



CITY OF  
**PORTLAND, OREGON**

**OFFICIAL  
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 1ST DAY OF FEBRUARY, 1995 AT 9:30 A.M.

THOSE PRESENT WERE: Mayor Katz, Presiding; Commissioners Hales and Kafoury, 3.

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

Due to the absence of two Council members, the Consent Agenda (Items 100 through 117) was continued to February 2, 1995 at 2:00 p.m.

**99**

**TIME CERTAIN: 9:30 AM** - Approve report to the Portland City Council and proposals for "Phase Two" - Fair Contracting and Employment Initiative (Resolution introduced by Mayor Katz)

**Discussion:** Mayor Katz said clearly, government intervention has made a difference, noting the dramatic drop in the participation of minority-owned businesses after the Croson decision. However, until the City completes its own disparity study, it is against the law to set goals. She cited three projects -- the Walnut Park police facility, the Walnut Park Tenant project and the Bureau of Environmental Services Headwaters Project -- where incredible results were achieved in raising the participation levels for minority (MBEs) and female owned businesses (FBEs), and emerging small businesses (ESBs). Numbers have climbed from five or six percent into the twenty to forty percent range, depending on the project. This is a good start but not good enough and there are still some issues the Council needs to address. She said the report has seven sections and the team will identify what worked and what did not in the past year-and-a-half and make recommendations for Phase 2.

Madelyn Wessel, Deputy City Attorney, said this report pulls together the enormous amount of work done to implement the directions given by Council in June, 1993. She described the focus of each of the seven sections and creation of the Contract Coordinating Committee (C3) to provide more central coordination. She said Phase One was a structural analysis of the City's total activities while Phase Two will focus on the serious nuts and bolts of implementation. One important facet of this phase will be compliance monitoring, a very necessary but time-consuming activity which Council must decide how best to accomplish. The push to cooperate on an intergovernmental level has led to

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formation of a clearing house program with the Oregon Department of Transportation and Tri-Met. Direction is still needed regarding coordination of all these activities. The report recommends institution of good faith compliance and bidding procedures for all City contracts. To do that will require a lot of thoughtful consideration.

Commissioner Kafoury asked if there was a recommendation to make one central agent of the City responsible for the program, instead of the team approach.

Ms. Wessel said this report does not take a position on that, only the need to address the issue of coordination.

Mayor Katz asked her to identify some of the problem areas.

Ms. Wessel said while very substantial increases occurred in participation by minority and women-owned businesses on key projects, some of those projects spawned serious problems for some contractors, including lawsuits and disastrous economic problems. Other key problems include prevailing wage compliance and its effect on bidding, the City's capacity to monitor minority participation and tracking the fulfillment of initial commitments.

Mayor Katz asked if the C3 committee will address these issues and return to Council with recommendations.

Ms. Wessel said yes, adding that these recommendations are integrally related to the disparity study. She said she expects that Phase 3, scheduled to begin next year, will reflect the analysis that comes out of the disparity study and produce further actions the City can take.

Carleton Chayer, Purchasing Agent, noted the severe drop in minority, female and emerging small business participation in construction contracts, from approximately 10 percent down to 2.35 percent after the Croson decision struck down the City's existing minority business program in 1989. Steady progress has been made since then and in the last year they have jumped up to 10 percent although the average for the last five years is closer to 6 percent. The 10 percent result reflects the special efforts made on three particular projects. He said Purchasing is also working on workforce and employment issues and described some of these efforts, including a systematic review of the workforce on all contracts at the time they are awarded. Purchasing is coordinating with the Bureau of Labor and Industry regarding apprenticeship opportunities and working closely with the clearing house to maximize referrals of disadvantaged workers to City projects. They have also been involved in training sessions for bureaus and contractors. Currently Purchasing has 68 contracts under close scrutiny

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and is systematically evaluating current workforce data as contracts come to Council. Progress payments are being delayed if general contractors do not cooperate. He said they are beginning to see a diversification of workforces and increased apprenticeship opportunities, with 18 apprentices currently working on City projects as a result of these programs while 68 minority and women are employed as a result of compliance efforts. Next week Purchasing will file an ordinance to waive the performance bond requirement on construction contracts of \$50,000 and less and it will also work with the City Attorney's office to include good faith contracting requirements in all contract specifications and develop better requirements for wage rate specifications.

