

**PORTLAND CITY COUNCIL AGENDA**  
**City Hall, 1220 SW Fifth Avenue**

**WEDNESDAY, JANUARY 1, 1992**

**THE MEETINGS WERE SET OVER TO**

**JANUARY 2, 1992**

**DUE TO THE HOLIDAY**



CITY OF

# PORTLAND, OREGON

OFFICIAL  
MINUTES

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 2ND DAY OF JANUARY, 1992 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.

Agenda No. 39 was pulled from Consent. On a Y-5 roll call, the balance of the Consent Agenda was adopted as follows:

## CONSENT AGENDA - NO DISCUSSION

- 1 Cash Investment balances for November 21, 1991 through December 18, 1991 (Report; Treasurer)  
**Disposition:** Placed on file.
- 2 Vacate a certain portion of NE Cliff Street, under certain conditions (Second Reading Agenda 1964; C-9697)  
**Disposition:** Ordinance No. 164925. (Y-5)
- 3 Accept bid of K.J. Murphy for nuisance abatement - Southeast Portland Service District for \$46,899 (Purchasing Report; Informal Bid)  
**Disposition:** Accepted; prepare contract.
- 4 Accept bid of H & H Electric, Inc., for Parks pathway and roadway lighting for \$480,485 (Purchasing Report - Bid 17)  
**Disposition:** Accepted; prepare contract.
- 5 Accept bid of Hollinger Construction Inc., for Alder Pump Station remodel for \$498,349 (Purchasing Report - Bid 29 Rebid)  
**Disposition:** Accepted; prepare contract.

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- 6** Accept bid of Landgraphics, Inc., for City landscape maintenance program for \$206,643 (Purchasing Report - Bid 32-A)

**Disposition:** Accepted; prepare contract.

- 7** Accept bid of Diamaco, Inc., for terrace restoration at Pittock Mansion for \$37,964 (Purchasing Report - Bid 37)

**Disposition:** Accepted; prepare contract.

- 8** Accept bid of Daily Journal of Commerce for furnishing advertising and newspaper publication for \$65,000 (Purchasing Report - Bid 47A)

**Disposition:** Accepted; prepare contract.

**Mayor J. E. Bud Clark**

- 9** Confirm reappointment of Carl George to the Towing Board of Review (Report)

**Disposition:** Confirmed.

- 10** Accept construction work of DGS General Contractors, Inc., for the Printing & Distribution Tenant Improvement Project, accept Change Order No. 4, waive retainage requirements, adjust contract amount and make final payment (Report; Contract No. 27129)

**Disposition:** Accepted.

- 11** Accept Autoport structural repair work, authorize Change Order No. 3, waive retainage and pay Batzer Construction, Inc.. (Report; Contract No. 26915)

**Disposition:** Accepted.

- \*12** Pay claim of Thomas B. Narvasa (Ordinance)

**Disposition:** Ordinance No. 164926. (Y-5)

- \*13** Pay claim of Dale K. Brown (Ordinance)

**Disposition:** Ordinance No. 164927. (Y-5)

- \*14** Pay claim of Warren Covington and Barb Kohler (Ordinance)

**Disposition:** Ordinance No. 164928. (Y-5)

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- \*15** Adjust two salary rates in the Compensation Plan in accordance with the Personnel Rules adopted by Council

**Disposition:** Ordinance No. 164929. (Y-5)

- \*16** Accept a 12-month grant renewal in the amount of \$458,005 from the Office of Substance Abuse Prevention (OSAP) on behalf of the Regional Drug Initiative (RDI) (Ordinance)

**Disposition:** Ordinance No. 164930. (Y-5)

- \*17** Application to the Innovations in State and Local Governments Program of the Kennedy School of Government at Harvard University and the Ford Foundation for a grant of \$100,000 for the Landlord Training Program (Ordinance)

**Disposition:** Ordinance No. 164931. (Y-5)

- \*18** Agreement in the amount of \$300,253 to provide Multnomah County with fingerprinting and photographic services for arrested persons (Ordinance)

