



CITY OF
PORTLAND, OREGON

**OFFICIAL
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 24TH DAY OF APRIL, 1991 AT 9:30 A.M.

THOSE PRESENT WERE: Mayor Clark, Presiding; Commissioners Blumenauer, Bogle, Kafoury and Lindberg, 5.

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

Mayor Clark proclaimed April 28, 1991 as Workers Memorial Day. A plaque commemorating Mayor Dorothy McCullough Lee was presented to the City by the Women's Advertising Council.

612 TIME CERTAIN: 9:30 AM - Presentation by Youth Today (Report introduced by Mayor Clark)

Discussion: Council members introduced their youth counterparts. Members of Youth Today, Inc. discussed their recent leadership conference on the theme of "Prejudice and Discrimination: Understanding and Prevention."

Disposition: Placed on file.

Agenda Nos. 634 and 636 were pulled from Consent. Commissioner Kafoury asked that No. 634 be heard with No. 645, as both concern housing. On a Y-5 roll call, the balance of the Consent Agenda was adopted as follows:

CONSENT AGENDA - NO DISCUSSION

614 Cash and Investment balances for March 14, 1991 through April 10, 1991 (Report; Treasurer)

Disposition: Adopted; Placed on file.

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- 615** Accept bids of JH & D, Inc., dba Watters Concrete Products Company, for furnishing slurry seal aggregates for \$31,395 (Purchasing Report - Bid No. 134-A)

Disposition: Adopted; prepare contract.

Mayor J. E. Bud Clark

- *616** Establish seven salary rates for the Compensation Plan in accordance with the Personnel Rules adopted by the City Council (Ordinance)

Disposition: Ordinance No. 164069. (Y-5)

- *617** Pay claim of Susan Guerin (Ordinance)

Disposition: Ordinance No. 164070. (Y-5)

- *618** Authorize the City Attorney's Office to sign on behalf of the City a Stipulated Order of Abatement involving the San Raphael Motel (Ordinance)

Disposition: Ordinance No. 164071. (Y-5)

- *619** Authorize Bureau Managers or their designees to approve FreePark parking contract (Ordinance)

Disposition: Ordinance No. 164072. (Y-5)

- *620** Authorize sale of property located at 4838 SE Tenino Court and 4841 SE Tenino Court (Ordinance)

Disposition: Ordinance No. 164073. (Y-5)

- *621** Amend contract with Public Financial Management, Inc., for financial advisor services (Ordinance; amend Contract No. 25866)

Disposition: Ordinance No. 164074. (Y-5)

Commissioner Earl Blumenauer

- 622** Set hearing date, 9:30 am, Wednesday, May 29, 1991, to vacate a portion of an unnamed public street right-of-way south of NW St. Helens Road (Report; Petition; C-9752)

Disposition: Adopted.

- 623** Set hearing date, 9:30 am, Wednesday, May 29, 1991, to vacate certain portions of NE 69th, NE 70th and NE 71st Avenues, between NE Fremont and NE Sandy Blvd. (Report; Petition; C-9739)

Disposition: Adopted.

- *624** Call for bids to restore and convert an existing street lighting system on SW 11th Avenue, SW Washington Street and SW Stark Street (Ordinance)

Disposition: Ordinance No. 164075. (Y-5)

- *625** Accept a street deed and a permanent slope easement for the SW Multnomah Boulevard at SW 25th Avenue street intersection improvement project, granted by US West Communications (Ordinance)

Disposition: Ordinance No. 164076. (Y-5)

- *626** Accept two sewer easements for an identical parcel of land for the Adventist (#20) sanitary sewer system project, granted by MSM Investment Company, and Bruce Rippee and Mary Rippee, authorizing total payment of \$100 (Ordinance)

Disposition: Ordinance No. 164077. (Y-5)

- *627** Accept a sewer easement for the Linn Park (#39) sanitary sewer system project, granted by Dennis LaRose, authorizing total payment of \$335 (Ordinance)

Disposition: Ordinance No. 164078. (Y-5)

- *628** Accept a sewer easement for the Linn Park (#39) sanitary sewer system project, granted by Richard E. Serianne and Vicki L. Serianne, authorizing payment of \$405 (Ordinance)

