 years he hopes that the partnership between Tri-Met and the City is such that the 2040 vision all Council members are committed to is realized.

**Disposition:** Resolution No. 35314. (Y-4)

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Agenda Items 1608, 1609 and 1610 were pulled from Consent. On a Y-4 roll call, the balance of the Consent Agenda was adopted as follows:

**CONSENT AGENDA - NO DISCUSSION**

- 1593** Accept bid of Moore Excavation for construction of the Bloomington sanitary sewer for \$3,684,076 (Purchasing Report - Bid 19)

**Disposition:** Accepted; prepare contract.

- 1594** Accept bid of Les Brown Excavating for NE 13th Avenue Basin CSO Unit 8 for \$560,480 (Purchasing Report - Bid 29)

**Disposition:** Accepted; prepare contract.

- 1595** Vacate NE 120th Avenue between NE Glisan and Davis Streets, under certain conditions (Ordinance by Order of Council; C-9859)

**Disposition:** Passed to second reading October 12, 1994 at 9:30 a.m.

**Mayor Vera Katz**

- 1596** Confirm appointment of Gerald Kling to the Police Internal Investigations Auditing Committee (Report)

**Disposition:** Confirmed.

**Commissioner Earl Blumenauer**

- 1597** Set hearing date, 9:30 am, Wednesday, November 2, 1994, to vacate a portion of NE Mallory Avenue south of NE Winchell Street (Report; Petition; C-9862)

**Disposition:** Adopted.

**Commissioner Charlie Hales**

- \*1598** Authorize park exclusion for violation of rules and regulations adopted by the Council (Ordinance; amend Code sections 20.12.240 and 20.12.265)

**Disposition:** Ordinance No. 168170. (Y-4)

- \*1599** Authorize Intergovernmental Agreement between the Bureau of Planning and Port of Portland to provide land use planning services for West Hayden Island (Ordinance)

**Disposition:** Ordinance No. 168171. (Y-4)

**Commissioner Gretchen Kafoury**

- 1600** Accept completion of air system with HYDRO-TEMP Mechanical, Inc. for Archives and Records Center and pay retainage of \$3,925 (Report; Contract No. 29243)

**Disposition:** Accepted.

- \*1601** Authorize purchase of property located at 845 N Graham (Ordinance)

**Disposition:** Ordinance No. 168172. (Y-4)

- \*1602** Authorize the Bureau of General Services to begin site selection process for new East Precinct (Ordinance)

**Disposition:** Ordinance No. 168173. (Y-4)

- \*1603** Authorize Intergovernmental Agreement with the Department of Veterans Affairs for access to the City's 800 MHz trunking radio system (Ordinance)

**Disposition:** Ordinance No. 168174. (Y-4)

- \*1604** Amend agreement with Northeast Workforce Center to increase by \$10,000 (Ordinance; amend Agreement No. 29397)

**Disposition:** Ordinance No. 168175. (Y-4)

- \*1605** Intergovernmental agreement with Multnomah County for the Weatherization Grant Sewer-on-site Program for \$273,000 and provide for payment (Ordinance)

**Disposition:** Ordinance No. 168176. (Y-4)

- \*1606** Contract with Raphael House for \$81,092 to provide assistance to victims of domestic violence and provide for payment (Ordinance)

**Disposition:** Ordinance No. 168177. (Y-4)

- \*1607** Contract with Salvation Army for \$65,812 to provide assistance to victims of domestic violence and provide for payment (Ordinance)

**Disposition:** Ordinance No. 168178. (Y-4)

**Commissioner Mike Lindberg**

- 1611** Accept completion of the sludge cake handling improvements for the Columbia Boulevard Wastewater Treatment Plant and approve final payment less retainage to Harder Mechanical Contractors, Inc. (Report; Contract No. 27867)

**Disposition:** Accepted.

- 1612** Accept completion of the Alder Basin Relief Phase 1, Unit 1 project and authorize final payment to Tri-State Construction (Report; Contract No. 28852)