Dean Marriott, Director, Bureau of Environmental Services, said they will be spending \$700 million to \$1 billion over the next 20 years, presenting a great opportunity to increase minority and female participation. The \$20 million Headworks project now underway has been able to achieve 28 percent minority/female participation. The next project, the \$20 million Inverness consolidation pipe line, is at between 30 and 33 percent participation on the design phase. He said they have found that substantial gains can be made if staff and project managers are trained to work with contractors right from the start. Monitoring efforts and sizing contracts in smaller economic units are also paying off though more efforts are needed. Compliance also needs more attention. He said the Bureau is committed over the next 15 years to do its part to see that this program is a success.

David Kish, Director, Bureau of General Services, said the Walnut Park Community Policing project was successful because of the team effort. He said they tried many new ideas, most of which will be institutionalized as this program goes forward. One significant idea that worked well was the accelerated pay program which meant that subcontractors did not have to wait 45 to 60 days for payment. That particular component should continue because cash flow is one of the most significant problems for small contractors. He said they also ran into contractors with a myriad of legal and financial problems. While the Bureau was successful in bringing in about 34 percent minority, 17 percent female and six percent emerging small businesses through the front door, for a total of over 50 percent, unfortunately not all will emerge out the back door. He cited the need to strengthen financial and technical assistance to such businesses. He said the loan fund operated through PDC needs to be increased and better coordinated with other community financial assistance programs. In some cases contractors got in trouble by using the same asset to guarantee more than one loan. Technical assistance programs also need to be better coordinated. An effectively staffed clearing house for such assistance would protect the City's investment and increase the success rate for small contractors.

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Mayor Katz noted a recommendation in the report which calls for C3 to consider providing vouchers so technical assistance can be purchased by the contractors themselves in the community. That would give people choices.

Mr. Kish said vouchers would work but someone needs to do an assessment of what technical assistance programs are good and where they are lacking. There is also a need to institutionalize these programs as currently too many bureaus are headed in too many directions, rather than effectively sharing ideas through some administrative office. He noted the suggestion from James Posey for formation of an Office of Minority Business Enterprise within the City. Mr. Kish cautioned about the need to ensure the sanctity of the City and contractor relationship. He said most of the contractors the Bureau worked with on the Walnut Park project were subcontractors and there needs to be a clean line of responsibility between the City and the prime contractor. Otherwise, it is hard to hold a general contractor responsible for a product if there are allegations that the City has interfered with subcontractors.

Jan Bureson, Executive Director, Portland Development Commission, said they have tried many new things, some more effective than others, and laid a solid foundation for the future. She said PDC has learned that proactive efforts really do pay off, noting that the Rothschild project, which included mandatory prebid meetings and good faith requirements, resulted in a 23.8 percent utilization of minorities, women and emerging small businesses, of which 20 percent went to minority firms. Similar results have occurred on the Pacific Gas Transmission project and the Oregon Arena Project. She said the accelerated pay program has worked as has breaking down large projects into smaller ones. She said PDC supports these efforts and the recommendations before Council.

Sediegh Khodaverdi, Bureau of Transportation Engineering, said for 1994-95 about 41 percent of their contracts have gone to minority, women and emerging businesses. She said they have no control over construction contracts that go through ODOT because they are federally funded but they know that ODOT's target is about 30 percent. She said an automated system would be a big help in reducing the time needed to make reports.

Bob Willis, Director of Engineering, Water Bureau, said they have put increased emphasis on increasing MBE and WBE participation and have increased professional service contract participation to 20 percent MBE and 10 percent WBE. He said the Bureau's approach has been to work on ways to increase participation in the basic pipeline work, the core of their construction work, as otherwise it will forever be a struggle

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to increase the numbers. On the first contract awarded since the new program has been implemented, a 15 percent participation rate has resulted.

Mayor Katz said the goal is to increase the capacity in the private sector to provide prime contractors. In addition, the number of workers needs to represent the community makeup.

James Posey, National Association for Minority Contractors of Oregon (NAMCO), praised the City for the work that has been done, particularly Madelyn Wessel and the Bureau of Purchasing. He said the issues around contracting relate to the high unemployment levels in the minority community and suggested that such problems as housing, crime, drug and alcohol abuse will lessen if young black men are working instead of idly wasting their time away. He said it is also necessary for minorities to be accountable to producing results. He said NAMCO is concerned that the community views these projects as something which aids the economic development of the entire community, not as another welfare or giveaway program. NAMCO also does not want to see a permanent dependency on government programs but wants to shift the responsibility back to the private sector. Other issues revolve around evaluating quality, not just quantity, and effectively administering programs so taxpayers feel good about what their dollars have been spent on.

