



CITY OF
PORTLAND, OREGON

**OFFICIAL
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 18TH DAY OF OCTOBER, 1995 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; Ben Walters, Deputy City Attorney; and Officer Chuck Bolliger, Sergeant at Arms.

Agenda No. 1687 was pulled from Consent. On a Y-5 roll call, the balance of the Consent Agenda was adopted as follows:

CONSENT AGENDA - NO DISCUSSION

1671 Request of Jeff Liddicoat to have Council hold public hearings to declare City a Tibetan Solidarity Zone (Communication)

Disposition: Referred to Commissioner of Finance and Administration.

1672 Accept bids of ABB Kent Meters, Inc., Badger Meter, Inc. and Consolidated Supply Co. for furnishing annual supply of large service meters for \$119,519 (Purchasing Report - Bid 37-A)

Disposition: Accepted; prepare contract.

1673 Accept bid of ABB Kent Meters, Inc. for furnishing the annual supply of small domestic meters for the Bureau of Water Works for \$139,100 (Purchasing Report - Bid 43-A)

Disposition: Accepted; prepare contract.

1674 Vacate a certain portion of SW 60th Avenue, south of SW Lesser Road, under certain conditions (Second Reading Agenda 1646; C-9883)

Disposition: Ordinance No. 169393. (Y-5)

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Mayor Vera Katz

***1675** Establish one Associate Accountant position and one Program Manager II/Property Management position in the Bureau of Environmental Services and one Technician I position in the Bureau of Buildings in accordance with the Personnel Rules adopted by the City Council (Ordinance)

Disposition: Ordinance No. 169394. (Y-5)

***1676** Contract with Black & Veatch for stormwater drainage utilities services (Ordinance)

Disposition: Ordinance No. 169395. (Y-5)

***1677** Give preliminary and final approval for the issuance of Multifamily Housing Tax Credit Revenue Bonds in an amount not to exceed \$9,000,000 (Ordinance)

Disposition: Ordinance No. 169396. (Y-5)

***1678** Contract with Kinetic Computer Solutions, Inc. for microcomputer training services (Ordinance)

Disposition: Ordinance No. 169397. (Y-5)

1679 Authorize Water System Revenue Bonds, Series 1995 (Second Reading Agenda 1649)

Disposition: Ordinance No. 169398. (Y-5)

Commissioner Earl Blumenauer

***1680** Authorize the City Attorney to continue negotiations for the purchase of right-of-way dedications and easements required for construction of the SE Johnson Creek Boulevard Street Improvement Project, begin condemnation proceedings, if necessary, and obtain early possession (Ordinance)

Disposition: Ordinance No. 169399. (Y-5)

***1681** Authorize execution of Subsurface Lease Agreement with Standard Insurance Company for space below SW Salmon Street, SW 4th and SW 3rd Avenues (Ordinance)

Disposition: Ordinance No. 169400. (Y-5)

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Commissioner Charlie Hales

1682 Accept donation of a propane tank truck to the Fire Bureau for training (Ordinance)

Disposition: Passed to Second Reading October 25, 1995 at 9:30 a.m.

***1683** Intergovernmental Agreement with Federal Bureau of Investigation for Fire Bureau to provide medical and paramedical backup services to FBI SWAT Team (Ordinance)

Disposition: Ordinance No. 169401. (Y-5)

***1684** Contract with the lowest responsible bidder for HVAC and pool filtration equipment replacement at Columbia Pool (Ordinance)

Disposition: Ordinance No. 169402. (Y-5)

***1685** Apply to the State of Oregon for a Land and Water Conservation Fund grant for \$30,000 for the addition of a classroom at the Hoyt Arboretum Visitors Center (Ordinance)

Disposition: Ordinance No. 169403. (Y-5)

Commissioner Gretchen Kafoury

***1686** Call for bids to furnish certain FY 1995-96 replacement City vehicles, authorize a contract and provide for payment (Ordinance)

Disposition: Ordinance No. 169404. (Y-5)

***1688** Contract with REACH Community Development for \$29,434 to undertake commercial revitalization activities along SE Belmont and provide for payment (Ordinance)

Disposition: Ordinance No. 169405. (Y-5)

***1689** Contract with the Oregon Human Development Corporation for the Oldtown/Chinatown Hispanic Outreach and Education Program for \$37,500 and provide for payment (Ordinance)

Disposition: Ordinance No. 169406. (Y-5)

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Commissioner Mike Lindberg

1690 Accept contract with Werbin West Contracting, Inc. for water main construction in NE 141st Avenue, SW Haines Street, SW 57th and SW 60th Avenues, and SW Canby Street as complete and authorize final payment (Report; Contract No. 29739)

Disposition: Accepted.

1691 Accept contract with James W. Fowler Company for the Burnside Central sanitary sewer as complete and provide for final payment (Report; Contract No. 29408)

Disposition: Accepted.