Disposition: Ordinance No. 164079. (Y-5)

- *629** Accept two sewer easements for the SW 55th Avenue between SW Knightsbridge and SW Orchid Street sewer project, granted by West Hills Homes, Inc., Walter E. Remmers and Debra L. Remmers, and Dennis E. Sackoff and Mary H. Sackoff, at no cost to the City (Ordinance)

Disposition: Ordinance No. 164080. (Y-5)

- *630** Accept a sewer easement for an identical parcel of land, for the SW 55th Avenue between SW Knightsbridge and SW Orchid Street sewer system

project, granted by Lawrence L. Shipp and R. Eileen Shipp, and Ron R. Compton and Jean Compton, at no cost to the City (Ordinance)

Disposition: Ordinance No. 164081. (Y-5)

- *631** Accept a sewer easement for the SE Brookside Drive east of SE 117th Place sewer project, granted by Paul K. Beatty and Barbara J. Beatty, at no cost to the City (Ordinance)

Disposition: Ordinance No. 164082. (Y-5)

Commissioner Dick Bogle

- *632** Call for bids to furnish 325 Personal Alert Safety System (PASS) devices (Ordinance)

Disposition: Ordinance No. 164083. (Y-5)

- *633** Authorize execution of Supplemental Agreement with Oregon State Highway Division, State of Washington and Clark County Fire District #5, concerning a dry water main to the Glenn Jackson Bridge (Ordinance)

Disposition: Ordinance No. 164084. (Y-5)

Commissioner Mike Lindberg

- *635** Authorize Purchasing Agent to sign a purchase order as an amendment to Contract No. 26383 and provide for payment (Ordinance)

Disposition: Ordinance No. 164085. (Y-5)

- *637** Call for bids for restroom renovation at Gabriel Park, authorize a contract and provide for payment (Ordinance)

Disposition: Ordinance No. 164086. (Y-5)

- *638** Authorize acceptance of a Recreational Trail Easement through a portion of Tax Lots 1 and 2 of Block 3 of the recorded plat of Space Industrial Park, Section 22, T1N, R2E, located at 12545 NE Whitaker Way, granted by James and Marilyn Ross, at no cost (Ordinance)

Disposition: Ordinance No. 164087. (Y-5)

- 613** **TIME CERTAIN: 9:45 AM** - Receive progress report from Environmental Task Force regarding creation of a City of Portland Environmental Commission (Report introduced by Commissioner Blumenauer)

Discussion: Bill June, Co-Chair, Environmental Task Force, described the findings contained in this draft report. He said the Task Force plans to hold a public meeting on its proposal to create a nine-member non-regulatory Environmental Commission. He said such a commission can help produce better policy in complex areas by providing a central focus for discussion very early in the process.

Disposition: Placed on file.

Commissioner Blumenauer explained the efforts of the East Multnomah County Soil and Water Conservation District to recognize outstanding conservation teachers. The two award winners this year are Richard Pugh, Cleveland High School, and Dave Conan, Madison High School.

REGULAR AGENDA

- *636** Call for bids for the purchase and installation of nine fuel tanks and associated equipment, authorize a contract and provide for payment (Ordinance)

Discussion: Mayor Clark asked that this be continued for one week.

Disposition: Continued to May 1, 1991, 9:30 am.

- 639** Accept bid of Sahlberg Construction Equipment for one pavement cold milling machine for \$252,600 (Previous Agenda 534)

Discussion: Cay Kershner, Clerk of the Council, said the Purchasing Agent had filed an amended report recommending that the bids be rejected. Commissioner Blumenauer moved to approve the amended report; Commissioner Lindberg seconded and the motion carried. (Y-5)

Disposition: Amended Report; reject all bids. (Y-5)

Mayor J. E. Bud Clark

- 640** Make certain determinations and findings related to and adopt the First Amendment to the Oregon Convention Center Urban Renewal Plan (Second Reading Agenda 564)

Discussion: Commissioner Blumenauer asked Patrick LaCrosse, Director of the Portland Development Commission if negotiations with Alan Peters of Holladay Investors would continue if Council approves the two amendments today.

