



CITY OF
PORTLAND, OREGON

**OFFICIAL
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 19TH DAY OF JULY, 1995 AT 9:30 A.M.

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

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

On a Y-4 roll call, the Consent Agenda was adopted as follows:

CONSENT AGENDA - NO DISCUSSION

1177 Accept bid of Brundidge Construction for Sellwood Basin CSO sump project unit 2 for \$486,941 (Purchasing Report - Bid 191)

Disposition: Accepted; prepare contract.

1178 Accept bid of LP&H Construction Company, Inc. for water reuse system at the Columbia Blvd Wastewater Treatment Plant for \$1,345,000. (Purchasing Report - Bid 187)

Disposition: Accepted; prepare contract.

1179 Vacate certain portions of SW Capitol Hill Road, SW 19th Avenue, and SW Nebraska Street, under certain conditions (Ordinance by Order of Council; C-9889)

Disposition: Passed to Second Reading August 2, 1995 at 9:30 a.m.

Mayor Vera Katz

1180 Accept recommendations of the Labor Management Benefits Committee with regard to plan rates, enhanced healthcare benefits, Long Term Disability (LTD) and life insurance additions within the "cap" established in each labor agreement (Report)

Disposition: Accepted.

JULY 19, 1995

***1181** Contract with Managed HealthCare Northwest for the provision of discounted medical services to City of Portland self-insured medical expenses (Ordinance)

Disposition: Ordinance No. 169076. (Y-4)

***1182** Pay Claim of U.V. and Edward Johnson (Ordinance)

Disposition: Ordinance No. 169077. (Y-4)

***1183** Authorize a settlement to resolve a grievance between the City of Portland and Bryan Paddock (Ordinance)

Disposition: Ordinance No. 169078. (Y-4)

Commissioner Earl Blumenauer

***1184** Authorize the sale of property adjacent to NE Multnomah Boulevard; authorize execution of a Warranty Deed and accept payment (Ordinance)

Disposition: Ordinance No. 169079. (Y-4)

Commissioner Charlie Hales

1185 Accept completion of contract with Cedar Landscape, Inc. for installation of an automatic irrigation system at Peninsula Park, make final payment and release retainage (Report; Contract No. 29316)

Disposition: Accepted.

***1186** Contract with Nevue Ngan Associates for landscape architectural services as required in support of the Bureau of Parks and Recreation GOBI projects (Ordinance)

Disposition: Ordinance No. 169080. (Y-4)

***1187** Lease certain space in Multnomah Center to nine tenant groups from July 1, 1995 through June 30, 1996 (Ordinance)

Disposition: Ordinance No. 169081. (Y-4)

***1188** Authorize a contract and provide for payment for the street and sewer improvements at Ed Benedict Park (Ordinance)

Disposition: Ordinance No. 169082. (Y-4)

JULY 19, 1995

***1189** Contract with Cascade Locks Fire and Rescue Department (Cascades) to loan fire apparatus (Ordinance)

Disposition: Ordinance No. 169083. (Y-4)

***1190** Contract with BOORA Architects for an amount not to exceed \$938,500 to provide architectural design services for the Southwest Portland Community Center (Ordinance)

Disposition: Ordinance No. 169084. (Y-4)

***1191** Contract with Thompson Vaivoda & Associates for an amount not to exceed \$425,410 to provide design services for the East Portland Community Center (Ordinance)

Disposition: Ordinance No. 169085. (Y-4)

Commissioner Gretchen Kafoury

***1192** Contract with Network Behavioral HealthCare, Inc. for \$30,000 to support affordable housing development and provide for payment (Ordinance)

Disposition: Ordinance No. 169086. (Y-4)

***1193** Grant permit to Gerald Donais, dba Tri-County Transportation, to provide Specially Attended Transportation services in the City (Ordinance)

Disposition: Ordinance No. 169087. (Y-4)

***1194** Modify agreement with SERA Architects for City Hall renovation for an additional fee not to exceed \$31,360 for a total contract amount of \$828,960 (Ordinance; Contract No. 29088)

Disposition: Ordinance No. 169088. (Y-4)

***1195** Agreement with Portland Impact for \$33,345 for the Summer Urban Revitalization Project and provide for payment (Ordinance)

Disposition: Ordinance No. 169089. (Y-4)

***1196** Contract with Portland Housing Center, Inc. for \$134,698 and provide for payment (Ordinance)

Disposition: Ordinance No. 169090. (Y-4)

JULY 19, 1995

***1197** Contract with Catholic Charities for \$20,932 to provide the Asian Youth Outreach Project and provide for payment (Ordinance)

Disposition: Ordinance No. 169091. (Y-4)

Commissioner Mike Lindberg

1198 Accept completion of the Sewer Diversion Manhole Modification Project, Phase 2 and authorize final payment to Gelco Construction Company (Report, Contract No. 29390)

Disposition: Accepted.