***1692** Authorize Purchasing Agent to sign an Emergency Purchase Order to serve as a contract with Delta Electric Co. for replacement of two well pump variable speed motor controls at the estimated amount of \$138,000 without advertising for bids and waiving performance bond requirement (Ordinance)

Disposition: Ordinance No. 169407. (Y-5)

***1693** Authorize a contract with the lowest responsible bidder for stores/communications room remodel for the Bureau of Environmental Services and provide for payment (Ordinance)

Disposition: Ordinance No. 169408. (Y-5)

***1694** Contract with Confluence Northwest to provide professional services for a Stewardship Program Coordinator (Ordinance)

Disposition: Ordinance No. 169409. (Y-5)

REGULAR AGENDA

***1687** Authorize agreement with The Oregonian for access to the City's 800 MHz trunking radio system (Ordinance)

Discussion: Paul Richmond, PO Box 454, 97207, said the 800 MHz system is not working well for the Police and is leaving them in dangerous situations. He said the ordinance is written in a way which precludes access to the system by any smaller media organizations. He believes this is a mistake.

Commissioner Blumenauer said this strikes a good balance as

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opening the system up to anyone is prohibitively expensive and poses a threat to public safety.

Disposition: Ordinance No. 169410. (Y-5)

1670

TIME CERTAIN: 9:30 AM - Report on the preliminary Regional Water Supply Plan (Hearing introduced by Commissioner Lindberg)

Discussion: Commissioner Lindberg said after today's public hearing a Council Informal will be held to allow Council to formulate its position.

Mike Rosenberger, Director, Water Bureau, said the hearing today seeks public input about the regional water supply plan. The goal is to have all 27 participants in the study adopt a final plan by February, 1996. The direction Council gives at the November Informal will be taken to the regional coalition to develop a consensus plan. That will then be brought back to Council in December for another public hearing. He noted that in January, 1991, Council directed the Water Bureau to plan, develop and implement sound solutions to water supply and quality issues for the Portland metropolitan area. It also directed the Water Bureau to exercise leadership and foster working relationships with the other water supply agencies. What is now before Council is the product resulting from that direction. Mr. Rosenberger said paramount public values are identified, based on a great deal of public input. These include environmental protection, efficient use of water (conservation), raw and finished water quality, cost and reliability in the event of catastrophic events. Based on those values, the 27 entities developed various resource sequences. A list of five of those potential sequences has been prepared, some of which meet more public values than others. The "lightning rod" scenario includes aggressive conservation, some interties between the region, aquifer storage and recovery, and development of a small plant on the Willamette River in 2035. Several other alternatives have been developed that meet the demand but place more weight on different values. The recommended Strategy is 1.5. He cited a chart that indicates that by 2050 there would be a mix of water supply sources in the region, with the single largest source being the Bull Run at 25 percent, and conservation as the second largest source at 19 percent.

Mr. Rosenberger said no radical changes are proposed in government structure. Issues of governance are viewed as evolutionary and will be dealt with as the plan is implemented. While a number of institutional alternatives are identified, the recommendation is to move ahead with an intergovernmental agreement structure. The second issue deals with cost. Economic costs are identified in the

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report but it is very difficult to determine the impact of a particular alternative on a given ratepayer in different locations in the region until an analysis of who is going to pay for it has been done. The direction the Bureau has heard reflects Council's interest in equity, in growth paying for growth and in having the benefiting party foot the bill. The macro-economic information in the report is there to provide some way to analyze the relative cost of one alternative over another.

Mr. Rosenberger said the plan must remain flexible and be revisited depending on growth, the effectiveness of conservation and other factors. Finally, the question is why now. He said the feeling is that if the region does some smart things now, it will not have to add substantially to the water supply for a period of perhaps 20 years. However, Metro has to include a water component in its 2040 Plan and it makes sense that this be the basis of that component. Under any scenario certain things must happen now, such as aggressive conservation, and must be done in an organized way. What Metro adopts will guide the region and there is no point in waiting.

Kathleen Concannon, 4945 NE 35th, 97211, Chair, Water Quality Advisory Committee, said the committee has unanimously agreed on certain values. These include superior raw water quality which they believe is the most important value and should, in the next step, be ranked higher. All their other recommendations stem from that. For instance, they believe developing the Bull Run is far superior than turning to the Columbia or Willamette. They also reached consensus about the importance of conservation, particularly given their emphasis on protecting the quality of the Bull Run. With those two principles in mind, they recommend a strategy different than the one recommended in the report. Their strategy would stress maximum use of the Bull Run watershed first, including the possibility of a third reservoir. They would also like to pursue the possibility of filtration of Bull Run water and greater use of Bull Run Lake. State-of-the-art conservation is another part of the strategy, for regional as well as City users of Bull Run water, including any new industrial users. They would like more study on the aquifer storage and recovery option to see if that will work. They recommend that the Columbia be eliminated as a possible source and to continue to explore other sources such as the Little Sandy. They also recommend elimination of the Willamette River as a possible source, although they realize that other regional providers have plans to turn to it. She said the committee is very concerned about regionalizing the water supply and what that will mean for current users, both in and outside the City, and how it might impact control of the water supply, especially the Bull Run. They are also concerned about how decisions will be made on a regional basis and how the public will be represented. Right now, for instance, the City Council, an elected

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body, has the decision-making power and people know how it operates and how to approach it. The committee is concerned, but has no recommendations, about ranking the sources as to their environmental impacts, catastrophic events, etc. Cost is a big issue, including conservation pricing, allocation of costs for growth and equity among users. There is a concern about the overall message of the plan -- that there is plenty of water for the next 50 years -- and what that signals to the region. Finally, there is the issue of enforcement for entities that might not enact conservation measures.