**Disposition:** Accepted.

- 1613** Accept contract with Marshall Associated Contractors for by-pass piping and regulator vault at Washington Park reservoir No. 4 as complete and authorize final payment of \$20,257 (Report; Contract. No. 29169)

**Disposition:** Accepted.

- \*1614** Authorize the continuance of negotiations for the purchase of tracts of land and easements required for construction of the SW Hamilton Street at SW 59th Avenue Water Quality Project (F-17) and authorize the City Attorney to commence condemnation proceedings, if necessary, to obtain early possession (Ordinance)

**Disposition:** Ordinance No. 168179. (Y-4)

- \*1615** Authorize agreement with Economic and Engineering Services, Inc. for \$289,726 for professional and engineering services to evaluate alternatives to corrosion control treatment and provide for payment (Ordinance)

**Disposition:** Ordinance No. 168180. (Y-4)

- \*1592** **TIME CERTAIN: 9:45 AM** - Create 12 Emergency Communications Operator II positions in the Bureau of Emergency Communications and 911 status update (Ordinance introduced by Commissioner Blumenauer)

**Discussion:** Commissioner Blumenauer said seven months ago the City had a system that was failing on a weekly basis and a communications center that posed serious morale and operational difficulties. On March

6th, when the City cut over to the new system, those difficulties were addressed and goals were set to improve computer training, call answering times and the transition from uniform to civilian dispatchers in Fire dispatch. New positions have been added since June 30, 1994 to deal with the staffing problems and this ordinance formalizes the appointment of the last 12. They have worked hard to improve dispatch capability, make needed modifications to the new system and improve training efforts during the transition period. He noted that mobile data terminals have been installed on all fire and EMS equipment which allow responding units immediate access to critical information, thereby decreasing response time and improving communication with citizens.

Commissioner Blumenauer said call answering times have dramatically improved. He said approximately 72 percent of the 1,600 emergency calls received daily are answered with no delay. Ninety percent are answered within 20 seconds or less and the average length of time a call is on hold is now eight seconds. He said this contrasts dramatically with the response times when the initial cutover occurred and that success is largely due to the efforts of 9-1-1 Center employees. He said one important reason for the new staffing pattern was because of the high overtime costs, adding that they have accrued 17,232 hours of overtime from the system cutover date through the end of last month.

Dan Noelle, Assistant Police Chief and Chair of the 9-1-1 User Board, said change is always difficult and BOEC has approached a tremendous one in a very positive way. He said hiring additional staff was an extremely good move in order to reduce overtime and relieve employee stress. Second, the purchase of portable radios will get them away from the patch system, which continues to cause trouble. The improvement in response times is also important because when there are delays it is the police officer who has to deal with the frustrated citizen who has been on hold. Assistant Chief Noelle stressed the importance of the organizational meetings with the major players, adding that BOEC staff needed a sense that things would get better, which they have not had until very recently.

Commissioner Blumenauer said one of the most difficult issues has been the transition to consolidated civilian dispatch for Fire. He expressed appreciation for Fire Bureau support in this respect.

John Wilson, Division Chief, Fire Bureau, said this has been a very difficult transition but with Council support and the 12 new positions much of the pressure will be relieved. He said the Fire Bureau will still staff liaisons with BOEC until the dispatchers and supervisors are able to step into that role. One of the most positive aspects is the hiring of a specialist to focus on the fire training aspects. He said this has been a much larger and more complex task than had been initially envisioned, but is being addressed in the proper way.

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Commissioner Blumenauer said there were some significant issues for the police officers and Roger Morse, their union president, has worked tirelessly to address them.