***1199** Approve Change Order No. 3 for the Motor Starters and Transformers for Ankeny Pump Station project (Ordinance; amend Contract No. 28801)

Disposition: Ordinance No. 169092. (Y-4)

***1200** Amend Contract with Woodard-Clyde Consultants to include scope of services for Phase 2 professional engineering on alignment selection for the Columbia Slough Consolidation Conduit and increase contract amount to pay for Phase 2 services (Ordinance; amend Contract No. 29667)

Disposition: Ordinance No. 169093. (Y-4)

***1201** Grant authority to enter into agreement with DEQ's Voluntary Cleanup Program (Ordinance)

Disposition: Ordinance No. 169094. (Y-4)

***1202** Contract with LP&H Construction Company, Inc. for construction of a water reuse system at the Columbia Boulevard Wastewater Treatment Plant and provide for payment (Ordinance)

Disposition: Ordinance No. 169095. (Y-4)

REGULAR AGENDA

1175 **TIME CERTAIN: 9:30 AM** - Accept Gerding Investment Company proposal for development of East Portland Community Policing Facility (Report introduced by Commissioner Kafoury)

Discussion: David Kish, Director, Bureau of General Services (BGS), described the process used to select this proposal. He noted that after purchasing the land the City determined that a better use would be to

JULY 19, 1995

build a two-story precinct and parking structure thus freeing up an acre for housing and commercial development. General Services sought proposals for such a project and received three. A panel interviewed the top two and selected Gerding Investment Company as its number one choice. This report authorizes the Bureau to negotiate the development agreement with Gerding. Because of the complexity of the project, a consultant has been hired to help write the development agreement. The Bureau, while it agrees with the issues raised by the Office of Finance and Administration (OFA), still believes the bottom line on this project is solid and that it would be a good investment for the City to include the community meeting room and office spaces as well as housing.

Mr. Kish noted that the Gerding Investment proposal includes a request for funds from the City's Housing Trust Fund but he understands that Fund is already allocated for FY 1996. However, Gerding plans to apply for money from the Fund this fall and then wait to see if Council puts money in the Trust Fund for FY 1997. If it does receive such funding, it could break ground for the housing next summer. If that money is not available, market-priced housing could be done although the City would not then achieve some of its affordable housing goals. He said he expects to return to Council within a month with the development agreement. He described some of Gerding's other projects in the area, as well as those of the construction contractor.

Bob Gerding, Gerding Investment Company, described various design components of the proposed development.

Commissioner Kafoury said this is a very narrow piece of property which, through layering, has been very creatively designed.

Commissioner Hales asked how the City could assure Gerding as to whether Housing Investment Trust Fund monies will be available or not, calling for a different pro forma.

Mr. Kish said since housing is such a high Council priority he believes there will be requests to put more money in the Housing Trust Fund for next year. Gerding will apply for some of that money as soon as possible to get a place in line with the other proposed projects. The development agreement will be written to allow the housing to develop in two different ways. He said there are other tools besides Housing Trust Fund money to help in the financing and the affordable housing component, which calls for 20 units for senior citizens, would be subsidized. That mix may change if the housing is privately financed and that is why there will be two options in the agreement.

JULY 19, 1995

Commissioner Hales asked about the costs associated with additional facilities in the police precinct itself.

Mr. Kish said \$4.1 million was originally budgeted for the project. When they decided to build a garage and two-story precinct, an estimated additional \$500,000 to \$1 million cost was projected. He outlined cost estimates for the other components and said OFA, based on its initial review, believes this is a decent investment.

Commissioner Blumenauer said costs are sliding up and he is not sure the City should keep replicating community meeting space already available in under-utilized facilities nearby, such as churches and schools.

Mr. Kish said part of the parking requirement is generated by the community meeting rooms and the more people who use them, the more parking is presumed to be needed. He said the community office space is seen as potential future expansion space for the police.

Commissioner Lindberg, noting the OFA memo, said in order for negotiations to proceed, Council needs to allocate \$1.2 million additional funds not in the budget. He noted the four options proposed by OFA to cover that shortfall, including adding it to the City Hall/Police Precinct debt with a payoff over 17 years. If Council votes yes today, is it committing to spend the \$1.2 million?

Ruth Roth, Bureau of Financial Planning, said that is correct. Her office looked at whether this proposal was economically justifiable and whether it would provide a positive return on the City's \$1 million investment over time, rather than investing it in a treasury bond. On the corrected pro forma, it appears there would be a positive return on investment of about \$160,000 over 28 years. This makes certain assumptions that may or may not work, depending on economic factors. Council still needs to identify and find the \$1.2 million, which has not been budgeted. If it wants to proceed with the housing component at this time, given that the Housing Investment dollars are not available this year, Council needs to identify an alternate source for the \$500,000. She stressed that Council needs to be aware that, although over time this project will return money, it still needs to put the \$1.2 million in at the front end. This is an off-budget item and other requests have been made for the use of any excess balance, including the homeless shelter, the District 10 settlement, the Union Station shortfall, etc. There is no point in going to the negotiation stage on this proposal if Council is not willing to commit to the \$1.2 million.

Commissioner Lindberg said it would seem more prudent to add this to the City Hall/police precinct debt issue.

JULY 19, 1995

Ms. Roth described the options, noting that the additional debt would increase the annual debt service by \$120,000, which the financial plan currently does not show as available.

Commissioner Lindberg said because of other demands on the ending balance, he would rather add this to the debt and then find the \$120,000 for next year's budget.

Ms. Roth said in evaluating the appropriateness of investing \$1 million for this housing project, it is important to consider whether the highest number of housing units possible are being leveraged.