Dr. Gary Oxman, County/City Health Officer, 1863 NW Aspen, 97210, and six-year member of Water Quality Advisory Committee, said from a health perspective, water quality is of paramount importance and he agrees with the Committee's recommendation that the highest quality raw water sources should be developed, rather than lower quality sources where the danger from both existing and potential contamination is much higher. He said they really do not know what might find its way into the water or its health effects. He noted that use of DDT began in the late 1930's but it was not until the early 60s that it was recognized as toxic and not until the mid-1980s that it was listed as a toxic substance by the EPA. That 40-year time span is similar to the timeline of the regional plan.

Mayor Katz asked if he would still be concerned with using water from the Willamette, even with the technology to clean up the water.

Dr. Oxman said pilot studies indicate the Willamette can be cleaned up to meet current EPA standards but no one knows what its future standards will be or even if there will be any, given the current regulatory climate.

Lloyd Anderson, Chair, Water Resources Advisory Committee, supported the ongoing regionalization of water supply planning. The Committee supports Strategy 1.5 as it seems to accomplish the policy objective of providing a reliable, diverse, quality water supply for the metropolitan area. The plan needs to be long range and flexible, given the lead time needed to undertake and complete major projects as well as uncertainties about population growth. Mr. Anderson said the Committee also supports the recommendation for an ongoing regional organization to deal with water supply needs. He said in the 20 years since he, as Commissioner of Public Works, had oversight of the Water Bureau, there has been a radical improvement in the level of trust and willingness to cooperate.

Mike Houck, Audubon Society, said the City should not foreclose future options and should not recommend building a third reservoir in the Bull Run watershed, obliterating several hundred acres of old

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growth and riparian habitat and diverting attention from conservation efforts. He said the conservation efforts called for in this plan should become part of the Region 2040 Plan interim measures. He noted that this is a regional plan and called for the City to exercise the same leadership it did with regional parks, land use and transportation issues. He said Bull Run water cannot be looked at as only belonging to Portland since functionally the region is now a neighborhood. He called for keeping the Willamette as a potential source of water for non-potable uses. He said if the focus is on reducing of industrial uses of potable water for non-potable needs, the use and reuse of stormwater for nonpotable uses, alternative landscaping, conservation pricing and behavioral changes, the Willamette will not need to be used for potable water. If, in the future, it is determined it is usable as drinking water, then that source is available. He also urged that the City not buy into a regional water system that presumes 100 percent reliability on peak summer days in bad water years. Instead, conservation efforts should be ramped up. He said a lot more should be done to integrate water supply and water quality and everyone should get together to implement the conservation measures in the plan.

Dale Sherbourne, Concerned Citizens with Water Management, 2134 SW Palatine, 97219, said they do not support building another dam in the Bull Run as too much timber harvesting has already been done there. He said the Little Sandy River is still a viable source and the land around it should be purchased so that more timber will not be cut.

Sharon Genasci, 2217 NW Johnson, 97210, said the thought of drinking Willamette River water is horrifying as she feels chemicals, such as estrogen imitators, could remain in it for years, disrupting sexual development in animals and humans. She said it is hard to filter out things that we know nothing about.

Peter Teneau, 7023 N. Montana, said too little attention has been paid to industrial and commercial conservation. He called for a conservation pricing structure and said water supply should be correlated to wastewater treatment, so the public can see that the City is working on both ends of the problem at the same time. He supported Strategy 1.5 and noted that while concerns about the Willamette are legitimate, it would be the last source and more sophisticated means of treating contaminants may possibly be found in the future. Finally, conservation should be stressed over the use of Bull Run and there should be a greater consolidation of water supply agencies, perhaps with oversight by Metro.

Joe Keating, Public Utility Review Board (PURB), said the Board

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needs more time to review this and plans to form an ad hoc committee to do that and make recommendations.

Frances Cook, 2006 SW Sunset Blvd., 97201, opposed any use of drinking water from the Willamette, Clackamas or Columbia Rivers. She said the Little Sandy could be used as a source or a third reservoir could be built instead.

James Rooks, 7790 SW 88th, 97223, asked if the City had considered the pipeline from a third reservoir to Portland as that had been a real concern when the Columbia River wellfield and main pumping station were developed. He said he read that high tech industry would use 80 percent of the area's water by 2015 and asked if that included the support people involved in that industry as well.

Dan Aspinwall, SE Portland resident, said the report is fundamentally flawed, particularly because no water would be added until 2020. He also criticized the revolving door planning process which uses many former City employees as outside consultants. He said the Willamette should not be considered as a finalist without studying the cost potential of PGE's water rights claim on the River. The Water Bureau has limited the debate on water quality to meeting state and federal standards and has never asked if people would be satisfied with having a certain level of contaminants in the River. Perhaps Bull Run water should not be used to water golf courses and cool industrial processes. He criticized the process and expressed fear that many of the same problems will arise that the City experienced with the wellfields, which have already gone over budget by about \$40 million. He said the City delivers the finest tap water of any city in the country and, if Bull Run water were limited to indoor domestic use, the whole region could be served for a long time to come. He said this can be achieved through a split system, off-loading industrial, agricultural and other uses onto a separate system. He said he would not regionalize Portland's water supply except for emergency interties and any new service areas should be required to provide separate irrigation systems for non-domestic uses. Otherwise, lower grade water will be used and pesticides and herbicides will be added in low concentrations at a time when there is nothing to suggest that water can be treated to rid it of toxic substances.