**Disposition:** Ordinance No. 164932. (Y-5)

- \*19** Authorize an intergovernmental agreement with Multnomah County to provide staff assistance to the Regional Drug Initiative (Ordinance)

**Disposition:** Ordinance No. 164933. (Y-5)

- \*20** Authorize an intergovernmental agreement with other Metro area law enforcement agencies for mutual aid (Ordinance)

**Disposition:** Ordinance No. 164934. (Y-5)

**Commissioner Earl Blumenauer**

- \*21** Authorize a contract with the Friends of the Performing Arts for theater performances in schools for the Bureau of Environmental Services for \$14,000 without advertising for bids (Ordinance)

**Disposition:** Ordinance No. 164935. (Y-5)

- \*22** Accept a sewer easement for the Mill Park Sanitary Sewer Project, granted by Jack E. Sawyer, Jr. and Yolanda Lea Sawyer, authorizing payment of \$100 (Ordinance)

**Disposition:** Ordinance No. 164936. (Y-5)

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- \*23** Accept a sewer easement for the Mill Park Sanitary Sewer Project, granted by Danny R. Sass, authorizing a payment of \$100 (Ordinance)

**Disposition:** Ordinance No. 164937. (Y-5)

- \*24** Release the City's interest in a portion of a certain sewer easement, in Lot 3, Block 3, Boonsferry Terrace (Ordinance)

**Disposition:** Ordinance No. 164938. (Y-5)

- \*25** Authorize contract for sewer construction services with S-2 Contractors, Inc. without advertising for bids and provide for payment (Ordinance)

**Disposition:** Ordinance No. 164939. (Y-5)

- \*26** Amend contract with Parker Northwest Paving Co. to increase quantities of unit bid items, increase scope of work and payment as detailed in Change Order No. 1 (Ordinance; Contract No. 27415)

**Disposition:** Ordinance No. 164940. (Y-5)

- \*27** Revocable permit to Oregon Ballet Theater to maintain banners on street light poles from January 13, 1992 to February 9, 1992 (Ordinance)

**Disposition:** Ordinance No. 164941. (Y-5)

- \*28** Accept two public walkway easements for the NE Holladay Street, Martin Luther King, Jr. Boulevard to 13th Avenue Street Reconstruction Project, granted by Pacific Development (Property), Inc., and Lloyd Building Partnership, Ltd., at no cost to the City (Ordinance)

**Disposition:** Ordinance No. 164942. (Y-5)

- \*29** Call for bids for labor and materials to install a traffic signal at 4800 NE 122nd Avenue (Ordinance)

**Disposition:** Ordinance No. 164943. (Y-5)

- \*30** Accept a temporary construction easement for the Mill Park Sanitary Sewer Project, granted by Helen M. Schneider, authorizing payment of \$150 (Ordinance)

**Disposition:** Ordinance No. 164944. (Y-5)

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- \*31** Accept a street deed for the future widening of SW 58th Avenue south of SW Main Street, granted by James V. Strader and Diane G. Strader, at no cost to the City (Ordinance)

**Disposition:** Ordinance No. 164945. (Y-5)

**Commissioner Dick Bogle**

- 32** Appoint State Representative Mike Burton, Barbara Cannon, Rebecca Marshall Chao, Lynn Davis, Kevin Kelly, Randy Leonard, Nancy Locke, Bea McMillan, Lydia Mather, Sol Menashe, Marci Proutt, Cary Schaye, Tim Slapnicka, Bruce Watts and Mark Williams to the Fire Study Committee (Report)

**Disposition:** Confirmed.

- \*33** Carryover excess vacation hours into 1992 for three employees of the Bureau of Fire, Rescue and Emergency Services (Ordinance)

**Disposition:** Ordinance No. 164946. (Y-5)

- \*34** Allow retirement payoff of up to three years' accumulated vacation for two non-represented officers of the Bureau of Fire, Rescue and Emergency Services (Ordinance; waive Section 4.16.040)