Mr. Kish said he and Ms. Roth disagree on this point. He said with the \$1 million leveraged for housing, the City ends up with a housing asset of 50 units and a parking garage that is worth something too. The land has also been better utilized. The \$500,000 housing portion might leverage more units elsewhere but this is an integrative project which meets many Council goals. He said he does not view this as putting \$1 million into housing.

Ms. Roth said OFA respectfully disagrees.

Neyle Hunter, Livable Housing Council, said the answer to the question of whether you could leverage more than 50 units with \$1.7 million is yes. This is 50 units of mixed-rate housing, 20 units of affordable and 30 units of market-rate housing. He said without the Housing Investment Fund component, the project would be entirely either a subsidized or a market-rate project. He said housing built for 60 percent of median income can obtain low-income housing tax credits but all units must be converted to low-income which means that the City does not achieve its goal of mixed-rate housing. He believes this is a near perfect equity investment for the City because by putting in a small amount of General Fund money it will achieve its mixed-housing goal and obtain the asset at the end of the 28-year performance period. The big question is whether Housing Trust Fund or some other money will be there when Gerding is ready to proceed.

Robert L. Jones, 1193 NE Sacramento, Secretary, East Portland District Coalition Board, said he was on the selection committee that unanimously picked Gerding. He said they prefer this proposal for its design, openness, flexibility of uses and the solution to the parking issue, even though it is not yet a complete solution.

Liza Goldblatt, President, Oregon College of Oriental Medicine, 10525 SE Cherry Blossom Drive, said they were very pleased about the process and excited about being part of this project. They also believe the Gerding and Rifer team best meet the needs of the community.

JULY 19, 1995

Jim Worthington, 3232 SE 153rd, 97236, a member of East Portland District Coalition Board, disputed Commissioner Blumenauer's assertion that the community meeting room might be needed. He said there is only one public room in Mid-County and most schools close in the summer or bump community uses in favor of other school uses as they come up. Many churches will not let outside groups use their facilities anymore. The Coalition would like to see the same uses built into East Precinct as occurred in the North Portland Police Precinct. He said he also believes some of the square footage estimates are a little high.

Commissioner Hales asked if they needed to select an option before proceeding.

Commissioner Kafoury recommended the long term financing option. Commissioner Hales seconded. Commissioner Lindberg said this should be added to the report as an amendment. Roll was called. (Y-4)

Commissioner Blumenauer said this is a solid proposal but he would like to start reviewing the issues of cost and utilization. At some point the City should look at using facilities so that cost and liability are spread.

Commissioner Hales said he likes this attempt to replicate the success of the Northeast Precinct and while he is concerned about costs, he wants to have these public buildings serve a variety of uses and also meet City objectives. This project is very attractive in that sense and if done correctly will add vitality and structure to these neighborhoods.

Commissioner Kafoury said another aspect is the location. This is a part of the City where nothing much has been done and where the public trust is not as high as in other parts of the City. She said the neighborhood is delighted to have a police precinct and, while not so excited about the housing, has reached consensus. No matter what the City does, more housing resources are needed and optimally a solution can be found Statewide, such as a real estate transfer tax.

Commissioner Lindberg said this is an exciting and creative project which meets a number of objectives.

Commissioner Blumenauer said even though he thinks there is more work to be done, this project is worth the extra investment.

Disposition: Accepted as amended. (Y-4)

JULY 19, 1995

***1176**

TIME CERTAIN: 10:00 AM - Agreement with Portland Streetcar, Inc., not to exceed \$2,520,632, to provide professional services related to the Central City Streetcar Project and the Lovejoy Ramp Removal and Reconstruction Project (Ordinance introduced by Commissioner Blumenauer)

Discussion: Commissioner Blumenauer said this integrates two critical projects for the Central City and Livable City agenda. They will be able to use some of the money they obtained for the ramp and merge that with work on the Streetcar. Both these transportation objectives are critical to obtaining housing in the Central City and will open up that area to development, dealing with critical transportation and circulation issues. The mixture of public and private partnerships in this project is unique.

Don Magnusson, Chair, Portland Streetcar, Inc. 3625 U.S. Bancorp Tower, 97204, said their Board of Directors has one of the smallest overheads of any contractor in the City and has representatives from major area businesses, hospitals, higher education, etc.

Commissioner Hales said he is particularly impressed with the public and private partnerships that have been developed.

Commissioner Blumenauer said this \$2.5 million provides the critical foundation for the City to move ahead on the transportation elements in that area. He noted that a significant portion of this money comes from sources other than the City's transportation funds.

Commissioner Hales said this is another example of the City's ability to achieve a collaborative effort to do something a little strange and visionary.

Commissioner Kafoury said she continues to worry about moving ahead on the ramp without understanding the breadth of the project. She does not want to make a \$100,000 million investment in infrastructure changes until the City knows how to get affordable housing and does not want to end up with a "yuppie haven" there.

Commissioner Lindberg said this is a visionary and risky move that he believes will pay off for the City.