Regna Merritt, 522 SW 5th, No. 1050, 97204, Oregon Natural Resources Council, opposed use of the Willamette River as a source of drinking water because it contains too many toxic substances and no filtering systems could guarantee their elimination. She opposed the addition of a third dam in the Bull Run and called for developing the Willamette for non-potable uses. New suburban homes should be

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piped for dual systems. She said planners are too concerned over water quantity, rather than quality. She called for rejection of Strategy 1.5.

Frank Gearhart, 2103 NE 24th Ct., Gresham, OR 972030, Citizens Interested in Bull Run, said citizens have fought for over 100 years to preserve the Bull Run system and want to stick with it now. He said to date the plan has only addressed the supply choice, not financing or the management and those two aspects should be studied before any final decisions are made. He said when one considers cost there is no question but that the Bull Run is the best source, as the operating cost per million gallons is \$58.00 compared to roughly \$300.00 for the Clackamas, Willamette and Columbia.

Benjamin Stock, 3945 SE Taylor, 97214, said a formal coalition of water providers should be formed through an intergovernmental agreement rather than leaving these issues in the hands of local water providers, some of whom have been indifferent to conservation or water quality. Metro should head the formal organization, as it has a regional perspective and its elected officials are accountable. He said Bull Run water should be kept pure and the Willamette River water should be developed to meet the needs of new industries.

Ward Svart, 274 Cervantes, Lake Oswego, 97035, said the water supply could be augmented with a third reservoir and with use of the Little Sandy. He said if the reservoir is built it should be named for Dr. Joe Miller who stopped logging in the Bull Run.

John Hood, 208 SE 39th, 97214, said it is appalling to consider drinking Willamette or Columbia River water and the idea of dual use makes good sense.

Paul Richmond, Box 454, 97207, said the only source the City should consider is the Bull Run because of the effects of toxic substances on animals and humans. He questioned the accuracy of growth statistics, contending that the numbers of people moving here from California have decreased. He expressed concern about the revolving door between the Water Bureau, PGE and Montgomery-Watson, the primary consulting firm.

Everett Antilla, 3415 NE 22nd, 97211, said water supply either limits population growth or the quality of life falls. He would prefer drinking pure, untreated water and a continuation of water conservation efforts.

Tom Cropper, PO Box 18025, 97218, supported building a third dam

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in the Rull Run to supply pure, clean water rather than using man-made water.

John Frewing, 7932 SE Reed College Pl., 97202, said the issue before Council is not what technical options to include in the plan because the actual decision on whether to have a third dam or use the Willamette River is going to be made by people who come after us. What Council needs to think about are two planning principles. First, the cost principles should be agreed upon in black and white and not just assumed. Second, the region ought to agree to test the reality of some of the conservation measures, such as limiting lawn size, rather than waiting until 2015 to find out if you can limit lawn size, for instance.

Clare Donison, 28027 SE Orient Dr., 97080, said the City should be prepared for surprises, i.e. with the wellfield. She called for valuing Bull Run more highly and treating it like gold.

Mitch Williams, 64262 E. Barlow Trail Rd., Brightwood, OR, 97011, said he supports the recommendations of the Water Quality Advisory Board. Those include preserving superior water quality, conservation, dropping the Columbia River from further study, exploring additional water sources such as the Little Sandy and dropping the Willamette River as a source of drinking water.

Kevin Caros, 4326 SE 73rd, urged Council not to use Willamette River water for drinking water. He said many microbreweries are attracted to Portland because of the high quality of the water.

Tom O'Keefe, United Community Action Network (UCAN), said they support serious conservation methods and dual systems. He said the City should do a survey and let users take a vote about water sources. He asked why hydropower was not included when calculating the cost.

Jonathon Poisner, 747 SE 30th, No. 1, 97214, Sierra Club, asked Council to reject Strategy 1.5 which calls for exploring use of the Willamette River as a source for drinking water. He said it is a mistake to presume total reliability, noting that during droughts there could be a tradeoff between quality and absolute reliability.

Harold Osterud, Health Officer, Clackamas County, called for continued use of the Bull Run and noted that the Willamette River is the most contaminated in the State.

Bob Robinson, 2226 SE 35th Pl., 97214, said the amount of clear water available should be limited as a means of controlling growth.

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He said people should refuse to use water from either the Columbia or Willamette Rivers. He also opposed giving away water -- 16,000,000 gallons a day -- to foreign semiconductor conglomerates.

Scott Forrester, 2030 NW Gresham, 97030, said the City should stress conservation and go to a pay-for-use system. He also asked for the exclusion of Willamette and Columbia as potential sources for water and called for consideration of the Little Sandy. He said less environmental protection will be needed there because logging has already occurred. He said the region should capitalize on Bull Run rather than becoming like other communities which get their water from rivers. The effect of catastrophic events have been overrated. For instance, the volcanic eruption of Mt. Hood would primarily affect the Sandy River, not the Bull Run. The issue of radon in new water sources also needs to be addressed. Finally, he does not foresee any requirement by the federal government for filtration of the Bull Run in the future.