Patrick LaCrosse, Director, Portland Development Commission, said yes, noting that any condemnation process requires prior negotiations before proceeding. He said the Commission anticipates that the headquarters

hotel will essentially be privately developed and financed and that the process will be as competitive as possible.

Commissioner Kafoury noted that there is a lot of confusion about the amount of public subsidy that may be required or how it would be structured. To clarify that issue, she asked that the Oregon Convention Center Urban Renewal Report (Section 501, p. 25) be amended to delete the reference to the \$20,000,000 potential subsidy and add language that requires a return to Council for a review of any subsidy proposal.

Commissioner Lindberg seconded and the motion carried. (Y-5)

Mr. LaCrosse said they hoped to build the hotel without public subsidy.

Mayor Clark asked if it were true that a 500-room hotel would attract 90 percent of convention groups and questioned the need for four blocks.

Mr. LaCrosse said some 1400 groups have been identified which will not consider Portland unless a 500-room block is available. He said the Headquarters Hotel Advisory Committee recommended that four blocks be purchased in order to meet parking needs.

Commissioner Blumenauer said the public is losing the value of the Convention Center because of the lack of the headquarters hotel. He said it is important to assemble the property now to ensure that we do not end up with a sub-optimal hotel. He said if a subsidy is necessary, PDC can return to Council later with such a request.

Commissioner Bogle said the need has been fully established and the process has been both legal and patient.

Commissioner Lindberg said the economic loss in lost conventions is clear and complimented PDC for its extraordinary efforts to negotiate with Alan Peters.

Mayor Clark said the public benefit to the economy in having a hotel is overwhelming.

Disposition: Ordinance No. 164088. (Y-5)

- 641** Make certain determinations and findings related to and adopt the Second Amendment to the Oregon Convention Center Urban Renewal Plan (Second Reading Agenda 565)

Disposition: Ordinance No. 164089. (Y-5)

Commissioner Dick Bogle

- 642** Increase existing fees for certain Fire Bureau permits to provide cost recovery for specialized plan review functions (Second Reading Agenda 598)

Discussion: Commissioner Bogle requested that this be referred back to his office. He said a state review is required before final approval.

Disposition: Referred to Public Safety.

- 643** Amend the Business License Law as recommended by the Business License Review Committee Report (Second Reading Agenda 599)

Disposition: Ordinance No. 164090. (Y-5)

Commissioner Gretchen Kafoury

- *634** Contract with Enterprise Foundation for \$20,000 for technical assistance services in support of public-private partnerships for affordable housing (Ordinance)

Discussion: Commissioner Kafoury said this contract provides a critical component of the housing agenda.

Walter Farr, Vice President, Enterprise Foundation, said Portland is one of 24 cities the Foundation will work with to develop local institutions that can deliver low income housing.

Disposition: Ordinance No. 164091. (Y-5)

- 645** Direct the Housing Advisory Committee to oversee the development of a county-wide comprehensive affordable housing strategy in cooperation with Multnomah County and Gresham; appoint new members (Resolution)

Discussion: Commissioner Kafoury said this strategy is being used to provide the backbone for developing a plan for housing and community development. She said the participation of Multnomah County and Gresham in this planning process should result in a housing strategy for the entire county, not just the City.

Ed McNamara, Chair, Housing Advisory Committee, said the committee has accepted the charge that it be the volunteer housing activist in the City.

Disposition: Resolution No. 34836. (Y-5)

- 644 Appeal of Edward Ketzal against Noise Review Board's decision to grant a variance for the Norm Thompson Historic Races at PIR July 12-14, 1991 (Hearing)

Discussion: Paul Herman, Noise Control Officer, spoke on behalf of the Noise Review Board. He said this race is a repeat of an event that has occurred for many years. This year the request consisted of two parts -- a noise variance for this year's event and a request for multi-year variances. The Board approved the application for this year but denied the multi-year request.

Mr. Herman responded to the three points in Mr. Ketzal's appeal, noting that the Board did not consider failure to complete the application a reason for denial as long as the Board was able to get sufficient information at the time of the hearing. The second point, that Global Events was not a good neighbor because of its alleged harrassment of several neighbors was not considered germane. The final point, which asserts that the statement that no information regarding the number of homes predating the track facility was incorrect, is technically true. However, Mr. Herman said he did not believe the expenditure involved in getting an exact number was critical as far as the decision was concerned.