Carl Flipper, Board Member, Black Contractors Alliance (BCA), said the Alliance supports these recommendations with the following additions and caveats: 1) under Section 2, Recommendation Five, regarding Oregon's prevailing wage law, they disagree with those who voice blanket opposition to the minimum wage provisions; 2) under Section 3, they believe financial assistance should be contingent upon participation in management training targeted at increasing capacity of MBE/WBE contractors; 3) access to equity financing must be addressed to build MBE firms capable of succeeding outside the MBE envelope; 4) BCA supports capacity building and does not necessarily support reduction in essential industry qualifications; and 5) under Section 6, BCA cautions against creating a new classification of bonafide MBE contractors. The Alliance also requests a seat on the C3 committee to provide extended monitoring.

Jennie Portis, Director, Northeast Workforce Center, thanked Council for its commitment to achieving fair and equal access in the construction industry and for including workforce training as an important aspect. Regarding Disadvantaged Business Enterprises (DBEs) firms, she noted that barriers to their use include: configuration of work in a way that excludes small DBE contractors and suppliers; lack of partnerships between DBE and non-DBE firms; inability of

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DBEs to obtain bonding at the level required; inability to obtain financing; unrealistic amounts of time between prebid conferences and proposal due dates; bid shopping; high insurance levels; and monitoring of DBE use by prime contractors. She said she looks forward to seeing the workers grow up to be contractors.

Mayor Katz said building capacity so that people can become prime contractors without government intervention can be done in many ways. However, the City should be able to anticipate the jobs for the next ten years and identify the gaps in the training. She asked what the community has to do to seriously get that workforce ready.

Ms. Portis said there is a need to diversify the DBE workforce opportunities to create equal access for everyone. She said the Center wants to ensure there are quality workers available, not a lowering of the standards. She said while the Center is currently working with people who have had some experience as the projects increase, it will reach towards people with minimal or no skills. It is working with the National Economic and Law Center and the Ford Foundation to get training dollars to make sure qualified people are available. She said the clearing house also has an oversight committee to look at other ways to open up the doors.

Mayor Katz said she is tired of seeing the same names for both construction or technical/professional work, adding that there has to be other capacity in the community for minorities, women and emerging small businesses to take advantage of the opportunities.

Cynthia Combs, Willis Corroon Corp of Portland, said raising the threshold of the bond requirement from \$10,000 to \$50,000 as well as requiring only a 50 percent performance bond for contracts under \$100,000 does not necessarily solve the problem. It lowers the playing field rather than leveling it for women- and minority-owned businesses. Even if only a \$50,000 performance bond is required on a \$100,000 project, the surety company will still view it as a \$100,00 contract and the contractor is still liable for that amount. The City needs to bring in resources from the private sector who understand the industry and can help solve some of these problems.

Commissioner Hales said the City may be onto something in solving longstanding problems where practices in City bureaus do not match values. First, bring the right people together and, second, set high standards and do not accept token progress. Third, clear away old obstacles and, fourth, try new and innovative approaches, including risky ones. Finally, persevere. He said he is looking forward to trying this process out on the 40 Parks Bureau projects that will be going out this year.

Commissioner Kafoury thanked Mayor Katz for her leadership in this longstanding and thorny area.

Mayor Katz thanked the C3 committee members, adding that this is a case again of setting benchmarks and constantly working to bust the huge social, legal and economic barriers. Some issues, such as prevailing wages, are very touchy but it is good to admit that problems have occurred.

**Disposition:** Resolution No. 35362. (Y-3)

### **REGULAR AGENDA**

- 118** Direct City bureaus to initiate, clarify or reaffirm performance management policies, practices and work rules which promote continuous improvement in providing quality public services (Resolution introduced by Mayor Katz and Commissioners Blumenauer, Hales and Lindberg)

**Discussion:** Mayor Katz noted a memo from Commissioner Kafoury raising several issues and making some recommendations.

Commissioner Kafoury noted the myriad of such initiatives the City is undertaking and asked for time out as there is a danger of losing good management practices. She proposed several amendments, including one adding a procedure for placing the phone number on City vehicles. The second amendment results from her concern about whether it is appropriate for Personnel to monitor management practices in other bureaus. She suggested holding this over.

Sam Gillespie, President, AFSCME Local 189, said the union is opposed to the central telephone number and Jeff Barker, President, Portland Police Association also has reservations. AFSCME supports productivity and will work to obtain the goals and objectives outlined in the resolution but oppose a "snitch line." He asked Council members to appoint a committee with representatives from their offices and labor organizations to come up with a better solution.