Disposition: Ordinance No. 169096. (Y-4)

1203

Accept proposal of City Center Parking for parking facilities operation services (Purchasing Report - RFP 136)

Discussion: David Kish, Bureau of General Services, said two years

JULY 19, 1995

ago Council directed that all parking garage contracts expire this summer so that all six Smart Park garages and the Autoport could be bunched into one large contract. He said the issue became heated after four major parking companies submitted bids. He described the selection process used to ensure a fair and level playing field, one which did not favor the present operator. They also decided that the monetary bid would not have a tremendous weighting. The total contract to operate the garages annually next year is about \$730,000. In addition, each company was asked to bid a management fee over and above the total budget. Each bidder was told the relative importance of seven selection criteria -- management expertise, financial controls and customer service were rated high while the management fee was ranked lowest. Committee members interviewed and then ranked the bids; weightings for each were assigned by Steve Goodrich of General Services. The six-member selection committee agreed to use the consensus process in decision making, rated the proposals and, after interviewing each bidder, were allowed to change their initial ratings. City Center on total points ranked number one initially, followed by Metro Ace, AMCO and Diamond. Committee members then wanted to discuss the rankings and, after several different attempts to bring the committee to consensus, they found that even though City Center ranked number one on total points, four members had rated AMCO as number one while no one had rated Metro Ace first. It became clear that consensus could not be reached but the four committee members who ranked AMCO number one then indicated that they could shift to Metro Ace and rate that number one even though it had received no votes for first place initially. The Bureau of Purchasing worked diligently to find some grounds for consensus among the committee but that proved impossible. However, it is true that four of the committee members selected someone other than City Center. He said AMCO alleges that one rater ranked City Center so high that it skewed the results. However, even if the high and low scores are pulled out for each company, City Center still has the highest number of points. The weighted value of the dollar amount of the management fee was the lowest criterion; the highest criteria were financial control, customer service and management. He said the scores were very close and cutting them different ways emphasizes the point that there were three solid competitors, the playing field was level and the ratings were very close.

Mr. Kish said over the last six years City Center has done a very good job of managing the garages - gross revenues and revenues by stall were up about 59 percent and total customers were up by 43 percent. The short and long term parking ratios now meet the 85 percent short term/15 percent long term objectives set earlier. Validations are up by 25 percent. This means that the garages are operating well and that City Center has exceeded the objectives that were set. Some of the

JULY 19, 1995

numbers are a little skewed because two new garages have been opened in the past six years. Much credit goes to the City and the Association for Portland Progress for its marketing plan but City Center's operation has been very good. Mr. Kish said the difference in City Center's management fee, compared to the two closest companies, is about \$7,000 a month, or a savings of \$500,000 over the five-year life of the contract. Each of the bidding companies could run the garages and each has very good ideas for improving customer service. He noted that the City's Purchasing Manual states that these kinds of contracts are to be awarded to the bidder whose proposal is determined to be the most advantageous to the City, "taking into consideration price and the evaluation factors set forth in the RFP. No other factors or criteria should be used in that evaluation." He said lots of other issues were raised in the committee meetings that did not relate to the criteria. General Services and Purchasing recommend that the contract be awarded to City Center.

Commissioner Lindberg asked if the committee could consider such factors as whether one company has a near monopoly or whether City garages compete with private parking lots and the effect on pricing structures. Are those considered non-issues?

Mr. Kish said yes, when Council agreed to put all parking garages into one contract it reflected the desire to have a single operator. The issues of monopoly and predatory pricing locked the committee into positions they may or may not have had at the beginning of the process. But City Center has been investigated by a number of agencies, including the State Ethics Committee, the Attorney General's office and the City Club, which concluded that there was no effective monopoly downtown. Monopoly connotes some ability to tinker with the marketplace and dictate prices and while City Center does manage 85 to 90 percent of the parking spaces, many of those are not controlled by them. City Council sets the rates for City garages and businesses which contract with City Center also set the rates for their buildings.

Commissioner Lindberg asked if it was possible for a bid to come in below actual costs.

Mr. Kish said City Center bid lower this time than they did in the past. However, it has many resources already in existence downtown and an ability to move people around quickly, which is why they are able to bid as low as they did. He said in terms of the \$735,000 operating budget, there is not much latitude for savings as over 90 percent of those costs are for personnel and the current contract dictates the salaries paid employees. About 60 to 70 percent of garage operations now operate with one operator at each garage and that cannot be cut further.

JULY 19, 1995

Brad Parrish, 2801 179th St. NE, Redmond, Washington, Director of Marketing, AMCO System Parking, said in the past eight years they have submitted bids for operation of individual garages but have been unsuccessful to date. He said when this RFP came out they believed it would be a very thorough and fair process. He said in their presentation they stressed their experience in operating similar facilities, the recognition they have received for their high level of customer service and their aggressive approach to marketing. He said the panel voted four to two in favor of their bid and he hopes Council would find that the committee's vote is a sound one and that AMCO would be selected to operate the SmartPark system.

Robert Katz, 830 NW St. Helens Avenue, Director of Operations in Oregon for AMCO System Parking, said Council should award this contract to AMCO for three reasons: 1) it was the four to two choice of the selection committee; 2) the Bureau of General Services' recommendation is based on low bid contrary to the RFP selection criteria; and 3) because AMCO's proposal is the most advantageous to the City. Instead of accepting the selection committee's choice, BGS recommended City Center on the basis of total points scored. One member, Zack Scroggs, an Association for Portland Progress (APP) employee, gave City Center a 53 point lead on a base of 210. That was an insurmountable number of points for any other competitor to overcome. This is unfair and one committee member's vote should not disenfranchise the popular vote of the committee. This was not a low bid only contract. The RFP lists price as the least important of seven factors but now price becomes the main reason for BGS' recommendation. This is a betrayal of the process and an inversion of the selection criteria. AMCO's proposal is the most advantageous to the City, even though its bid of \$11,000 per month is more than City Center's bid of \$4,996, as AMCO has demonstrated that the bid difference will be more than offset by aggressive management, marketing and competition. By competing and taking five percent of the free park business they believe additional revenues will more than make up for the difference between their bid and City Center's, which is \$250,000 over three years. AMCO won fair and square and satisfied the committee that it could make up the shortfall.