Edward Ketzal, Sr., appellant, contended that the information regarding population density was readily available and that the Board did not follow its own rules regarding filling out applications. He said he wished only to protect his property from the negative effects of the noise from the racetrack and claimed that the man who was harrassed had been denied his rights.

Lee Pahl, 3911 N. Attu, supported Mr. Ketzal's appeal. She said noise from the race track severely impacts both her house and the neighborhood. She read a letter from Reena Heijdeman, Portsmouth Neighborhood Association, recommending installation of a noise muffler.

Jay Walden, Global Events, said they believe the noise from their race has no measurable impact on the neighborhood. He described steps Global Events has taken to work with the neighborhood on the perceived noise problem, including payment of \$10,000 for a noise study. He maintained that they had filled out the application the same way for 8 years and that the harrassment incident did not involve Global Events employees.

John Wren, Police Bureau, said he was in charge of security at the CART races last year and if any complaint were to be made, it would be about the Police, not Global Events.

Pam Arnold, Chairman, Kenton Neighborhood Association, disputed Mr. Walden's statement that Global Events had worked with the neighborhood. She said she has been coming to Council for four years to testify that there

is a problem but that Council prefers to promote the race events and let the neighborhood suffer. She also criticized the timing of the appeal hearing, noting that Global Events begins promoting the race a year in advance.

Commissioner Kafoury clarified that the Noise Board did not grant a multi-year variance. She said this year's event will be reviewed and a decision made afterwards about future events. She noted that conditions requiring the applicant to work with the neighborhood are stated in the decision.

Commissioner Kafoury moved to uphold the decision of the Review Board. Commissioner Lindberg seconded.

Commissioner Lindberg said a study on the use of noise barriers has been initiated and he is hopeful this will help.

Disposition: Appeal denied. (Y-5)

Commissioner Mike Lindberg

S-646 Approve the FY 1991-92 Metropolitan Exposition/Recreation Commission (MERC) proposed budget pursuant to Intergovernmental Consolidation Agreement No. 25921 (Resolution)

Discussion: The Clerk noted that a substitute had been filed. Commissioner Lindberg moved that the substitute be accepted. Commissioner Bogle seconded and the motion carried. (Y-5)

Commissioner Lindberg said the substitute reflected a change suggested by the Mayor's Office to achieve risk management consolidations between the City and Metro. He added that if Metro makes changes in the proposed budget, Council can review it again.

Disposition: Resolution No. 34837 substitute. (Y-5)

647 Prescribe the rates and charges for water and water-related services by the City of Portland during the fiscal year July 1, 1991 to June 30, 1992 and fix an effective date (Ordinance)

Disposition: Passed to Second Reading May 1, 1991, 9:30 am.

***648** Amend Ordinance 163859 to transfer \$20,000 from the General Fund unforeseen reimbursables to the Metropolitan Arts Commission (Ordinance)

Disposition: Ordinance No. 164092. (Y-5)

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City Auditor Barbara Clark

649 Assess property for sewer system development charges for the period ending January 31, 1991 (Second Reading Agenda 604)

Disposition: Ordinance No. 164093. (Y-5)

At 11:37 a.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 24TH DAY OF APRIL, 1991 AT 2:00 P.M.

THOSE PRESENT WERE: Mayor Clark, Presiding; Commissioners Blumenauer, Bogle and Kafoury, 4.

OFFICERS IN ATTENDANCE: Cay Kershner, Clerk of the Council; Pete Kasting, Chief Deputy City Attorney; and Officer Sheridan Grippen, Sergeant at Arms.

John Sherman, Friends of Forest Park, presented books to Council members.