Mayor Katz said this is a result of a labor/management group effort.

Mr. Gillespie said Local 189 never agreed to a central telephone number, nor have the Police or Fire unions. He asked that this be postponed and that a committee be appointed to allow for more study. As an alternative, he asked Council to omit Section A of the resolution. He said employees are concerned and upset about it, adding that if

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people are not doing their jobs the unions want to work to correct that situation.

**Disposition:** Continued to February 2, 1995 at 2:00 p.m.

- 119** Accept bid of Moore Excavation for Sullivan Basin CSO sump project Units 3-4 for \$749,497 (Purchasing Report - Bid 70)

**Disposition:** Accepted; prepare contract. (Y-3)

**City Auditor Barbara Clark**

- 124** Assess benefitted property for the costs of street improvements within the Win Sivers Business Park Local Improvement District (Hearing; Ordinance; C-9846)

**Discussion:** Dan Vizzini, Auditor's Office, said this project was initiated by petition of the sole owner of a property and during construction parcels were sold off to other property owners. While no hearing is required, his office felt the new owners should be provided an opportunity to be heard because of the change of ownership. No remonstrances were received.

**Disposition:** Passed to Second Reading February 8, 1995 at 9:30 a.m.

- \*125** Create the HCD SE Lafayette/88th Avenue Local Improvement District (Hearing; Ordinance; C-9880)

**Discussion:** Dan Vizzini, Auditor's Office, noting the emergency clause, asked that the hearing be held today and the vote taken tomorrow. He said one objection was received on a waived property and his office recommends that it be set aside. Because it is waived it is not technically a remonstrance.

Commissioner Hales moved to set the objection aside. Commissioner Kafoury seconded and, hearing no objections, the Mayor so ordered.

**Disposition:** Objection overruled; Continued to February 2, 1995 at 2:00 p.m.

- 127** Assess property for sewer system development charges through December, 1994 (Second Reading Agenda 90; Z0593 through Z0595)

**Disposition:** Ordinance No. 168466. (Y-3)

At 11:00 a.m., Council recessed.

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 1ST DAY OF FEBRUARY, 1995 AT 2:00 P.M.

THOSE PRESENT WERE: Mayor Katz, Presiding; Commissioners Hales and Kafoury, 3.

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

**128**

**TIME CERTAIN: 2:00 PM** - Appeal of South Tabor Neighborhood Association against Hearings Officer's decision to approve the application of Tenrikyo Portland Church for a conditional use, with adjustments, to continue church activities at 2653 SE 73rd Avenue (Hearing; 94-00156 CU AD)

**Discussion:** Harry Auerbach, Deputy City Attorney, outlined hearing and appellate procedures to be followed.

Marguerite Feurslanger, Planning Bureau, said this is an appeal of Hearings Officer approval of a conditional use to allow a church in a residential use, noting that the joint church and residence was built in 1968. The Neighborhood Association asserts that the sound of a gong and drums used in church services exceeds acceptable noise levels. She noted the applicable approval criteria. Ms. Feurslanger said staff took sound level readings twice but found no violation of any City noise standard and there is no evidence of any violation in the record to date. Staff recommends that the Hearings Officer's decision be upheld.

Mayor Katz asked about the difference between residential and commercial decibel levels.

Ms. Feurslanger read the Code definition in Title 18 of a noise disturbance, noting that it is defined as any sound which (a) either injures or endangers the safety or health of humans or (b) annoys or disturbs a person of reasonable sensibilities. The neighborhood appeal contends that the noise emanating from the gong or drum is a narrow band sound and should be decreased another five decibels in order to meet City standards. However, she said, when she took measurements, her highest reading was 50 and the City standard is 55. The level for residential areas is 55 decibels and 60 in commercial. Ms. Feurslanger showed slides of the site.

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Paul Hermann, Noise Control Officer, clarified that actual measurement, if taken, supersedes the less objective standards Ms. Feurslanger read. In this case measurements were taken and the lowest meter reading did not reach 50 decibels. The basic daytime standard in residential zones is 55 decibels as measured from the property lines. Appellant has suggested that perhaps an adjustment is necessary by virtue of the nature of the noise, narrow band noise, as some of those are more annoying than other noises. That would bring it down to 50 decibels but, again, his measurements did not reach that level.