**Disposition:** Ordinance No. 164947. (Y-5)

**Commissioner Gretchen Kafoury**

- \*35** Authorize an agreement with Delanie Delimont for a sum not to exceed \$15,480 to provide staff support to implement an Eldercare Coalition in North and Northeast Portland for the Commission on Aging (Ordinance)

**Disposition:** Ordinance No. 164948. (Y-5)

- \*36** Adopt the State of Oregon, 1991 Edition, Plumbing Specialty Code (Ordinance; amend Code Section 25.01.020)

**Disposition:** Ordinance No. 164949. (Y-5)

- \*37** Adopt the State of Oregon revisions to Chapter 53, Energy Conservation, of the 1990 Edition, Structural Specialty Code (Ordinance; amend Code Section 24.10.040)

**Disposition:** Ordinance No. 164950. (Y-5)

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**Commissioner Mike Lindberg**

- \*38** Amend contract with Joan Gratz and Joanna Priestley to create and install a public art project film for the Inverness Jail (Ordinance; amend Contract No. 26655)

**Disposition:** Ordinance No. 164951. (Y-5)

- \*40** Authorize application for an Oregon State Land and Water Conservation Fund Grant in the amount of \$50,000 for the development of a demonstration project along the Springwater Corridor (Ordinance)

**Disposition:** Ordinance No. 164952. (Y-5)

- \*41** Amend Ordinance No. 164796 to correct appropriation of Portland Amateur Baseball Association donation (Ordinance)

**Disposition:** Ordinance No. 164953. (Y-5)

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- \*39** Authorize application for an Oregon State Land and Water Conservation Fund Grant in the amount of \$25,000 for the development of a playground for disabled children at Ventura Park (Ordinance)

**Discussion:** Mayor Clark said his concern was that if this was approved now, Council would be automatically ratifying the Parks Bureau budget for next year before going through the budget process.

John Sewell, Parks Bureau, said that is true but the applications are due today. He noted, that in addition to the \$25,000 from the State, \$15,000 is being sought from the Portland Parks Trust Fund and \$10,000 from the Parks Bureau capital improvement budget. He said the money from the State will not be available until the spring of 1993. He said he would be willing to change this to note that Parks will return to Council for general fund contingency funds when they are needed.

Mayor Clark said it should be noted that by approving this ordinance, Council is not really approving the over all Parks budget and that spending is contingent on later approval.

Commissioner Lindberg noted that if the application is not made now, Parks loses the opportunity to get the grant.

**Disposition:** Ordinance No. 164954. (Y-5)



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**Commissioner Earl Blumenauer**

- \*42** Accept jurisdiction from Multnomah County of certain County roads, lying within the corporate limits of the City of Portland, pursuant to the Intergovernmental Agreement authorized by Ordinance No. 155651, passed by the Council on March 1, 1984 (Ordinance)

**Disposition:** Ordinance No. 164955. (Y-5)

- \*43** Consent to transfer of Sunflower Recycling Cooperative franchise to Progressive Refuse Service, Inc. (Ordinance)

**Disposition:** Ordinance No. 164956. (Y-5)

- \*44** Call for bids for the NE Whitaker Way & 130th Avenue storm sewer system, authorize contract and provide for payment (Ordinance)

**Disposition:** Ordinance No. 164957. (Y-5)

**Commissioner Dick Bogle**

- \*45** Amend City Code Title 31, Fire Regulations, Section 31.40.040, Permit Fees; and Chapter 31.80, Hazardous Substances and Emergency Planning (Ordinance; amend Code Chapters 31.40 and 31.80)

**Discussion:** Commissioner Bogle said this adjusts rates to cover the costs of the program for the next fiscal year.

**Disposition:** Ordinance No. 164958. (Y-5)

**Commissioner Gretchen Kafoury**

- 46** Establish City policy of seeking to recover the costs of providing extra police protection to individuals or organizations sponsoring political visits by officials from out of state (Resolution)

**Discussion:** Craig Berkman, State Republican Party Chair, said this policy is unenforceable and violates first amendment protections in its attempt to save taxpayer money. He said political officials should not be discouraged from visiting the City, contending that this measure could keep Democratic presidential candidates from visiting Portland. Mr. Berkman called the resolution an example of political posturing which holds political speech hostage to the ability to pay.