Commissioner Lindberg asked if he agreed with City staff that City Center does not have a monopoly.

Mr. Katz said he always thought that 90 percent was a monopoly and in the area where Smart Park competes, City Center operates an overwhelming number of garages.

Barbara Sutterland, 1020 SW Taylor, Resident Manager, Metro/Ace, said they are concerned with the fact that Zack Scroggs of APP was a

JULY 19, 1995

member as his voting is very slanted toward City Center. She said she was told earlier that an APP member should not be a member of the committee and she would have contested it if she had known. She said an APP employee should not be on the committee because they work too closely with the operator. If Mr. Scroggs ratings are removed, Metro/Ace's joint venture is the number one choice. Their second concern is the tremendous financial difference between City Center's bid and everyone else's. She said Metro/Ace believes it can make up that difference very easily. She noted that the City is paying APP \$1.5 million over the next five years to oversee the SmartPark program. Metro/Ace believes a lot of those duties should be done by the operator and a lot of that is built into their fee. For instance, APP does the entire validation process and City Center does neither the sorting or billing.

Commissioner Blumenauer asked if her bid assumes that Metro/Ace would be doing the validation program.

Ms. Sutterland said they believe they could do that with fewer people than APP. She said they never saw a line-by-line item budget for operation of the garages, only APP's budget to the City, not the APP budget to the operator. That makes it very difficult to identify where costs could be cut. They also believe a considerable amount of money could be saved by using pull-off tabs on coupons and shifting the cost of the ticket to the retailers.

William Porter, Executive Vice President, Ace Parking, San Diego, CA, said their bid included a full-time resident manager working only on these garages and not serving competing garages. This vote is more than a vote on the monthly fee. He said the City is paying \$1.4 million in personnel costs to oversee this contract and in fact is paying two operating managers for the garages right now. In their experience, this is very surprising. He said they have many innovative and proven programs that would save money and promote more traffic. No matter how the votes are switched, this gives the City a chance to make a real change and if the City misses this, it is missing an opportunity for change for another five years. He noted that Ace took over from AMCO for operation of the Port of Portland parking facility. That contract was recently renewed without a rebid.

Commissioner Lindberg asked Ms. Sutterland when she received the assurance that APP would not participate in the selection.

Ms. Sutterland said Rick Williams at APP told her that shortly after the City decided to lump the seven garages together. She said they were not privileged to know who was on the committee and did not know that Zack Scroggs was on it until the oral presentation. They would have

JULY 19, 1995

protested if they had known.

Greg Goodman, President, City Center Parking, said they have a proven record of success in running the garages and their bid was 50 percent lower than the closest competitor. While City Center is the smallest parking operator of the bidders, it focuses all its efforts on Portland, giving it economies of scale and an ability to keep the cost low. In addition, it is the only one with an established infrastructure already in place. Because of this, it did not need to include start-up costs and City Center was able to submit a bid between \$400,000 and \$450,000 less than its competitors, a 50 percent cash savings to the City. As for performance, City Center has operated the SmartParks for 15 years and its record of customer and employee satisfaction is outstanding. He noted that revenues under City Center Parking have increased 350 percent since 1991 and, while some people believe they would have increased no matter who was running the garages, when one of the SmartPark garages was taken over by another operator, revenues dropped 30 percent after one year, but returned to their previous levels one month after City Center took over again. He cited a number of major retailers who endorse City Center's selection, based on its service and management.

Charles Landskroner, 330 SW 10th Ave., Real Estate Director, Diamond Parking, said Diamond Parking was the second lowest bidder, after City Center. He said Portland needs to have another solid operator in the City and Diamond's bid was better than its ranking indicated. He said all bidders, including Diamond, are capable of operating the SmartPark lots.

Commissioner Lindberg asked what difference it makes if Portland has another solid operator.

Mr. Landskroner said if the City has one operator, the parking rate will remain what that operator will charge. Another operator, by providing better service more efficiently, might be able to lower the price.

Barton DeLacy, a member of the selection committee, 720 SW Washington, 97205, said he wants to correct the impression that the committee was deadlocked, which it was not. He said the process was a step forward from past procedures and he is not here to advocate for any one of the operators. He said the process worked very well until the committee reached consensus that the ratings would not be binding. It then voted four to two in favor of AMCO, with Ace/Metro a very strong second. The vote was four to two to change from City Center. He said what bothers a number of committee members is that they acted in good faith and do not understand why a four-two was considered a deadlock. He said the committee was threatened that they

JULY 19, 1995

would not be let out of the room unless they voted six-zero. Three members disagreed strongly with the Assistant Purchasing Manager's report which stated that the committee had deadlocked and believe it did a disservice to the committee's work. He said scuttling the committee's work in this manner raises troubling questions about monopoly and the integrity of the process. He asked Council to give the selection committee a better road map in the future. City Debt Manager Ken Rust, another committee member, was also troubled by this vote and has suggested that next time the 3,200 parking places in the SmartParks be added to the 1,300 spaces in the Arena and then split into two contracts so the City avoids sanctioning a monopoly. A single operator should not control a district but if a natural monopoly develops it should be regulated and taxed to protect the little guys.