Bob Frederickson, President, South Tabor Neighborhood Association, said several residents have testified that they have experienced excessive noise twice a day, everyday, beginning at 7:00 a.m., for 27 years. Neighbors have gotten no satisfaction from the City as to their complaints. About two years ago, a City building inspector discovered this was a church and suggested that it apply for a conditional use permit. If this had been done at the time of construction, additional soundproofing or insulation probably would have been required which would have prevented the noise from escaping. He said some penalty should be imposed on the owners for not revealing that this was to be a church at the time the house was built. He noted an inspector's report filed in 1968 which cites a complaint about early morning drum noise, indicating that the inspector told the owners about it, although nothing further came of it. He said the Building inspectors should have realized, when the house was built, that this was other than a single family residence as it contains an 1100 square foot activity room, which turned out to be the sanctuary. He said the Hearings Officer's decision does nothing to solve the noise problem, only legalizes the status quo and gives no relief to the neighbors. He said Council could deny the conditional use outright and allow residents to continue to engage in their religious practices but keep the noise down. A second alternative is to approve this with conditions but only for the period of time the property is owned by the current owner. Third, Council could approve the conditional use with a condition that soundproofing materials be installed. Finally, it could simply prohibit use of the drum.

Mayor Katz asked if insulation would have been required, if the owners had applied for a conditional use to begin with.

Ronald Wolody, 2712 SE 73rd, 97206, said he is the neighbor probably most affected, adding that neighbors as far as nine blocks away have complained. He said since the City took its measurements, however, and since the owners have been required to obtain a conditional use, there has been no noise to speak of. Thirty neighbors signed a petition stating that there was a problem and they would like to have the noise addressed in a stronger way than is done by the Hearings Officer.

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Another concern is what happens if Mr. and Mrs. Okazaki should pass on and perhaps another minister comes in who wants to expand the church. Finally, the neighbors are concerned about possible lower property values.

Commissioner Hales asked if there was any seasonal variation.

Mr. Wolody said if the windows are open, the noise is much louder. At times the services last all day with constant drumming going on for hours.

Milford Ford, attorney representing Tenrikyo Church, noted that the City could not find any violation of permissible sound levels. He denied that any reduction of noise levels had occurred since the conditional use application was made. He said a private consultant found that sound levels were less than 55 decibels, adding that the neighborhood has submitted no evidence that noise levels exceed the Code limitations. The neighborhood request to decrease the number of people attending services, from six to eight, is so minimal it would have no effect and no documentation is presented as to why this limitation is sought. Furthermore, there is no evidence that applicant intentionally attempted to avoid meeting the conditional use requirements. The Hearings Officer conducted two separate hearings on these same issues and found that the applicant met the conditional use criteria and that the noise fell within acceptable limits. Mr. Ford said there is nothing in the record to indicate any basis for this appeal and asked for affirmation of the Hearings Officer's decision.

Commissioner Hales noted there is a numerical requirement for enforcement but a significance standard for the conditional use application.

Mr. Ford said staff and the Hearings Officer both found there would not be a significant impact on the neighborhood.

Commissioner Hales asked if the conditions recommended by the Hearings Officer, for two periods of 20 minutes per day plus a longer service once a month, were for less time than in the past.

Mr. Ford said it was the same.

Commissioner Hales, noting that the neighbors believe the noise is significant while the owners do not, asked if the applicants would agree to a condition of approval requiring that they use the City mediation services.

Mr. Ford said yes.

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Jeanne Shioshi, 3312 SE 78th, 97206, said the drum and gong seemed to her rather soft and soothing, more like a chime than a loud gong. She said she cannot see why the neighborhood should be opposed to this or why they would think it would lower property values.

Bob Wong, no address given, a former neighbor, spoke in support of the Okazakis, the applicants. He said parking has never been a problem and he never had a problem with the noise even though he lived right across the street for 20 years. At times you would hear gongs or drums but they were not disturbing.

Alice Yates, 2920 NE 42nd, 97213, said they attended services once a month and felt that the services were not that loud. She asked Council to grant the request.

Lily Meiners, 19500 S. Central Point Road, Oregon City 97045, said the charge of excessive noise is puzzling. She testified to the good character of the Okazakis.

Dale Meiners, 19500 S. Central Point Rd., Oregon City 97045, said for the past three months he has not heard the drum outside the house and believes the noise level has decreased since the neighbors' complaints surfaced. He said the Okazaki family is doing its best to cooperate and should be allowed to practice their religion.

Mary Okazaki, 2653 SE 73rd, 97206, said they are not a cult but in fact are the third largest religion in Japan.