Randy Tucker, 1536 SE 11th, 97214, Oregon Students in the Public Interest Research Group, said residents of the area should continue to receive water of the highest quality, even as the region grows. He supported installation of a dual water system and separation of potable from non-potable sources. He said the City should not rely on federal water quality standards as the Safe Water and Clean Water Acts are both under attack. He said the cost should be fairly distributed among regional users and between industrial and residential users. He objected to the squandering of high quality drinking water on industrial uses, such as computer chip manufacturing plans.

Gayle Killam, Oregon Environmental Council (OEC), said the regional approach needs to continue and be formalized. The recommended alternative must be evaluated piecemeal, perhaps mixing and matching the alternatives according to different weights attached to each value. She said some of the values cited should be given greater weight than others, such as raw water quality over reliability, or environmental factors over cost. Conservation must be aggressive and region-wide, particularly because of the many uncertainties about water quality.

Commissioner Lindberg asked if the OEC believed that some values, such as raw water quality, should be ranked higher than others.

Ms. Killam said yes and noted that there seem to be a lot of differences among the region regarding water quality versus reliability. She said conservation efforts should be equitably distributed and there should be a uniform commitment.

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Commissioner Kafoury said while there are different values in the region, i.e. the value of quality versus reliability, there should be a regional commitment to conservation.

John Marks, 0668 SW Palatine Hill Rd., 97219, agreed with the testimony of Regna Meritt on behalf of ONRC. He said the City depends on Bull Run for potable water and Council is the guardian of its quality. He argued that Bull Run has not been managed efficiently in the past and that its management should be transferred from the U.S. Forest Service to the Environmental Protection Agency.

Steve Hinton, 623 NE Brazee, 97212, said he is in the process of forming a watershed council for Clackamas County. He asked if the objective is no water shortages on peak days, does that adequately support the goal of conservation. He also questioned whether all the cost impacts had been accounted for and called for slowing down the decision to explore all the options.

Liz Callison, 6039 SW Knightsbridge Dr., said Parametrix Consultants should be asked to provide a summary of its 1000-page regional environmental assessment as it was done at public ratepayers expense and has not been reviewed by any state or federal agencies. She questioned use of Parks Bond measure money for installing or upgrading sprinkler systems in established parks and said that money might be better spent on acquiring more land. She also claimed that the public is not being provided with information on the cost of restoration and remediation projects or given information about sewage spills and broken sewage pipes in creeks. She questioned requiring the conversion of septic to sewer systems and asked if this is being done as a means of increasing density, since less land is needed for sewers than for septic drainfields.

Guy Orcutt, Northwest Steelheaders, said an abundance of water is the major determinant of an abundance of salmon. He said the City's sewer system is designed to waste water and should be redesigned to keep the water cleaner and conserve more water. He also called for restoring fish runs in the Little Sandy.

Jim Neidhard, SE Portland resident, opposed mixing Willamette and Bull Run water together. He called for an emphasis on conservation and consideration of a dual system with potable and non-potable outlets.

Commissioner Lindberg said he will propose amendments to this report prior to the November Informal. He said they are trying to see if 27 different agencies can reach consensus on these issues. He invited Council members to forward their ideas on these issues prior

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to adoption of the recommendations in December.

Disposition: Placed on File.

Commissioner Earl Blumenauer

***1695** Authorize the Office of Transportation to enter into a loan secured by Promissory Note with the Belmont Limited Partnership not to exceed \$125,000 to finance public improvements associated with redevelopment of the Carnation Dairy site at SE 33rd Avenue and SE Belmont Street (Ordinance)

Disposition: Ordinance No. 169411. (Y-5)

***1696** Contract with CSF Treatment Systems, Inc. to provide leaf composting and processing services to the City (Ordinance)

Discussion: Commissioner Blumenauer said the City has a very successful leaf collection program. The leaves have been composted and a biofiltration system has been developed to deal with stormwater. This agreement will also allow CSF to manage the recomposting program for the City and is a unique public/private partnership.

Bill Japps, 5436 SW Nevada Court, said this allows the City to dispose of leaves at no cost, eliminate operational costs and support environmental protection at the same time.

Commissioner Blumenauer said he was in contact with the unions. No job will be lost although several positions will be redeployed.

Disposition: Ordinance No. 169412. (Y-5)

Commissioner Charlie Hales

***1697** Amend contract with the Northeast Coalition of Neighborhoods, Inc. to provide for the delivery of a graffiti abatement program and increase compensation by \$61,000 to a total of \$208,950 (Ordinance; amend Contract No. 29980)

Discussion: Commissioner Kafoury said a citizens group reviewed and found this to be a poor use of block grant funds. They rejected this as not cost effective. However, she will vote aye so it is not delayed.

Mayor Katz said although the citizens group found it was unsatisfactory to use General Fund money for this, this is a livability

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issue for the City. She said there is a possibility of using volunteers to clean up the graffiti in North and Northeast Portland and very clear performance measures have been written into the contract.

Disposition: Ordinance No. 169413. (Y-5)

City Auditor Barbara Clark

1698

Assess property for sewer system development contracts of the Mid-County sewer project for the period ending September 20, 1995 and Non Mid-County for the period ending September 20, 1995 (Hearing; Ordinance; Z0618 through Z0622)

Discussion: Dan Vizzini, Auditor's Office, recommended overruling the remonstrance.

Commissioner Hales moved to overrule the remonstrance and the motion carried. (Y-5)

Disposition: Remonstrance overruled; passed to second reading October 25, 1995 at 9:30 a.m.