Commissioner Blumenauer asked if Mr. Berkman thought that if people come into the state for massive fundraising events, their protection costs should be borne by the public.



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Mr. Berkman said it was hard to distinguish political fundraising from other cases, such as the Metzger trial, where extra Police costs were incurred to protect the judicial process. He suggested that some sort of cost-sharing formula be developed for political fundraising events with other governmental entities and the sponsoring organizations. He added that the Police costs were primarily the result of violent demonstrations by protesters that have given the City a bad name. He said he was also puzzled by the distinction between in and out of state officials.

Commissioner Lindberg asked about the distinction between official visits and those done solely to raise funds.

Mr. Berkman said sometimes "quasi" official events can be manufactured so that the costs of a political fundraising visit can be allocated to the public. He said there are a lot of fiscal and ethical issues as well as accounting issues that occur when the President and Vice President come to visit.

Commissioner Lindberg said he thought there were basic costs that were incurred just by the nature of the visit and were separate from the costs of protecting visitors from protesters.

Mr. Berkman said he did not hear any complaints when Mike Dukakis came to town. He said the amount of money is not insignificant but other fundamental issues may make it very difficult to single out political organizations.

Commissioner Blumenauer noted that the City does charge the Rose Festival for extra police protection. He said he does not want to infringe on the exercise of free speech but wants to distinguish between those who come for political campaigning and those who come to raise a lot of money at taxpayer expense. In cases where there are extraordinary public costs, he said he believes some cost recovery is appropriate.

Mr. Berkman said to single out the act of fundraising itself would not pass muster under the first amendment.

Carol Auger, speaking on behalf of Wayne Anderson, State Chair of the Democratic Party, said they share the same concerns about First Amendment rights expressed by Mr. Berkman. However, they do agree with Commissioner Blumenauer that for fundraising events, the costs should be incurred by the person putting on the event.

Commissioner Kafoury said this item reflects concern about spending \$80,000, an unfair burden on taxpayers, on a purely political fundraiser by the President where no official business was transacted. She said

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this is a resolution, not an ordinance, which simply sets policy to see if there is a way to recover some of the costs.

Commissioner Lindberg said the Council started looking at Police overtime costs at all special events several years ago and then tried to recover some of these costs without violating free speech.

Commissioner Bogle said he is concerned about equal protection of the law and asked what would happen if Jesse Jackson came on behalf of the Rainbow Coalition. He said he believes this resolution could act as an inhibiting factor and prevent candidates from visiting the City. He said he would rather work with the various parties likely to bring people to town and try to develop a mutually agreeable cost-sharing policy.

Commissioner Blumenauer moved to amend the policy statement and add the word fundraisers to make it clear that Council is targeting political fundraising visits and delete the reference to out of state. He called for deletion of the words "political campaigning and" in the first Whereas clause and the addition of the word "fundraising" between the words "political" and "events". In the first resolution clause, he moved to strike "out of state" and "campaigning and".

Commissioner Kafoury seconded and the motion carried. (Y-3; N-Bogle and Clark)

Mayor Clark said he could not vote for the amendments as he sees this resolution as giving notice to everyone about the costs.

**Disposition:** Resolution No. 34928 as amended. (Y-5)

**Commissioner Mike Lindberg**

**\*47** Pay delinquent property tax on account of default of prior tenant at Pioneer Courthouse Square (Ordinance)

**Disposition:** Ordinance No. 164959. (Y-5)

At 10:20 a.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 2ND DAY OF JANUARY, 1992 AT 2:00 P.M.

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

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

- 49 Appeal of Stuart Parsons against Hearings Officer's decision to deny a request to modify certain sections of previously approved subdivision, as well as the additional conditions imposed for this development at SW 34th Avenue, south of Stephenson (Previous Agenda 2046)

**Discussion:** Tom McGuire, Planning staff, asked for a continuance to allow additional time for the parties to reach an agreement.