Mayor Katz asked if the gong had been toned down over the past few months.

Ms. Okazaki said no, there was no way to muffle it.

Mitso Kadutki, 2653 SE 73rd, testifying through an interpreter, said she had not made any changes in the noise level of the gong although the intensity used to hit it might be slightly less. (The interpreter said the members are getting elderly and may not be able to hit the gong as hard as they used to.)

Mayor Katz asked what kind of condition would have been applied if a conditional use had been sought in the first place.

Ms. Feurslanger said it would have been the applicant's burden to provide some evidence that the proposed use would not violate City standards prior to the City requiring any mitigation.

In rebuttal, Mr. Frederickson noted that the testimony is not in

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agreement about the level of noise. The neighbor who lives over 400 feet away has testified to the effect of the noise and 30 neighbors signed a position in opposition to granting the conditional use. Mr. Wolody testified earlier that neighbors did not know what was being built at the time of construction. Even if Council turns down this use, the Ozasakis would not be restricted from doing what they are doing now and can have people over socially and religiously without having a conditional use permit.

Commissioner Hales asked if there had been any attempt to use mediation and, if not, would neighbors agree to participate.

Mr. Frederickson said he was not sure it would accomplish much at this point because of the difference in perception on both sides. He said the neighbors do not want to stop them from having their services, other than abating the noise problem. They did discuss the possibility of a good neighbor agreement with the Ozasakis but it was not pursued because of the pending hearing.

Commissioner Hales, noting the difference in perception, recommended that Council uphold the Hearings Officer's decision but add as a condition that the applicant seek mediation through the Office of Neighborhood Associations and invite the neighborhood to participate.

Commissioner Kafoury said it is clear mediation is an option, one that should have been pursued long ago, but she is uncomfortable about requiring the church to do that now, as it is not violating any rules.

Commissioner Hales said the Office of Neighborhood Associations will extend an offer to both parties to use its services completely aside from this procedure.

Commissioner Hales then moved to adopt the Hearings Officer decision with the conditions listed as fact. Commissioner Kafoury seconded.

Mayor Katz asked that both parties go through a process to try to get to a good neighborhood agreement.

Mr. Frederickson said he was not sure about the mediation process.

Mayor Katz suggested that the church not hit the gong with such intensity.

**Disposition:** Appeal denied. (Y-3)

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**REGULAR AGENDA**

**Commissioner Charlie Hales**

**S-\*129**

Amend City Code to create new Chapter 20.42, Tree Cutting (Previous Agenda 64)

**Discussion:** Commissioner Hales said since the last Council discussion of this, they have tried to make this simpler and more precise. It applies only to undeveloped properties, not to existing homes, and is not redundant with environmental zones and other requirements for resource preservation. He said a lot of other jurisdictions have tree protection ordinances even though they are new to the City. He said he thinks there will be very few applications for tree cutting permits under this ordinance but that it is needed in a certain number of situations, basically on property where there is no application for a building permit or otherwise a need for tree cutting.

Harry Auerbach, Deputy City Attorney, noted a substitute for both the ordinance and the exhibit. He described the revisions, noting that the reference in the ordinance to residential properties has been eliminated. A finding indicating support from the Forestry Commission was also added. The Code chapter itself was changed to read "Tree Cutting on Developed Property" and several sections were added to provide a consistent scheme of penalties and remedies relating to other Code provisions. The purpose statement was refined to clarify that it does not apply to residences on single family lots that cannot further be divided. He outlined changes in the definition section, including elimination of the reference to topping, inclusion of a definition of DBA (diameter at breast height) and a change in the definition of "undeveloped" to "underdeveloped." The ordinance creates a world of two classes -- one that needs a permit (underdeveloped) and one that does not (developed). In the permit section, Mr. Auerbach said they eliminated the applicability of the chapter to the cutting of more than three trees in a specified period because the Forestry Commission felt that would make it almost impossible to enforce. He stressed that the Chapter applies only where other regulations, such as in the Zoning Code, do not, adding that the burden of proof is on the person who wants to cut the tree. In the application section, a requirement was added that the legal description of the property be stated and the fee was raised from \$25 to \$30. He said in the notice section (20.42.070) the text was changed to require the forester to send a copy of the affidavit of posting to the neighborhood coalition. In the appeal section, in response to issues raised by the homebuilders, changes have been made to clarify the appeal period and timing of Forestry Commission hearings. Mitigation has been clarified to include an additional section on criminal penalties, identical to the one for Street Trees, and the civil

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penalties were clarified with a provision allowing violations to be treated as a nuisance. The automatic repeal of the sunset clause was extended from one to two years even though it is expected that the Urban Forestry Management Plan will supersede this before it elapses.