At 12:05 p.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 18TH DAY OF OCTOBER, 1995 AT 2:00 P.M.

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

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

1699

TIME CERTAIN: 2:00 PM - Appeal of Bible Temple/Judson Baptist College, applicant, against Hearings Officer's decision to impose certain conditions in approving a conditional use master plan for a church and bible college located at 9200 NE Fremont (Hearing; 94-00415 MS))

Discussion: Ruth Spetter, Senior Deputy City Attorney, outlined procedures to be followed in this quasi-judicial hearing.

Steve Gerber, Planning Bureau, showed slides and described the four-phase conditional use Master Plan which the Hearings Officer approved with conditions, including conditions addressing the offsite traffic impacts, which are the subject of this appeal. He said the Planning Bureau asked the Office of Transportation to try to find common ground with Bible Temple representatives on appeal conditions. In large part, that has occurred. He identified the applicable approval criteria.

Monique Wahba, Office of Transportation, reviewed the conditions being appealed, which were imposed to deal with the impact of activities on this site. Based on the negotiations, the focus of the conditions was changed from regulating the uses to mitigating for their transportation impacts. Staff has agreed to delete the first condition on appeal regulating the types of uses allowable at the site and their size. It also has agreed to delete the second condition requiring maintenance of a special events log as this information will be covered as part of the requirement for an annual report. The third condition would be modified to require satellite parking when the parking lot is expected to exceed 95 percent capacity. Notification to surrounding residents was dropped from this condition because a new condition is being recommended that would establish a formal relationship with the neighborhood association. Staff also recommends that a fourth condition under appeal, regarding the timing of activities, be dropped because a condition added in the Hearings Officer's report requires the Bible Temple to install improvements to enhance traffic flow.

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Greg Hathaway, 1300 SW 5th Avenue, 97201, attorney representing the Bible Temple, said the primary reason for the appeal was because of the four conditions imposed by the Hearings Officer. Bible Temple was concerned because the conditions, instead of addressing the real concern, traffic and parking impacts on the neighborhood, limited and prohibited activities on the Bible Temple site that had previously been approved in 1981 and 1985. They believed the City, through these conditions, was trying to overregulate approved activities, thereby preventing Bible Temple from fulfilling its church mission. Concern was also raised in the broader church community about the precedent this would set. Working with staff, Bible Temple negotiated conditions which they find acceptable, with one exception, and which meet the City's goal of properly mitigating the parking and traffic impacts. Bible Temple's one caveat has to do with the recording requirement in the October 18, 1995 memo (Condition A2) dealing with parking and traffic activities. He asked Council to amend that condition to require that the recording be extended over a three-year period of time with a sunset clause at the conclusion, if Bible Temple has demonstrated good faith compliance. That same reporting requirement occurs also under Condition D where it calls for an annual demonstration to the City that satellite parking is available. Again, they request a three-year sunset provision. He said he believes Greg Jones, Office of Transportation, has no problem with this.

Frank Damazio, Senior Pastor, Bible Temple, said they believe that the restrictions that were first imposed would have restricted their function as a church. They have functioned within the laws of the City for 44 years and hope to continue to do so but not within conditions which regulate actual church attendance, as well as the activities they could have and when they could meet. He said they will comply with any parking regulation as long as it does not overstep the boundaries of the church.

Commissioner Blumenauer asked if they feel the new staff recommendations comply with both the spirit and letter of their mission.

Mr. Damazio said all but the requirement for annual reporting.

Dick Iverson, Bible Temple pastor, speaking on behalf of many Portland area churches, said they were saddened by the attempted restrictions placed on the Bible Temple. While they accept the City's right to regulate parking and traffic, they do not believe regulation of church activities is appropriate. He said they appreciate the adjustments already made to the restrictions imposed by the Hearings Officer. Any kind of ordinance which would regulate the

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internal functions of the church cannot happen. He said they spent thousands of dollars just to be before Council today, on something that was unwarranted. He asked for approval of the new recommendations.

Mayor Katz reminded the audience that only one issue now remains and asked that testimony be limited to that issue.

Greg Jones, Office of Transportation, said the annual reporting requirement is one that is applied to most institutional conditional uses in the City, ranging from the University of Portland to Oregon Health Sciences University. It is a common tracking technique as periodically institutions return later and ask for additional items as part of their development activities. He said a three- or four-year sunset clause is more than adequate. If issues do arise during that time, they can be raised when the institutions come in for an amendment of their conditional use or to get a new use.

Commissioner Blumenauer said the whole Master Plan process is designed to avoid conflicts and not be unduly burdensome. Council knows there will be changes in the years ahead and having a reliable record makes it easier to avoid another hearing of this nature. He said he has no problem with a review or the sunset clause but is hopeful there is some way to maintain a record.

Mr. Jones said the reporting process is in place now and is only being amended by adding one additional item. Staff is not asking for review by Council at the end of the three years.

Commissioner Blumenauer said he suggested Council review as a means of raising the comfort level of all concerned.

Mayor Katz asked what the reporting requirements were prior to the review of the Master Plan.

Mr. Jones said in 1981 when this conditional use was granted there were none but it was added in 1985, with a four-year sunset. This would be reinstated with one new item.

Commissioner Hales asked if that was Item 5, concerning the number of students, staff and employees.