Roger Morse, President, Portland Police Association (PPA), said the relationship of PPA and BOEC has been stormy in the past because of officer and public safety issues due to equipment failure. He said two years ago the PPA filed an OSHA complaint with the City over some of these safety concerns which took over 18 months to settle and, even as the new Center was being built, PPA felt they were not truly being listened to. At that point, for the first time in history, Commissioner Blumenauer invited the PPA to the table to express its concerns. He said the leadership change at BOEC was truly the turning point and positive changes have occurred since then. He said a formal group (the BOEC Forum) involving all the users now meets regularly to address the remaining unresolved issues. Most recently the group determined that they will keep having crashes as long as the old and new radios are mixed. The purchase of an additional 101 sets budgeted for next fiscal year was moved up in an attempt to resolve this problem a year earlier, increasing officer and public safety. The additional dispatcher staff positions are very necessary also and signify the improved management and labor relationship.

Commissioner Blumenauer said Sheryl Whittemore, BOEC interim director, has done an outstanding job.

Sheryl Whittemore, BOEC Interim Director, said BOEC is in the process of providing a cooperative team effort with the Fire, Police and the private ambulance companies. It has a brand new "state of the art" system which replaced an inadequate one with a high failure rate and which they are still working through, making changes and modifications as needed. The brand new above-ground building makes a real difference too. She said the system capacity should meet their needs for the next five to seven years but there is a lot of work to do and they are still working on resolving issues and problems.

Commissioner Blumenauer said the bottom line is that citizens and employees deserve the best possible system of communication. The taxpayers have paid for an outstanding system and the City is going to deliver it. He committed to full accountability both to Council and the public on both the successes and problems. He said they will return to Council in six months with a report and by that time they should have installed all the new equipment, finished the training and demonstrated the effect of the new employees.

Commissioner Lindberg asked what the performance measurement target was.

Commissioner Blumenauer said their standard is that 94.5 percent of the calls received be answered within 20 seconds. They are at 90 percent now and are committed to reaching their ultimate goal.

Commissioner Hales commended Commissioner Blumenauer on the level of coordination he has provided.

Commissioner Kafoury asked Ms. Whittemore to let BOEC employees how much Council appreciates their hard work.

**Disposition:** Ordinance No. 168181. (Y-4)

**Note:** A demonstration of a Police Unit Mobile Data Terminal was conducted on the 4th Avenue side of City Hall at the conclusion of the morning Council session.

### REGULAR AGENDA

**\*1608** Amend regulations regarding zoning inspection and home occupation permit fees for the Bureau of Buildings (Ordinance; amend Code Sections 24.10.106 and 24.10.124)

**Discussion:** Denise Kleim, Bureau of Buildings, said this was part of the budget process and reflects recommendations made by the Bureau of Building's Bureau Advisory Committee to increase the cost recovery rate of these programs.

**Disposition:** Ordinance No. 168182. (Y-4)

**\*1609** Amend Code to increase plumbing permit fees (Ordinance; amend Code Title 25)

**Discussion:** Commissioner Kafoury said an amendment is being proposed that would delete Item K on Page 5. Commissioner Blumenauer moved the amendment; Commissioner Lindberg seconded and, with no objections, it was so ordered.

Linda Linston, Oregon State Association of Plumbing, Heating and Cooling Contractors, said this is the amendment they had requested.

**Disposition:** Ordinance No. 168183 as amended. (Y-4)

- \*1610** Amend regulations regarding Code enforcement penalties for the Bureau of Buildings (Ordinance; amend Code Chapter 3.30)

**Disposition:** Ordinance No. 168184. (Y-4)

**Commissioner Charlie Hales**

- 1616** Accept a \$2,387 grant from Oregon Emergency Management for a hazardous materials exercise (Ordinance)

**Disposition:** Passed to Second Reading October 12, 1994 at 9:30 a.m.

**Commissioner Mike Lindberg**

- \*1617** Accept a grant from Chicago on behalf of the Urban Consortium Energy Task Force for \$25,000 for FY 1994-95 for the Sustainable Business Development Education Project (Ordinance)

**Discussion:** Commissioner Lindberg said these three grants will allow the Energy Office to pursue energy efficiency in commercial and residential buildings. The grants total \$136,000 and since 1989 they have received over \$600,000 in grants and leveraged about \$1 million dollars in private grants into energy efficiency. He described some of the programs, including working with 100 City businesses on a comprehensive review of the way they deal with solid waste, water and energy efficiency. They have also promoted more energy efficient washing machines and this year are focusing on electronic thermostats in multi-family dwellings where they hope to reduce heating bills. He said they have weatherized thousands of apartment units and adopted the first CO2 reduction strategy for any U.S. city. Finally, they are working with City bureaus on an energy savings program and are almost up to their goal to cut the City's energy bill by \$1 million dollars.