Commissioner Kafoury said the Bureau of Buildings is concerned about the requirement for two permits. They want to make sure there is agreement in the record that there can be an interagency agreement or something that requires only one permit.

Mr. Auerbach said he has encouraged both the forester and the Bureau of Buildings to work together.

Mayor Katz asked if that can be added to the ordinance.

Commissioner Hales said a clause could be added to 030.(2) to state that the permit application will be consolidated into a single application.

Mayor Katz said the lead agency (the forester) should also be designated.

Commissioner Kafoury said under certain conditions it might have to go to the erosion control people in Buildings, overriding the Forestry Commission.

Mr. Auerbach said it would be more of an administrative function to work that coordination out.

Commissioner Hales said it might be best to make the statement of intent (about single applications) and then change the language from "permits are required" to "a permit is required." It then falls to City staff to figure out how to make that work administratively. He moved to amend the ordinance to include that change in wording and to adopt the Substitute. Commissioner Kafoury seconded and, hearing no objection, the Mayor so ordered.

Bill Naito, Chair, Urban Forestry Commission, said nothing arouses the ire of citizens more than the needless cutting of trees. With Metro's green spaces coming down the pike, it is very important to save the undeveloped areas as these may well be areas they would like to obtain. It is important for a City that prides itself on its green spaces to close this loophole and protect the urban forest.

Jon Chandler, Attorney for the Home Builders Association for Metropolitan Portland, said they do not oppose this but do have some problems with the language. He said it appears that this is meant to apply to non-development types of tree cutting. If that is the case,

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reliance on Title 33 and 34 are going to get the results the City wants as, outside the Environmental zone, there is no guarantee that tree cutting is going to be regulated. If that is not the intention, and this applies concurrently with the subdivision approval, it very unclear how these two interrelate. The internal process, in terms of timing and appeals, also needs work. Also, rather than focusing on single family lots, the focus should be on residential, not just single-family, development if the intent is to ease the process for a certain category of development. This ordinance seems to impede more diverse forms of development, such as duplexes, multi-family units, etc. Regarding the applicability section, he said that while the City intends that this ordinance not be considered a land-use decision, he believes it is. In the application process, the length of time the City forester is given to respond to a permit application is not stated.

Mr. Auerbach said that is correct.

Mr. Chandler, referring to Section .080 (2), said he is not sure how this relates to the subdivision ordinance. He said the language does not acknowledge that there are two separate permitting processes, one for tree cutting and one for development approval, and two separate appeal time frames. He asked if the Hearings Officer is acting as the City forester when dealing with trees or as the land use approval body as stated in Title 34. He said confusion about this could result in one appeal ending up in Circuit Court under writ of review and the other going to LUBA. He said he thought the intent was that everything in the Title 33 and 34 context be processed as part of a subdivision and parcel approval process and he is not sure the City is getting the kind of tree cutting protection it wants.

Commissioner Hales said this would apply to someone who has done a planned unit development and has preserved trees in a Tract A, for example, as a condition of that development and then applies to cut the trees down in the preserved tract. The message then would be to return to the Planning Bureau to discuss the conditions of approval.

Mr. Chandler said that clarifies one part but still does not spell out how the two processes interrelate.

Commissioner Hales said they do not -- this is an exit provision which says if you are covered under land use law as a condition of approval, talk to the land use people. Subdivisions would not normally be regulated with respect to tree cutting but planned unit developments or adjustments and more discretionary kinds of applications would be.

Mr. Chandler said he does not believe the ordinance says that. Additionally, the significance of 12-inch trees is questionable -- 12-inch

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poplars are still 12-inch poplars and a more species specific definition might be more appropriate. With regard to the appeal process, he recommended that Council still remain in the decision-making loop.

Mayor Katz said she does not think there is any tremendous disagreement.

Commissioner Hales said if he has suggestions for specific clarifying language, staff will certainly take a look at it.

Jane Glazer, 2378 SW Madison, Urban Forestry Commission member, said as this is initiated the bugs can be worked out. She complimented the City for the vision this ordinance represents, adding that she would like a more stringent limit on tree size and to require tree cutting permits for all public and private trees. However, she believes this is a good first step in protecting the environment.