Mr. Jones said yes. He added that the sunset was not an issue as long as they had a long enough time to establish a track record.

Individuals testifying in support of the Bible Temple appeal included:

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Judy Chown, 4002 NE Rocky Butte Rd., 97220
Martin Sudarma, 4025 NE 91st, 97220
Duane Young, 3619 NE 91st, 97220
Kathy Anfuso, 3933 NE 91st, 97220
Katrina Pichotta, 2436 SE Hudson Court, Troutdale, OR 97060
Dean Mauchley, 9210 NE Fremont, 97220
Laura Davis, 2205 NE 95th Place
Matt McSheehy, no address given
Tim Nashif, 4035 NE 91st, 97220
Ronna Cleve, no address given
Charles Moss, SW Portland resident, no address given
Mark Morn, 2923 NE 92nd Ave., 97220
Eric Stiller, Christian News Northwest
James Michael Ivans, Military Ministry, no address given

Supporters testified to the positive influence of the Bible Temple and its sensitivity to neighborhood concerns, resulting in actions taken by the church to mitigate traffic congestion and to direct church patrons not to park in front of nearby residences. The Bible Temple also formed security patrols and participated in neighborhood cleanup and graffiti removal efforts. Many nearby residents said they did not consider parking and traffic a problem. Others objected to the City's regulations as an unnecessary restriction on the freedom of religion.

Joan Pratt, 9030 NE Fremont, opposed the appeal. She said she is not so concerned about regular church activities but about what happens when special events are held, such as the Parkrose graduation. She said she is often unable to get in and out of her driveway for up to an hour when special events are held and objects to the church's argument that it cannot be regulated because the Bible says so.

Ben Pratt, same address, said a possible solution is to build a road down the east side of Rocky Butte where there is a ravine that would accommodate it. He opposed the change in the conditions because Bible Temple's help is needed to make the road happen. By refusing to let them grow, the City could get their cooperation in building the road and relieving the traffic problem on Fremont and 92nd.

In rebuttal, Mr. Hathaway said the impact of the graduation was an surprise to the Bible Temple but overall it has a very good track record as a good neighbor. He said the conditions recommended by staff will ensure that they will mitigate against any adverse parking and traffic impacts. He noted that many people testified today in opposition to City overregulation of Bible Temple activities and that is why the four conditions were appealed. He applauded the staff's willingness to negotiate and believes there is now a good balance

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which allows the Bible Temple to use its property and yet satisfies the City's objective to not adversely affect the neighborhood. He asked Council to accept the staff recommendations with the addition of the sunset clause to the reporting requirement. This would apply to the five items in Condition A2 and Condition D regarding satellite parking. He said, based on its past track record and the three-year reporting requirement, a return in three years for Council review would probably not be necessary.

Commissioner Hales moved to tentatively uphold the Hearings Officer's decision but with the modifications suggested in Transportation's memo of October 17, furthered modified by the three-year sunset on the recording requirements in Condition A2 and D. Commissioner Lindberg seconded.

Commissioner Blumenauer said he appreciated the staff work on this appeal. He said while the City's many churches enrich the community greatly, their activities occasionally pose some real challenges to being good neighbors. The City wants to mitigate these impacts, not regulate the exercise of religion. Council ought to consider having the church return in three years, when the sunset would kick in, providing an opportunity to celebrate success and for review and see if any fine tuning is needed.

Commissioner Hales complimented the church and City staff for finding a solution to what were originally unacceptable conditions. He said the Bible Temple now has a Master Plan everyone can count on and the condition requiring regular contact with the neighborhood association, which they are already doing, will enable them to resolve most problems without ever talking to a City bureau.

Commissioners Kafoury and Lindberg also expressed appreciation for the efforts of all parties.

Mayor Katz said this has been a good discussion, one that goes beyond the separation of church and state to the role of the City in managing difficult transportation issues that affect the quality of life in the neighborhoods. It is very beneficial when both sides understand their responsibilities and work as partners.

Disposition: Tentatively uphold Hearings Officer's decision with modified conditions; applicant prepare findings for November 1, 1995 at 2:00 p.m.

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

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 19TH DAY OF OCTOBER, 1995 AT 2:00 P.M.

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

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

1700

TIME CERTAIN: 2:00 PM - Liquor license application for Michael and Polyxent Gustafson, dba Georgia's Grocery, 1143 SW Stark Street, package store liquor license (renewal); favorable with restriction recommendation (Report introduced by Commissioner Kafoury)

Discussion: Pauline Gustafson, co-applicant, asked for a one-week setover to allow more time for her to review the report and to get legal advice about how best to address this.

Gary McGrew, License Bureau, said License and Police Bureau staff have worked on this for over a year. The issues are the same as those covered in the street drinking ordinance and while John Werneken delivered the packets only last week, the applicants knew well before that what the recommendation would be. Also, the hearing before the OLCC will allow further due process.

Mayor Katz ruled that the hearing continue and that there be no setover.

Mr. McGrew reviewed Council policies which led to the restriction of fortified wine sales and to the 1992 community policing partnership which resulted in the voluntary restriction on the sale of "problem" products identified with street drinkers. He said both Georgia's and the Commodore operate in an area frequented by street drinkers and in an area suffering from an excessively high level of alcohol-related crime. These two stores have chosen to continue selling the products associated with these problems. Both the License and Police Bureaus recommend forwarding a favorable with restrictions recommendation, disallowing the sale of wines having greater than 13.08 alcohol content and beers in containers larger than 16 ounces.

