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Statement by J. E. Bennett (2)

J. E. Bennett

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STATEMENT OF COMMISSIONER J. E. BENNETT IN RE
FRONT STREET MARKET

Inasmuch as the promoters of this Market have taken occasion recently to issue statements such as might lead one to believe the City of Portland was actually operating said Market, or was bound by contract to take over and operate the same, it seems to me therefore that the people of Portland should be given the details concerning the inception of this project and the contract signed by the City.

First, in my opinion the old City Council exceeded its authority when it agreed to obligate the City to purchase this Market for $1,244,790.66. This obligation, if incurred by the City, is almost certain to either directly or indirectly become a burden upon the general taxpayers of the City of Portland.

This whole Market proposition should have been submitted to the voters for their approval in the first instance. However, this was not done, for reasons best known to those who were the promoters.

That provision in the contract which obligates the City to take over this Market is as follows: "From the date of the execution and delivery of this agreement until completion of its other obligations herein set forth, the Company agrees that it will perform leasing services for the procuring of tenants for said Market Building, the identity of such tenants and the terms and conditions of their tenancy to be subject to the approval of the City through its Council, and agrees that before the City acquires said Public Market building it shall be so occupied as to be a going public market utility."

In regard to this provision, first let me say that the Market Company has not complied with same, in that it has not presented for the consideration and approval of the Council "the identity of such tenants and the terms and conditions of their tenancy." The City Council is very much in the dark as to what has been done in this regard.

Further, this provision clearly sets out that this contract is an obligation only when "it (building) shall be so occupied as to be
a going public market utility." I am, I believe, reliably informed that a majority of the leases that have been entered into between the Company and its tenants are not secured, and therefore constitute no tangible asset upon which we might base our opinion as to whether or not the Market was actually a going public market utility, taking for granted that by "a going public market utility" is meant a utility that is paying its operating costs, including taxes and interest on the investment with a reasonable surplus, such as would be adequate to provide an ample sinking fund for the purpose of redemption of the public utility certificates issued against the same.

Another provision of this contract that is decidedly unfair and tends to lead me to believe that the promoters themselves have no confidence or had no confidence in the success of this undertaking in the beginning, is that there is contained in the contract the following: "At the time of the transfer of the property hereinbefore described, the City shall pay to the Company for said leasing service, in addition to the other payments provided for in this contract, 10% of the gross revenue derived from the rentals, plus bonuses and premiums, if any, figured on an annual basis, regardless of whether or not the same be reserved on an annual basis." This supposedly binds the City to pay a 10% commission upon the amount of money involved in any lease that may have been entered into by the Company and a tenant, regardless of whether or not the amount of money is ever received by the City. In other words, if a tenant fails after two months period, we will say, of a one year's lease, the City would be the loser on the 10% that it had paid for the balance of said lease, or 10 months.

The contract further provides that the City shall pay to the Company "5% of the estimated first year's revenue" derived from farmer rentals, "such estimate to be based on the revenues during the first month after the completion of the Market."

Another provision of the contract, with which undoubtedly the people are not familiar, but which compares with the two features just above mentioned, reads as follows: "In addition to the principal sum to be paid the Company, as herein fixed, the City shall pay the Company the actual cost price of said equipment, materials and supplies
estimated at this time to be approximately $46,418, plus 10% of the actual cost price to cover the services of the Company in making said purchases."

Another provision of this contract that seems to be rather unique and one not usually found in contracts wherein the transfer of property is involved, reads as follows: "It shall also be permissible for said title to be subject to taxes and assessments due and payable after November 5, 1931. The Company agrees that it will pay the legal taxes, assessments and interest which become due and are payable after November 5th, 1931, up to the time that it delivers title to the City, and the City agrees that it will reimburse said Company from funds derived through the sale of public market utility certificates for all sums which said Company will pay for taxes, assessments and interest, with interest at 6% from the date of said payment or payments." This provision purposes to obligate the City to refund to the Market Company any taxes or assessments that may have been paid between November 5, 1931 and the date of acceptance of said project by the City, and if said taxes and assessments have not been paid at the time the City takes possession, they are to be assumed by the City. (The principal sum of assessments now due is $32,967.10, against which there is accumulated interest to Jan. 1, 1934 of $1244.51.)

It must be apparent to any fair minded person that this contract is decidedly one-sided and should not have been entered into by those representing the City at that time, but inasmuch as the said contract has been signed by the former City Council, the question now arises as to whether or not the new City Council is bound to live up to the terms of a contract that bears all the earmarks of connivance between the promoters and the former City Council. My suggestion therefore is, that if the promoters of this undertaking are desirous of having the City take over this Market Building and operate the same, that an ordinance referring the whole matter to the people for their vote at the May election should be passed by the Council at this time.

J. E. Bennett
Commissioner of Public Affairs