Commissioner Blumenauer said the Energy Office has played a very important coordinating role, pulling together various pieces of innovative programs.

**Disposition:** Ordinance No. 168185. (Y-4)

- \*1618** Accept a grant from Chicago on behalf of the Urban Consortium Energy Task Force for \$36,000 for FY 1994-95 to fulfill the role of Chair of the Urban Consortium Energy Task Force (Ordinance)

**Disposition:** Ordinance No. 168186. (Y-4)



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- \*1619** Accept a grant from Chicago on behalf of the Urban Consortium Energy Task Force for \$75,000 for FY 1994-95 for the Electronic Thermostats Project (Ordinance)

**Disposition:** Ordinance No. 168187. (Y-4)

**City Auditor Barbara Clark**

- \*1620** Reduce a sidewalk assessment (Ordinance; amend Ordinance No. 167873)

**Disposition:** Ordinance No. 168188. (Y-4)

- 1621** Assess property for large lot deferral contracts through August, 1994 (Hearing; Ordinance; L0048)

**Discussion:** Dan Vizzini, Auditor's Office, said they received no written remonstrances.

**Disposition:** Passed to second reading October 12, 1994 at 9:30 a.m.

- 1622** Assess property for sewer system development charges through August, 1994 (Hearing; Ordinance; Z0584 through Z0588)

**Discussion:** Mr. Vizzini said they received a letter from a property owner yesterday who wanted to cancel his loan agreement. He asked Council to amend the Exhibit to eliminate the assessment for Account No. 102235 for property on SW Barnes Road.

Commissioner Hales moved that amendment; Commissioner Lindberg seconded and, with no objection, it was so ordered.

**Disposition:** Passed to second reading as amended October 12, 1994 at 9:30 a.m.

At 10:30 a.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 5TH DAY OF OCTOBER, 1994 AT 2:00 P.M.

THOSE PRESENT WERE: Commissioner Kafoury, Presiding; Commissioners Blumenauer, Hales and Lindberg, 4.

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

**Commissioner Charlie Hales**

**\*1623** Amend the Comprehensive Plan map and change the zone of property at 8245 N Interstate Avenue from R2ad, Residential, to CSd, Commercial (Ordinance; LUR 94-00514 CP ZC)

**Discussion:** Cay Kershner, Clerk of the Council, said this should be heard on October 26.

**Disposition:** Continued to October 26, 1994 at 2:00 p.m.

**1624** Consider LUBA remand of the application of Beim & James Properties, III, against the Landmarks Commission's decision to give landmark designation to the Governor Building located at 408 SW 2nd Avenue (Hearing; 93-00709 DM)

**Discussion:** Ruth Selid, Planning Bureau, said this action reopens the evidentiary hearing on the Governor Building Landmark case which was remanded by the State Land Use Board of Appeals (LUBA). She noted that in December, 1993, Council determined that this building did not merit landmark status. The case was then appealed to LUBA by Historical Development Advocates and James Millegan; LUBA ruled that the applicants requested but did not receive a seven-day extension at the December hearing in order to respond to new evidence. In their appeal the Petitioners listed those items they considered new and the LUBA decision listed four that it considered as new testimony. The new testimony included that from John Tess, including slides and letters from Bill Naito, KKFF Consulting Engineers and David A. Soderstrom, architect. She said following the petitioners' presentation, Council may make a tentative decision today and set a future date to adopt final findings.