**Disposition:** Continued to January 8, 1992 at 2:00 p.m.

- 50 Tentatively approve Volunteers of America proposal for revision of the design and size of the required open space for a residential care facility located at 2400-2422 NE Martin Luther King, Jr. Boulevard (Findings; Previous Agenda 2045)

**Discussion:** Steve Rogers, Eliot Neighborhood Association, asked Council to add a condition requiring that a member of the Eliot Neighborhood Association serve as a member of the screening committee. He contended that allowing six months for design review of the off-site parking lot is too long and also requested that a condition be added requiring removal of the open storage on the lot now.

Commissioner Bogle said he would not be adverse to adding a member of the neighborhood to the screening committee.

George Fleerlage, representing VOA, argued that it is not a good idea to have private individuals on the screening committee for program and confidentiality reasons. He said VOA plans to proceed expeditiously with design review.

Commissioner Kafoury said she is reluctant to delay a decision any longer but expressed her clear hope that there be some kind of citizen participation on the screening committee.

Mr. Fleerlage said if Council wanted to impose a condition to give the neighborhood a better feeling about the makeup of the facility residents, he would try to arrange that. He said there is already a condition

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requiring VOA to work with the neighborhood, although it does not include screening.

Commissioner Bogle said he thought the request for a spot on the screening committee was very reasonable.

Mr. Fleerlage said they have worked a lot with the neighborhood but if Council wanted a letter from the VOA as to how it will open up the screening process, he thought he could promise it now.

Commissioner Kafoury said this process worked very effectively with the Downtown Restitution Center, adding that if this does not happen with VOA, Council will wonder why it has not.

Mr. Fleerlage volunteered to do what he had outlined as soon as possible.

Commissioner Blumenauer said he is looking forward to receipt of both the letter and schedule so that these issues are addressed.

**Disposition:** Findings Adopted. (Y-5)

48

**TIME CERTAIN: 2:00 PM** - Appeal of Corbett/Terwilliger/Lair Hill Neighborhood Association against the Hearings Officer's decision to approve the application of Portland School District No. 1 for a conditional use with an adjustment to house the "Counteract Program" at the Terwilliger School site, in an R5 zone at 6318 SW Corbett Avenue (Hearing; 91-00400 CU AD)

**Discussion:** Laurie Wall, Planning staff, noted the Hearings Officer's statement pointing out that the City has no authority to dictate to the School District what the site is used for, but can only review the proposal under the applicable criteria. She said despite the inclusion in the Neighborhood Plan of a goal to retain Terwilliger as a K-6 elementary school, it is not an approval criterion.

Ms. Wall reviewed the applicable conditional use criteria and the Hearings Officer's finding that this use replaces another non-household use and will bring fewer participants, less traffic and decreased intensity of use as compared to its current use as a day care center. The Hearings Officer also found neighborhood liveability would be protected with conditions monitoring student travel. Both Planning staff and City agencies recommend approval, believing that with adequate supervision safety should not be a factor. Conditions include supervision to and from the bus stops, a limitation of 25 staff and 33 students, prohibition against student drivers, and provision of bike parking.

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Larry Beck, attorney representing Corbett/Terwilliger/Lair High Neighborhood Association, said the proposed supervision of students does not satisfy the approval criteria regarding neighborhood safety. He proposed five additional conditions to increase safety, including one that requires mandatory busing to and from the program.

Mr. Beck said the program will significantly impact the safety of the area. He said students are remanded to the program because of drug or alcohol use and many are gang members. Mr. Beck said four school bus stops are nearby which will put neighborhood students at the same stops as Counteract participants riding Tri-Met.

Mr. Beck said the Neighborhood Plan calls for greater density but in the meantime the area is losing services that support that density, i.e. an elementary school. He said the School District has indicated that it will not make major changes to the building so that it can be returned to use as an elementary school in the future but asked that such a requirement be added to ensure this happens.

John Osburn, Attorney for the Portland School District, said the safety concerns are adequately addressed. He said Counteract students should not be labeled as bad and a safety problem, noting that they will be strangers in the neighborhood and unlikely to linger after school hours. He said the additional conditions Mr. Beck calls for, including mandatory busing, a monitoring system and a ban on renovations, should be addressed to the School District and not City Council. He said the School District proposal meets all the Code criteria and should be approved.