650 TIME CERTAIN: 2:00 PM - Approve Union Station Transportation Committee's recommendations for track modifications at Union Station (Resolution introduced by Commissioner Blumenauer)

Discussion: Steve Iwata, Office of Transportation, said this resolution requests Council approval of the recommendations of the Union Station Transportation Committee. He said the timing is very important in order to complete the Ninth Avenue street improvement project by the spring of 1992. Last summer the Portland Development Commission submitted a 5-track plan, calling for use of the outer tracks by freight only with Amtrak having use of Tracks 1, 2 and 3. Concerns were raised then as to whether this plan would meet Union Station long-term transportation needs. The Committee has since reviewed various options and now recommends a revised 5-track plan calling for tracks 4 and 5 to be jointly shared by Amtrak and freight as well as retention of the second passenger shed and platform. In order to accommodate both freight and Amtrak traffic on tracks 4 and 5, the Committee recommends that the shed on the outer platform be relocated and that the platform be widened. He said the Committee was very concerned about the financial feasibility of this option and recommends a 60-day provision to develop a funding plan. If such a plan cannot be developed, then it recommends that the outer shed be trimmed to meet the proper clearance.

Mr. Iwata said the committee also discussed a future setback to accommodate a future sixth track and platform but was unable to come to any agreement on this issue.

Vivian Parker, Chair, Union Station Transportation Committee, said there is no perfect solution to the complex problem these modifications present. She supported adoption of the Track B option.

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Doug McGregor, Portland Development Commission, said the committee reached full consensus on the major issues and believes that the five-track modification meets Amtrak's short and long term needs. He said this option is fully supported by PDC.

Gary Greblo, President, Portland Terminal Railroad, supported the 5-track plan and added that they did not believe any additional land needs to be set aside for future use.

Sharr Prohaska, 3640 SW Dosch, said the one issue the committee could not agree upon was the proper way to protect Shed Two. She said the Committee decided to ask the City to take 60 days to see if financing could be secured to preserve both passenger sheds. If not, a reversion to Plan A is recommended. She said the Landmarks Commission recommended adoption of Plan B and designated the second shed as a historic landmark.

Rod Aho, Oregon Association of Rail Passengers, said he believes a default to Plan A is unacceptable because of its negative effect on the sheds. He recommended adoption of Plan C and said his organization may file a law suit if Plan A is adopted. He said he has doubts about the funding called for in Plan B and also called for Council to provide for creation of a setback.

James Larson, Vice-President, Amtrak, strongly supported adoption of Plan B. He criticized the 4-track plan, stating that it does not provide for future rail needs but seeks only to preserve the passenger sheds at any cost. He said Amtrak cannot live with the status quo because of significant cost implications which could force it to seek an alternate site. While Amtrak prefers to remain at Union Station, it has amended its lease to include a short term escape option if the cost to remain becomes prohibitive.

The Mayor asked if Amtrak could contribute financially to the station improvements.

Mr. Larson said Amtrak's little available capital is critically needed to acquire new equipment to meet increased service demands.

Bill Naito, Union Station Task Force member, and John Carroll, Chair of the Vintage Trolley Study, urged Council to make a decision and get on with the project. Both stressed the need to complete the connection to NW 9th Avenue.

Individuals speaking in favor of preservation of the sheds and against a default to Plan A included:

Lewis McArthur, 4154 SW Tualatin
Jim Howell, 3325 NE 45th
Richard Carlson, 9110 NW Stark Court
Ray Polani, 3168 SE Lake Road, Milwaukie
Fred Nussbaum, Friends of Union Station

Supporters called for preservation of the sheds, citing their designation as historical landmarks.

Jim Gardner, 2930 SW 2nd Ave., stressed the need to preserve the structure, including the shelters, and the surrounding area. He called for saving the presently undeveloped land behind the station.

In Commissioner Lindberg's absence, Commissioner Bogle moved his proposed amendment recommending adoption of Plan B but deleting any reference to a fallback to Plan A. The motion failed to receive a second.

Commissioner Blumenauer said he believes there is a consensus around Plan B and that there should be no further delay.

Disposition: Resolution No. 34838. (Y-4)

- 651** Establish procedures for the preparation and adoption of new findings in response to LUBA's rulings in Joseph Angel's appeal of zone change denial to develop a Burger King at SE 39th and Hawthorne (Report introduced by Commissioner Kafoury)

Discussion: Commissioner Kafoury asked that Council direct staff to return with new findings in four weeks.