Jim Millegan, Chair, Historical Development Advocates, PO Box 3683, 97208, said he and Eric Eisemann, former director of the Historic Preservation League of Oregon asked for affirmation of the Portland Landmarks Commission decision to designate the Governor Building as a Portland historic landmark. He said the consequences of affirming their

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decision harm no one. He cited the three assignments of error the appellants had raised in their appeal to LUBA, noting that LUBA did not address the third one, the credibility of the building's historic consultant. In the first assignment of error, they had argued that the Portland historic preservation program violates Goal 5 as it pertains to the demolition of historic buildings. LUBA did not agree with the argument as framed, but noted in a footnote that a City is not in compliance with Goal 5 if it is powerless to deny demolition of a historic resource.

Ms. Spetter said this gets into an area that should not be discussed as the Goal 5 issue was resolved by LUBA and not appealed.

Mr. Millegan said the second assignment of error, contending that they asked for but were not given additional time to respond to new evidence, was decided in appellant's favor. Two pieces of new evidence did not have any bearing on the factual question of whether the Governor Building meets the criteria of a landmarks designation and should not have been relied upon by any Council member in forming an opinion. First, a question was raised as to whether the Governor Building was seismically stable. That, however, is not listed as a criteria for landmark designation and the time to consider seismic stability is after designation occurs. The second piece of new information stated that landmark designation would frustrate the public purposes of defining and emphasizing the Morrison bridgehead as a major gateway to the City's core area. He said Commissioner Blumenauer said because the Central City Plan created gateways for downtown, his vote to overturn the Landmarks Commission decision was influenced by his desire to work with the Central City Plan. He said the Central City Plan dictates that every bridgehead should have a towering giant as a lone sentinel or that historic buildings could not stand shoulder-to-shoulder with office towers, or that there is not room for architectural diversity. He said the Central City Plan should be part of the ESEE and conflict-use analysis required under Goal 5 that the City has not yet done. If the Central City plan is in conflict with the Governor Building designation, that determination should be made through a conflicting use and ESEE analysis, as required by State statute.

Ms. Spetter said the appellants raised issues about the City's compliance with Goal 5 and whether or not the decision to designate this building was part of an inventory established for Goal 5. LUBA determined it was not and this issue has not been further appealed. She said Council may listen to additional testimony on this issue but it is not necessary as part of the remand.

Mr. Millegan asked if Ms. Spetter agreed that there was a footnote in LUBA's decision saying the City did have a problem with Goal 5 but, due to procedural requirements, that issue could not be raised.

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Ms. Spetter said that is not a matter for discussion today.

Mr. Millegan said the third piece of new evidence was a slide show and testimony made by the building owner's consultant, Mr. Tess. He said what Mr. Tess showed was not a balanced selection of the thousands of buildings that might be eligible for historic designation. He said this is the type of analysis made by the Landmarks Commission and if Council chooses to overturn it, it should have the benefit of a balanced presentation of facts. He stressed that the Commission had applied the criteria to the Governor Building and found the historic designation warranted. Planning staff concurred as did the Oregon State Preservation Office, Historic Preservation League of Oregon and the Historic Resource committee of the Portland Chapter of the American Institute of Architects. On the other side was Mr. Tess, the historic consultant hired by the building owners who, in 1984, had prepared an application to nominate the Governor building for the National Register of Historic Places. He said the criteria has not changed appreciably in that time, only the consultant's opinion. He said the slide show reflected the opinion of one consultant and there was no careful analysis as to whether the applicable criteria were met or that conflicting uses or ESEE consequences were identified. The consultant's testimony should be weighed against all those in the historic preservation community who state that the building is historic.