Commissioner Kafoury noted that the BGS report made it clear that the monopoly issue was not a criteria.

Mr. DeLacy said customer service and marketing are important criteria. For instance, the 10th/Yamhill garage was operating about 90 percent of capacity and the committee felt that there is an appearance of conflict of interest if the operator also operates private lots in direct competition. Where will City Center recover its cost if not in fees? He said revenues have gone up but that is partly because more garages have been built. Such issues indirectly address the issue of competition. The selection committee saw energy and ideas that surprised them. He said another issue is accountability. AMCO is attractive because it is a publicly traded company and anyone can get the books and see where the money goes.

Nancy Ayres, Senior Deputy City Attorney, reminded Council of its duty, sitting as the local contract review board, to abide by the rules set out in the Purchasing Manual. The Purchasing Manual charges that awards shall be made to the responsible offerer whose proposal is determined to be the most advantageous to the City, taking into consideration price and the evaluation factors set forth in the RFP. No other factors or criteria shall be used in the evaluation. There are a number of ways of interpreting the results of the selection committee and it is up to Council to make its own decision as there is nothing binding about the recommendations of the selection committee, BGS or the Purchasing Agent.

Commissioner Lindberg asked, if in making that decision, Council should be limited to the selection criteria in the document.

Ms. Ayres noted that the RFP states that no factors other than the evaluation criteria may be considered.

JULY 19, 1995

Commissioner Hales said if that is the case why did the committee vote and not just rank the bids.

Ms. Ayres said that, unfortunately, reflects the ambiguity in the process. There were no clear instructions to the committee as to what its duty was. Because of this ambiguity, it is difficult for Council to automatically accept a recommendation from the committee. Council needs to determine for itself the most advantageous proposal.

Commissioner Lindberg asked if that is normal practice. He said the committee did not know the weighting factors and price allegedly was number seven. He said it seems like an odd process.

Commissioner Kafoury said they eventually did know what the weightings were.

Mr. Kish said they got those weightings before they voted. He said voting is antithetical to reaching consensus. Mr. DeLacy's charge that this sanctions a monopoly was one that he brought up over and over again. None of his charges were proven but may have influenced other votes. He said charges that City Center will channel people from SmartPark lots to the ones they own, therefore earning more money, have no basis at all. He said APP monitors the "Full" signs very carefully and City Center even handed out SmartPark brochures to patrons of its own lots. The committee did not ask, and the City does not know, if City Center is recovering its costs.

Mr. Kish said the parking fund is audited internally and externally but the City does not audit the rest of City Center's business. Regarding AMCO and Metro-Ace's presentations, the question of voting was raised. The committee did indicate it would operate by consensus even though Mr. DeLacy is now saying that is not true. All three of the companies' bids were good but the responsible thing for BGS, after looking at the performance of the garages, at the virtually tied scores and at the management fee savings offered by City Center, was to recommend City Center.

Commissioner Lindberg asked where price was in the weightings.

Mr. Kish said it was lowest. Customer service and financial management was the highest. In retrospect, perhaps cost should have been rated higher. AMCO did not demonstrate how it could increase revenues. It only told the committee various ways it believed it could run the garages better than City Center does. So did Ace/Metro and City Center itself, which has the proven track record. He said Zack Scroggs, who is not on the APP Board or a member of its staff, has taken an unfair beating. He is a third level management person who is

JULY 19, 1995

the most knowledgeable person about garage operations around. He said if his score is taken out of the City Center scoring and replaced with Mr. DeLacy's score, City Center still comes out ahead.

Commissioner Blumenauer asked about one of the company's assertion that its bid would be cheaper than City Center's.

Mr. Kish said he believes it meant it could save money on the operating budget, not the management fee. However, the operating budget is set by the City, which controls those costs. Over 90 percent is personnel costs as the City wants to pay people fair wages, at least \$6.00 an hour. He said he does not believe someone could squeeze \$6,000 a month out of those operations without cutting service.

Commissioner Lindberg asked Steve Goodrich, who sat in on the meetings, if the committee discussed the seven criteria in its deliberations.

Steve Goodrich, Bureau of General Services, said all the criteria were discussed by the committee.

Commissioner Blumenauer said next time he would like to have the contract split as a pilot project in the interest of long term management.

Commissioner Hales said once again Council's agenda is being driven by the contract schedule and it is ironic to hold this discussion two weeks after the fountain maintenance contract came to Council, which also raised questions about goals other than price considerations that might be accomplished through the purchasing process. He said perhaps City staff should look at these issues, not just for parking, and address how such objectives can be accomplished at the same time that State law and good business practices are followed.

Commissioner Blumenauer said he is working with the Purchasing Bureau to make sure the process is crystal clear. He asked if Council can agree now that this contract will be split the next time around to see if there is a difference in performance.