Stephen Janik, attorney for Burger King, asked that the report be clarified regarding inconsistencies in paragraphs two and four. He requested that Mayor Clark and Commissioners Blumenauer, Bogle and Lindberg not participate in any further proceedings on this matter because their ex parte contacts and site visits make them incapable of rendering an impartial judgment.

Commissioner Kafoury said her office is taking this request under advisement.

Mr. Kasting said if Council decided it did not want to hear this case on remand, it should adopt an ordinance, applicable only to this case, directing that it go to the Hearings Officer with a provision that any appeal would go directly to LUBA. He said Council members need to decide if they are capable of making a fair decision based upon the evidence.

Commissioner Bogle asked if the definition of evidence ruled out past site visits.

Mr. Kasting said no, as long as they are full disclosed so that the parties have an opportunity to rebut any misimpressions that may have been received. He said just making a site visit or having ex parte contacts does not preclude participation.

Disposition: Prepare Findings for May 22, 1991, 2 pm.

- 652** Appeal of Ardenwald-Johnson Creek Neighborhood Assoc., Eastmoreland Neighborhood Assoc., and Eastmoreland Racquet Club Homeowners Assoc., against decision to approve application of Eastmoreland Tennis Corp. for a conditional use to expand an existing building at 3015 SE Berkeley (Hearing; CU 90-90; Previous Agenda 530)

Discussion: Steve Gerber, Planning staff, said this is a conditional use proposal to expand the building and parking area, and increase the membership of the Eastmoreland Racquet Club. He said the Hearings Officer's decision included limits on membership and ancillary uses, restricted hours of operation and called for legalization of an existing parking lot. The decision also imposes conditons to protect Johnson Creek and requires applicant to come back for a review of all impacts at the end of two years.

Regarding the lighting issue, Mr. Gerber said staff is recommending an additional condition, if necessary, to control light from the existing sky lights. At this time, the applicant has submitted a lighting engineer's report which may make the condition unnecessary as it concludes that the light emitted is far under the City allowance permitted by the Code. He outlined portions of a new submittal made by the applicant regarding limits on membership, restrictions on ancillary uses and hours of operation and traffic impacts on Berkeley Place.

Jocelyn Cox, Eastmoreland Neighborhood Association, described three issues that remain of concern: 1) skylights; 2) limits on ancillary uses and 3) limits on the number of users. While the current owners have reduced the lights, the problem still remains because of the vast expanse of skylights. Regarding limits on ancillary users, she called for a limit of ten such events per year until full membership is achieved at which time such uses would be prohibited. In addition, Ms. Cox called for more precise definitions of membership.

Leo Huff, Ardenwald/Johnson Creek Neighborhood Association, said they oppose this expansion because they believe the facility is not neighborhood-oriented and because the street system is inadequate to support it.

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Jim Smith, attorney for the Eastmoreland Racquet Club Homeowners Association, said the association objects to this expansion because it will triple traffic on Berkeley Place and change the character and value of their properties.

David Hudson, 2940 SW Berkeley Place, said a 300-member facility was tolerable but a tripling in size to 1,000 was not.

Bud Terry, Manager, Eastmoreland Tennis Corp., described their attempts to meet neighborhood concerns. He said they had eliminated or redirected lighting and modified much of their original proposal to mitigate effects on the neighborhood. He disputed neighborhood contentions about the impact increased membership will have on traffic, noting that the Office of Transportation Management believes they are well within compliance.

Commissioner Bogle asked if a conditional use exists now which limits membership to 300 and how many members the facility presently has.

Mr. Terry said the current conditional use does specify a limit of 300, adding that they currently have 450 members.

Richard Samuels, attorney for Eastmoreland Tennis Corp., said the current owners are making every attempt to overcome the previous owner's ten-year history of neighborhood conflict. He said they have scaled down many of their original proposals and believe the lighting problem has now been solved.

Ida Louise Gingerich, 8266 SE 32nd, called for the skylights to be eliminated, not just substantially reduced.

John Hoover, 2940 SE Bybee Boulevard, Co-Chair, Eastmoreland Neighborhood Association, said he had not had a chance to get neighborhood input on the lighting stipulations mentioned by Mr. Gerber.