Mr. Millegan said the third assignment of error regards the credibility of Mr. Tess, which LUBA left unanswered. That is left to Council. He said the evidence in support of the landmark designation is uniform and above reproach. Also, because Portland chooses not to exercise demolition denial, it is only a matter of time until the building comes crashing down as LUBA concurs that under its current procedures the City cannot make a decision to deny a request to demolish the building. He contended that the City has failed to keep its promises to make changes to the current Code, which is badly out of sync with what is needed. Designation of the Governor Building will not harm anyone and only 90 days would be lost before an irreplaceable piece of Portland's history could be demolished. A vote to uphold the decision of the Landmarks Commission sends a message that the City is willing to give some measure of consideration to the collective past and respect diversity in architecture.

Richard Allen, attorney representing John James, the building owner, addressed Mr. Millegan's presentation. He agreed that the KKPF Consulting Architects letter is irrelevant, noting that it was not addressed in any way in the findings. The argument about the Central City Plan refers to Bill Naito's letter which talks about the Morrison Bridge entrance to downtown. But nothing in the adopted findings relies on that. With regard to the slides shown by Mr. Tess, applicants argue that there should have been a more balanced approach. However, they did not take advantage of the opportunity to do that today and have not given Council

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anything in rebuttal that provides a basis for changing its decision. Finally, with regard to Mr. Tess' credibility, he noted that LUBA ordinarily does not address credibility issues when it remands an item for a new hearing. And, although the appellants challenge his credibility, they do not point to a single factual statement made by Mr. Tess with respect to the landmark status of the Governor building that is false. Instead, they put words in his mouth, citing the 1984 application for historic designation of this building where he concluded that the building was unquestionably historic. He said a copy of that application shows there is no place where Mr. Tess states that. Rather, he goes through the criteria and sets forth the facts about the building. Also, this application was never acted upon, as the building owners are doing now. He said there is nothing to indicate that he contradicted in 1993 any factual statement made in 1984 and there is nothing in the record to indicate his testimony is inherently unbelievable, as Mr. Millegan suggests.

John James, 64085 Tamale Ln., Bend, OR, building owner, said Council knows the City very well and can probably gauge for itself how this building ranks with other old buildings and whether it meets the criteria. He said the issue is when does an old building become an historic one, adding that there is a cost that goes with historic designation. The statement that it harms no one is not true as this designation makes it very difficult to compete for a "build to suit" development project given the time constraints in the process. He asked that Council affirm the prior decision as this building does not have enough characteristics to qualify as a historic structure that the City would spend resources on.

Mr. Eisemann said they are not putting words in Mr. Tess' mouth and the application was submitted by him and then withdrawn because of other circumstances, not its historic character. He stressed that right now 99 percent of the historic preservation community agrees with the Landmarks Commission. Only one voice in the community disagrees.

Commissioner Hales moved to tentatively reaffirm Council's earlier decision to deny the appeal and ask for findings in support of that decision. Commissioner Lindberg seconded.

Commissioner Hales said while it is appropriate for Council to address its process when LUBA finds that it requires correction, he has not heard anything this afternoon to make him change his earlier decision. Council had to decide if the Landmarks Commission weighed the criteria in the Code correctly and concluded it had not and that the criteria were not met by this building.

Commissioner Blumenauer said he is disappointed at not seeing any presentation that counters the slides which appellants claimed were not representative. He said he does not think footnote four in LUBA's decision

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is determinative of anything.

Commissioner Kafoury agreed with Commissioner Blumenauer, noting that she had voted for landmarks designation in order to allow the 90-day delay and give historic designation supporters time to build their case. She said more than 90 days have gone by and there has been no more information.

Commissioner Lindberg said it is always difficult to vote against the Landmarks Commission but any time a building is given historic designation this should be done with extreme care. He said he felt in this case the evidence was very thin and did not show how the criteria had been met. He felt the building was old but not historic and this is a judgment call for Council. He expressed hope that the building owners would continue their earlier commitment not to destroy the building until development occurs.

**Disposition:** Tentatively reaffirm decision to deny landmarks designation; prepare findings for October 26, 1994 at 2:00 p.m.

At 2:37 p.m., Council adjourned.

BARBARA CLARK  
Auditor of the City of Portland



By Cay Kershner  
Clerk of the Council