Larry Sievert, Portland Police Bureau Drug and Vice Division, reviewed Police Bureau reports, most of which relate to alcohol abuse problems, for this area. He displayed maps which plotted four

classifications of alcohol-related crime. He said from these maps he was able to determine that four outlets in the problem area had not yet signed good neighbor agreements. The four outlets were approached and two have since signed agreements but Commodore and Georgia's have not. In the case of Georgia's, staff reached an impasse. The Commodore was included in the problem area because street drinkers indicated they had bought their products there. The Police approach has been to seek voluntary product restrictions and dispersal of the problem. This approach is working and the restrictions on malt liquor and fortified wine have made a difference. The City no longer has one particular area where street drinking is accepted as a way of life.

Police Officer Mark Calder said there is a problem but it is difficult to track it to any particular outlet. He said last year Elias was dragged kicking and screaming into compliance with these restrictions but now grudgingly states that it was the right thing to do for the neighborhood. He said Georgia's is the only outlet he has seen where cases of empty 40-ounce beer containers were stashed right behind the cashier. He said people take these containers across Burnside to the I-405 area. He said he believes both outlets, Georgia's and the Commodore, will come to feel the same as Elias when they accept these restrictions. He noted that more than half his activity reports concern street drinkers.

Pauline Gustafson, co-applicant, said she and her husband have always abided by the law and voluntarily agreed to stop selling fortified wines and take steps to deal with people causing trouble outside their store. They do not sell to people who are visibly on their way to being intoxicated and require that they show rent receipts and identification to show that they live nearby. Alcohol sales are about 20 percent of their total. She said she has been active in the Downtown Community Association and is concerned for the safety of her neighborhood, where the major problems seem to be with drug dealers and street kids. She said she resents having Georgia's lumped in the same category as a store which depends on liquor sales for its bottom line and does not respect the law. She said the 1995 police reports indicate that only about nine alcohol related stops were close to her store and seven of those were for items they do not sell. She asked Council to wait to evaluate Georgia's now that others in the area have stopped selling large containers and give them a chance to prove they are responsible. She said the most sanitary way to care for empty bottles is to have them close at hand so staff does not need to leave the cash register or the front of the store -- that is the only reason they are up front. She said the reality is that this is a low income area with a lot of people living down there who like to drink.

Commissioner Hales asked if she was seeking a yes recommendation without restrictions.

Ms. Gustafson said she wanted to keep the license as it is now, with

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a restriction on fortified wines. She said since MasterMart signed the neighborhood agreement on 40-ounce containers, her sales have not gone up significantly, only about \$50.00 a week. She said she does not approve of drinking but also does not approve of the government declaring that a poor man cannot drink. She said they are very careful about who they sell too and their 40-ounce beer sales are minute compared to others within the City.

Commissioner Kafoury said if all licensees are not held to the same standards, the others will feel this is discriminatory. She said she too wishes this did not have to be done through the licensing process. She moved to adopt the staff recommendation for both outlets. Commissioner Hales seconded.

Commissioner Hales said no one is being singled out and the Code is being applied consistently. He noted the cost to City government to deal with the problems that result from alcohol-related problems.

Mayor Katz said she watched some store owners sign the partnership agreements reluctantly because they thought they would be put at an economic disadvantage. She said she felt a little badly about that but Council believes that this is a target area and, at some point, the Code will be applied equally to every store within it.

Disposition: Favorably recommended with restrictions. (Y-4)

1701

Liquor license application for Kevin Hahn, dba Commodore Grocery, 621 SW 16th Avenue, package store liquor license (renewal); favorable with restriction recommendation (Report introduced by Commissioner Kafoury)

Discussion: Kevin Hahn, Commodore Grocery, said he agrees with what the City is trying to do to solve the problem of street drinkers. He believes he has taken steps with his operation, such as making it mandatory to show rent receipts, to alleviate the problem. He also makes regular surveillance of the area and has expelled offenders drinking near the premises. He has drastically reduced, from 60 to 80 percent, the amount of problem products he carries. He said his review of the police reports indicate that, out of 623 incidents, not one was positively identified as being from his store. He said the Bureaus told him that the neighborhood agreement was voluntary and that he would be given a choice. He feels he runs his business responsibly and was not given a choice.

Pauline Gustafson said she talked to Mr. Hahn about a year ago and found that he was changing his store practices to deal with the problems.

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Mayor Katz asked how many stores in the area have not signed up.

Mr. McGrew said in the downtown area, 25 out of 46 stores have signed the agreement. Some who have not signed are restricted by their leases or have already been dealt with by City Council and the recommendations are pending before the OLCC. He said this is a long term process and the Bureau is trying to bring those operators who sell problem products to Council.

Mayor Katz asked about shifting the problem to other locations.


Mr. McGrew said there is a shift to one other location and they are contacting stores in the area about the problem.

(A vote was taken on Commissioner Kafoury's motion, as noted above.)

Disposition: Favorably recommended with restrictions. (Y-4)

At 2:53 p.m., Council adjourned.

BARBARA CLARK
Auditor of the City of Portland


By Cay Kershner
Clerk of the Council