Commissioner Blumenauer suggested a setover.

Mr. Samuels said the Club had already agreed to two continuances and thought an agreement had been reached with the appellants.

Commissioner Kafoury moved to continue the matter for two weeks. Commissioner Blumenauer seconded and the motion carried. (Y-5)

Commissioner Blumenauer criticized the Club for its poor track record, noting that it already has more memberships than currently allowed.

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Mayor Clark said this looks like a regional facility and cited previous cases where he had voted against such uses because of impacts on the neighborhood. He asked how Council determines when such uses step over the line.

Mr. Kasting said deciding whether or not to approve it is a matter of applying the fairly general terms of the approval criteria set out in the Code, such as whether the use is detrimental to surrounding properties.

Commissioner Blumenauer said he would like to see some enforceability written into the findings to prevent such things as the doubling of membership in defiance of the approved use.

Disposition: Continued to May 8, 1991, 2 pm.

At 4:40 p.m., Council recessed.

APRIL 25, 1991

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 25TH DAY OF APRIL, 1991 AT 2:00 P.M.

THOSE PRESENT WERE: Mayor Clark, Presiding; Commissioners Bogle, Kafoury and Lindberg, 4.

OFFICERS IN ATTENDANCE: Joan Engert, Clerk of the Council; Ruth Spetter, Senior Deputy City Attorney; and Officer Sheridan Grippen, Sergeant at Arms.

653 TIME CERTAIN: 2:00 PM - Appeal of Peter Kasal and Michael Fisk et al, against Hearings Officer's decision to approve the application of Jill Collins for a zone change from R10 to R7 in order to divide property into two lots at SW Mitchell Street and 26th Place (Hearing; LUR 91-00002 ZC AD)

Discussion: Sheila Frugoli, Planning staff, said the proposed zone change from R10 to R7 and subsequent adjustments to two lots are consistent with the Comprehensive Plan. One adjustment would reduce the area of Lot A from the required 7000 to 6775 square feet and its width from the required 60 to 56 feet. An adjustment of Lot B would reduce the width from 60 to 44 feet. She said the Hearings Officer approved the application with conditions providing that criteria for a zone change are met. She said the site has adequate City services.

Mayor Clark asked if zone change criteria are met even with adjustments in the size, as 7000 sq. feet is part of the criteria.

Ms. Frugoli said the Zoning Code allows size adjustments depending on the adequacy of services. She said several houses in the area have minimal side yard setbacks, making these adjustments to the lot width insignificant.

Ms. Frugoli said appellants contend that a substandard land division will destroy the character and value of the neighborhood and that this proposal is inconsistent with the 1980 Comprehensive Plan map, which said no new substandard lots could be created. She said the Code has been amended to allow creation of lots smaller than the minimum lot size if variance criteria were met. She said the new Code provides for creation of new lots in the R7 zone as small as 6000 square feet if approval criteria are met.

Richard Kasal, speaking for the appellants, said conditions at the site make subdivision inappropriate according to the Code and Comprehensive Plan. He distributed copies of Code language that he said demonstrated that intent, provided a model of the proposed building site and showed

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pictures and diagrams of the neighborhood. He said the Comprehensive Plan does not allow breaking up an existing lot for a substandard one. He said a zoning map showed that less than 10 percent of the land in the R10 area is less than 10,000 sq. feet.

Jill Collins, applicant, said she began the process because maintenance of the property adjoining her house is a burden to her. Both the Planning Bureau and Hearings Officer have approved her proposal, with conditions. Ms. Collins said the area meets zoning criteria because it is already zoned R7 on the Comprehensive Plan map and there are adequate City services. She showed a diagram highlighting all the neighborhood lots less than 10,000 sq. feet and contended that the neighborhood is already on its way to something less than an R10 designation.

Opponents of the proposal included:

Mike Fisk, 4911 SW Richardson Dr.
Pete Kasal, 2545 SW Mitchell St.
Bradley Coffey, 4910 SW Richardson Dr.
Bill Englund, 5115 SW Richardson Dr.