Individuals speaking in opposition to siting the Counteract program at this location without additional conditions included:

Carl Simons, 0350 SW Dakota St.  
John Miller, 8959 SW Boones Ferry Road  
Jeannie Galick, 7005 SW Virginia  
Stephen Lefalr, 0223 SW Gibbs  
John Dobson, 7455 SW Kelly  
Lee Hill, 0214 SW Nebraska  
Joan Pierson, 6815 SW Virginia  
Jean Shultz, 6120 SW Corbett  
Darl Kleinbach, 105 SW Curry  
Barb Hutchinson, 1100 SW 6th  
Brian Keltz, 0216 SW Iowa  
Marty Kehoe, 0404 SW Pendleton  
Amanda Jacobson, 0245 SW Nebraska

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Steven Shain, 3621 SW Moody Ave.  
Mary Real, 0223 SW Gibbs  
Jerry Ward, 7409 SW Fulton Park Road  
Mike Houck, 775 SW Virginia

Supporters stated their concerns with neighborhood safety and supported the additional conditions, particularly the condition requiring mandatory busing for program participants. Many also emphasized their strong support for reopening Terwilliger as an elementary school.

Senator Dick Springer, 7624 SE 13th, said closing Terwilliger School was very controversial and hard for the neighborhood to accept. He said he thinks the conditions proposed by the neighborhood are reasonable and asked if this was the best site for the program at this time.

State Rep. Gail Shibley, 615 SW Moss, said whatever decision is made now, the long term interests of the neighborhood should be kept in mind.

Roby Roberts, 1532 SW 36th, Portland School Board member, supported neighborhood monitoring of the program as well as public scrutiny and review of the transportation system.

Commissioner Blumenauer asked if the District had calculated how expensive it would be to provide transportation to the site.

Mr. Roberts said he had not talked to the School District about this but would follow up. He said he believes the District is too ambiguous about how closely it will monitor the bus stops.

Lary Beck, in rebuttal, said they were advised by the School District that it would cost \$28,000 to provide a bus. He said that could be paid for out of the savings in lease costs the District pays for the space it currently uses. He said the School District will not look at the neighborhood issues and that is why they have to come to Council.

Mr. Osborn, in rebuttal, said this is not a rehabilitation program but one that works with kids who have been involved with drugs and need additional counseling to help them deal with their problems. He said obviously no one wants this program in their neighborhood.

With regard to reopening Terwilliger as an elementary school, Mr. Osborn said District figures indicate there are not enough K-8 age children currently in the neighborhood to reopen the school. He said the City should not become involved in deciding whether the school should be reopened but merely determine if this is an appropriate land

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use. He said the Hearings Officer decided this is a proper location for the program and, when the schoolage population justifies having a school there, the School District will take up that issue then.

Commissioner Blumenauer said he cannot support overturning the Hearings Officer's decision but suggested revising Condition A and adding some other conditions. He said it is unclear how the students would be monitored coming and going from the site or how supervision would be enforced. He moved the revision of Condition A to narrow it and require that transportation be provided. He also moved to delete Condition C and adopt three additional conditions: 1) establish a neighborhood monitoring committee; 2) restrict physical renovations that might make it non-viable to convert the school back to an elementary school at a later date and; 3) request the School District to work with the community regarding the reopening of a neighborhood school.

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

Commissioner Lindberg said he thought the monitoring committee was an excellent idea and that these new conditions were very reasonable.

Commissioner Blumenauer moved to tentatively approve the Hearings Officer's decision with the additional conditions. Commissioner Kafoury seconded.

**Disposition:** Tentatively deny appeal and uphold, with added conditions, decision of Hearings Officer; School District prepare findings for January 15, 1992 at 2:00 p.m.. (Y-5)

At 3:35 p.m., Council adjourned.

BARBARA CLARK  
Auditor of the City of Portland

*Cay Kershner*

By Cay Kershner  
Clerk of the Council