Commissioner Kafoury said there were some examples of other contracts, which did not perform as well. She said unless the City clearly state them out front, the rules cannot be changed. If Council wants to encourage competition it needs to be very careful about what that means and what difference it makes. BGS tried to make the process as objective and measurable as possible because it knew there would be public debate about it. Competition or breaking up a monopoly were not criteria.

JULY 19, 1995

Commissioner Blumenauer said when everything else is close to equal, one goes with the low bid. He said Council has heard interesting things from people about what they might do and he would like to pursue that over the longer term. There are things that can be done to clarify the process but the bottom line is getting the highest public value. He said he has no evidence that the City would not be getting that based on accepting the low bid. Next time, however, he would like to try the dual track to see if it can increase the public value and the confidence that the garages are being properly managed.

Commissioner Hales said Council goes through this to make sure the public gets best value and to assure the public that these decisions are made based on the rules, not political caprice. Although there are valid questions about the process, there are no grounds for Council to countermand the recommendation, despite the somewhat shaky work of the committee. The bottom line states that criteria and price must be the deciding factors.

Commissioner Kafoury said any allegations that either she or David Kish are close personal friends of the awardee of this contract are false. The monopoly issue has been around a long time and she took seriously the City Club's conclusion that the dominant position of City Center has not been harmful to the public interest or resulted in higher prices or poorer service. Given the criteria, which did not list competition as a factor, she believes City Center's proposal is a sound one.

Commissioner Lindberg said he will vote no in accepting the report. He said it is clear that City Center has done a good job but a selection committee did vote four to two to accept the bid of another company. The other companies came in with fresh, innovative ideas which might generate more revenues. Rules were set in advance which ranked price as the seventh, or least important, of the criteria, and it should not now be elevated to the highest rank. The other operators have extensive experience and outstanding track records themselves and Council should take a risk and call for a change.

Disposition: Accepted; prepare contract. (Y-3; N-1, Lindberg)

***1208**

Contract with City Center Parking to provide parking garage operator services for the Bureau of General Services and provide payment (Ordinance)

Discussion: Commissioner Lindberg indicated that since a majority had approved the report, he would vote aye on the contract so that it could be passed as an emergency ordinance rather than delayed.

Disposition: Ordinance No. 169097. (Y-4)

JULY 19, 1995

Mayor Vera Katz

***1204** Accept planning grant from the US Department of Commerce, Economic Development Administration for \$70,000 and authorize the Portland Development Commission to administer (Ordinance)

Disposition: Ordinance No. 169098. (Y-4)

Commissioner Charlie Hales

1205 Approve City participation in partnership with Self Enhancement, Inc. to create the Center for Self Enhancement at Unthank Park (Resolution)

Disposition: Resolution No. 35422. (Y-4)

1206 Amend Title 33, Planning and Zoning, Chapter 33.130 (Commercial Zones) Mixed Commercial/Residential Zone Regulations and Standards (Second Reading Agenda 1171)

Disposition: Ordinance No. 169099. (Y-4)

***1207** Designate ten Heritage Trees in the City of Portland (Previous Agenda 1172)

Disposition: Ordinance No. 169100. (Y-4)

Commissioner Gretchen Kafoury

***1209** Approve an alternative Contracting Process and create an exemption to competitive bidding for application to the Portland City Hall Renovation project (Ordinance)

Discussion: Karen Kramer, Facilities Services Manager, BGS, said this asks Council to let them proceed in a different way in selecting a general contractor to renovate City Hall. This approach is now being used by the library and has been in wide use by the State System of Higher Education.

Disposition: Ordinance No. 169101. (Y-4)

***1210** Authorize contract with Richard E. Ragland for architectural services for a homeless shelter for a fee of \$15,700 and provide for payment (Previous Agenda 1169)

Disposition: Ordinance No. 169102. (Y-4)

Commissioner Mike Lindberg

1211 Amend Contract with Sverdrup Civil, Inc. to provide project management to the Combined Sewer Overflow Program at a cost of \$497,370 (Ordinance; amend Contract No. 29404)

Discussion: Commissioner Lindberg said this would amend the Sverdrup contract for project management and add items not a part of the initial agreement. An outside review committee recommended these changes. He said some of those were identified at the recent Council Informal, including beefing up internal staff skills to carry out this project longer term. He said this ordinance requests only those resources that are needed immediately. Overall program management costs, however, would stay within the initial targeted amount of five percent of the entire \$700 million budget.

Dean Marriott, Director, Bureau of Environmental Services (BES), said a lot of work is needed between now and 2011 in order to meet state deadlines on the biggest project the City has ever undertaken. He said proper management needs to happen early to ensure success and this proposal simply adjusts funding within the overall five percent allotted to project management. He said the amendments are proposed because there are some things that must be done this fiscal year. BES plans to aggressively transfer as much responsibility as possible to City staff which will require more advanced training than originally anticipated. He said this will help assure that the project will stay on budget. For its money, BES will get senior project management services, primarily on Cornerstone projects, as well as enhanced cost analysis, computer modeling and more public involvement in selecting the location for the overflow treatment facility.

Commissioner Kafoury said she has no capacity to analyze such complex contracts and asked if some third party could review it.

Commissioner Lindberg said a high level committee, made up of non-City staff, reviewed the status of the project and recommended a number of these changes. He said Council needs to get a better idea of what this means on a day-to-day basis and to see this explained in laymen's terms. But realistically, adjustments will be needed midstream. Perhaps the committee should come to Council to increase the confidence level.