Mr. Fisk submitted a letter on behalf of the Bridlemile/Robert Gray Neighborhood Association requesting that the Hearings Officer's decision be reversed because it is inconsistent with the intent of the Comprehensive Plan.

Mr. Kasal submitted a petition with neighbors' signatures opposing the zone change to R7. He said the Comprehensive Plan does not allow adjustments on an R10 lot with less than 8750 square feet and, therefore, applicant is not entitled to an adjustment.

Opponents stressed the importance of preserving the present character of the neighborhood and contended that denials of previous subdivision requests established precedents for denial of this one.

In rebuttal, Ms. Collins noted Planning Bureau support and the Hearings Officer's approval. She argued that a pattern of smaller lots already exists in the neighborhood.

Commissioner Kafoury asked the City Attorney to explain why language about creation of new substandard lots is not applicable in this situation.

Ruth Spetter said she was not sure the appropriate Code Section was applied.

Commissioner Kafoury moved to set the issue over one week for legal interpretation.

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Commissioner Lindberg said the Planning staff already considered that issue and got opinions.

Ms. Frugoli said at the time the application was filed, Planning Director Robert Stacey had directed staff to accept applications but delay review until the new Code applied. She said possibly that needs clarification.

Commissioner Kafoury said the issue is which Code is applicable.

Commissioner Lindberg said further discussion would just result in going through the application process again, with no different outcome.

Commissioner Kafoury recommended waiting a week for a legal opinion.

Mayor Clark said the decision would be based on what the law allows, not a petition or popularity contest. He said he would be inclined to vote for the division of the lot based on the other smaller lots on the street.

Disposition: Continued to May 2, 1991 at 2:00 p.m.

REGULAR AGENDA

Commissioner Gretchen Kafoury

- 654** Accept Planning Commission report and recommendations on St. Helens Road Zoning Study (Report)

Disposition: Adopted. (Y-4)

- 655** Amend the Official Zoning Maps of the City of Portland (Ordinance)

Discussion: Jim Claypool, Planning Bureau, said this legislative zone change of two tax lots on five acres is part of a larger study on the St. Helens Road zoning issue. He said the site zone is heavy industrial, while the property on the hillside is R5 residential. He said the proposal is to excavate the hillside area. He said the site is five acres and 200 ft. in depth, with about 1400 ft. St. Helens frontage. He said the zone study was ordered after excavation of the hillside area was proposed in 1987.

Mr. Claypool said a citizens advisory committee has examined such issues as slope stability, landslide potential and buffer zones, and recommends proceeding with the Comprehensive Plan amendments and new zoning tools. He called for further study to determine if there are other natural buffers in the City and along St. Helens Road. He said the Planning Commission recommends a simple zone change from heavy industrial to general industrial with application of the existing buffer overlay zone,

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which is not a perfect solution. He said a Comprehensive Plan amendment is needed to add a more appropriate buffer overlay zone for protecting hillsides from excavation.

Ted Leybold, Assistant to Commissioner Blumenauer, read a statement from the Commissioner in support of additional zoning regulations to protect residential neighborhoods from industrial development.

Commissioner Kafoury asked if the study could be accelerated.

Mr. Claypool said they expected to have recommendations in the first quarter of the year.

Speakers supporting the study, zoning changes and amendments to the Comprehensive Plan included:

Philip Sherman, 2133 NW 33rd Ave.
Chris Wrench, 3103 NW Wilson St.
Sabina Wohlfeiler, 2125 NW 33rd
Marjorie Newhouse, 1129 NW 26th
Roma Barman, 3418 NW Vaughn St.

Supporters described the damage that would result from excavation of the hillside and the need for a buffer from the industrial area. They asked for additional protections of the residential and buffer areas in the Comprehensive Plan to prevent further development of the hillside.

Commissioner Lindberg asked whether, if Council approved the report, someone could still excavate there.

Mr. Claypool said the applicant could go through the conditional use process. He said the Planning Commission asked to be advised if anyone applied to excavate on that site.

Disposition: Passed to second reading.

At 3:30 p.m., Council adjourned.

BARBARA CLARK
Auditor of the City of Portland

Cay Kershner
By Cay Kershner
Clerk of the Council