Commissioner Hales asked about the provision for a four-month cost analysis on project budgets and training of a bureau employee to take this over. Why is the City missing such skills all of a sudden?

JULY 19, 1995

Mr. Mariott said over the past year BES learned this area needs even more attention than originally anticipated.

Commissioner Hales asked how many BES people are assigned to this function or how many people in OFA might be available.

Lisa Drubeck, BES, said the person in this position would analyze project budgets and take corrective action early if anything is going awry. They are looking at a project budget that spans more than one fiscal year and at developing more detailed budgets and schedules than is currently being done.

Commissioner Hales said a change in methodology does not necessarily call for a change in personnel.

Ms. Drubeck said the skills are not available in the bureau currently. They have been recruiting for this position for six months and have not found a qualified candidate within or outside the bureau.

Commissioner Hales asked if the public involvement manager position is in addition to the \$600,000 already identified in the contract for public involvement. What additional work will be done?

Mr. Marriott said it is primarily to assist with siting the overflow treatment facility. He said they need to provide a full outreach effort to the potentially impacted neighborhoods.

Commissioner Hales asked about alternate means to reach people rather than just increasing the consultant's contract.

Mr. Marriott said they have found that someone needs to dog this issue to a greater extent than they have the capacity to do right now. He said they want a good recommendation for their siting facility, one that has covered all the bases.

Commissioner Hales said he understands BES will be back in another two months with another \$400,000 change in contract.

Mr. Marriott said no more changes to the Sverdrup contract will be proposed. They will put a greater emphasis on training City personnel and backing off from the use of consultants.

Commissioner Hales asked why the consulting contract is being increased then.

JULY 19, 1995

Mr. Marriott said they are looking at using fewer consultants over the initial five-year period and relying more on City staff.

Commissioner Hales said he did not realize at the Informal that BES would come with an amendment to the contract 19 days into the new fiscal year.

Mr. Marriott said BES did mention there were a number of other factors being considered that would require further Council action. This is the most significant. They will probably be back later with other requests, but not involving the Sverdrup contract.

Commissioner Lindberg said those changes probably were not highlighted at the Informal.

Ms. Drubeck said the services called for in this amendment are needed immediately and to get another contract or go through a hiring process would take eight weeks or longer. In order to retain the necessary control over the next two months as they seek out other sources, the Bureau requests approval of this amendment.

Commissioner Hales indicated he would not support the ordinance.

Commissioner Blumenauer moved to remove the emergency clause. Commissioner Kafoury seconded and the motion carried. (Y-3)

Commissioner Hales said he is not trying to punish the bureau as he is committed to the CSO project. However, he is concerned about supporting expenditures that do not meet his test for how public money should be spent. He said he was very concerned originally about the Sverdrup contract and the \$14 million allocated for a treatment laboratory. He voted for a rate increase despite his concerns. Now, a change order of 17 percent just 19 days into the fiscal year is questionable. It was not clear that Council's encouragement to build capacity in the bureau would result in another half million dollars in contract costs, equal to the annual sewer bill for 1,856 average households. He said he wants the outside committee included in the next Informal so he can understand the managerial capacity within the bureau. Also the public information budget is huge and he is not sure the public is getting full value. He said good fiscal stewardship must accompany good environmental stewardship.

Mr. Marriott said he would like to follow up on Commissioner Kafoury's comment about the need for Council to have confidence that the bureau is getting appropriate outside oversight. He said at future Informals he will see that this occurs.

Disposition: Passed to Second Reading as amended August 2, 1995 at 9:30 a.m.

- 1212** Waive provisions of Code Chapter 5.68 for procurement of professional, technical, and expert services for contracts between the Oregon Graduate Institute of Science & Technology and the Bureau of Environmental Services (Ordinance; Code Chapter 5.68)

Disposition: Passed to Second Reading August 2, 1995 at 9:30 a.m.

- 1213** Amend City Code to require nonresidential and multifamily recycling by January, 1996 (Second Reading Agenda 1126; amend Code Chapter 17.102)

Disposition: Ordinance No. 169103. (Y-3)

City Auditor Barbara Clark

- 1214** Assess property for sewer connection contracts processed through the Private Plumbing Loan Program for the period ending June 27, 1995 (Hearing; Ordinance; P0011)

Discussion: Dan Vizzini, Auditor's Office, said no remonstrances were received.

Disposition: Passed to Second Reading August 2, 1995 at 9:30 a.m.

- 1215** Assess property for sewer system development contracts of the Mid County Sewer Project for the period ending June 27, 1995 and Non Mid-County for the period ending June 27, 1995 (Hearing; Ordinance; Z0608 through Z0611)

Disposition: Passed to Second Reading August 2, 1995 at 9:30 a.m.

- *1216** Create the Dolph Street Local Improvement District (Hearing; Ordinance; C-9872)

Discussion: Mr. Vizzini asked that this be continued until August 2 since Commissioner Blumenauer had to leave and not enough Council members were present to pass an emergency ordinance.

JULY 19, 1995

Disposition: Continued to August 2, 1995 at 9:30 a.m.

At 1:00 p.m., Council adjourned

BARBARA CLARK
Auditor of the City of Portland

Cay Kershner
By Cay Kershner
Clerk of the Council