David Manhart, Friends of Trees, 2730 NE Martin Luther King Jr. Blvd., urged adoption. He said the Powell Butte clearcutting incident caught them by surprise and showed how vulnerable trees are to increasing development pressures. He said Friends of Trees believes the 12-inch diameter may be too large and a smaller diameter should be considered. Also, mitigation should be required at the site where damage has been done and not allowed elsewhere.

Nancy Gronowski, Parks Bureau, project manager for the Urban Forestry Management Plan (UFMP), described the various parties involved in developing this Plan and outlined their objectives, which include identification and protection of the urban forest and coordination of urban forest management. She said the UFMP Technical Advisory Committee (TAC) supports this ordinance and recommends its immediate implementation. She said it is not overly restrictive, especially in terms of the resource it protects, and addresses the immediate need to preserve the existing canopy of trees. She said the UFMP TAC will evaluate this ordinance and propose revisions if appropriate.

Arnold Rochlin, PO Box 83645, 97283, said this should be adopted as soon as possible even though it has some flaws. He agreed with Mr. Chandler about the relationship of this to the Zoning and Subdivision Code and cited examples of problems that might arise. For instance, it does appear that literally read, these regulations and the Subdivision Code, would apply to undeveloped property proposed to be subdivided.

Mayor Katz said obviously that is not the intent.

Mr. Rochlin said, in addition, the approval criteria in this regulation

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would apply to the trees in a subdivision and would probably prevent all tree removal. Trees on the nuisance list of the Portland Plant List should be exempt and nuisance trees should not be allowed to be planted in mitigation. Also terms such as natural areas, stream corridors and open spaces are not defined. Finally, he supported strengthening the mitigation measures, which Mr. Alland will be proposing.

Bob Randall, Jr., 9500 SW Barbur Blvd., #700, 97219-4748, said if these regulations had been in effect last year he would have had to go through review on all six houses he built as infill projects. He said several houses would never have been built as this gives unhappy neighbors a hammer to stop development because all they have to do is file an appeal which then goes on and on. This is not worth it for one house. Noting that the Planning Bureau's tree-cutting process relating to environmental zones has an application fee of \$744, he said it is unrealistic to believe this will remain a minor \$35 process. He said many lots, particularly in the West Hills, fall into the underdeveloped category because they are large but very steep. He suggested that this only apply to trees on the native species list and that nuisance and non-native trees be exempt, as they are in the environmental zones. All government agencies should also be required to comply with the same requirements so that they too realize what a burden this creates. He said one section, 110.01, dealing with natural areas, covers areas already regulated under E zone ordinances and should be dropped. Minimum lot size should be changed to one acre because new houses with E zone designation overlays are already at a \$10,000 to \$15,000 discount because of the time, money and risk involved in the process.

Commissioner Hales said the City already requires permits for trees cut in the right-of-way. He agreed that the ordinance should make clear that if you are subject to E zone regulations, you are not affected by this. He said the intention is that this be administratively easier than Lake Oswego's ordinance.

Mr. Randall suggested that Buildings be the prime agency on this as Forestry is not really set up to deal with a permit process. He said he also believes many types of single family development are exempted.

Commissioner Hales said that was done in terms of the footprint of the house.

Ann Thompson, HGW Inc., and a resident at 2892 NW Beulah Vista Terrace, 97210, cited her experience in developing Forest Heights and as resident of Kings Heights, where cutting trees to protect views is a very emotional issue. She said where the standard is a significant negative impact on the character, aesthetics, property values or

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property uses of the neighborhood surrounding the tree, she fears this will raise a hornet's nest about whose property values are affected. For instance, on sloping lots, removing a tree will greatly enhance the property value for the uphill neighbor but perhaps disturb the privacy of the downhill neighbor. Standards are needed to determine whose values are most important in such situations. With regard to removal of trees in the footprint for home construction, that problem was dealt with in the scenic corridor overlay and that provision should be incorporated here since building may be impossible given the way this is written now. She said she is also concerned about emergency situations as it now appears that if you make a judgment about a potentially dangerous tree and it is then found not to be a true emergency you are potentially subject to jail for six months or a \$10,000 fine. That seems stiff.

Commissioner Hales asked staff how emergency situations are handled for street tree permits. He said the emergency provision works very well in street tree situations.

John Alland, Urban Forest Management Plan Technical Advisory Committee, said this ordinance is one piece of a holistic approach to urban forest management and gives protection to trees where there is none now. However, Section 20.42.130 regarding mitigation needs clarification. Mitigation should be required, not just for violations, but for all healthy trees that are removed. He supplied language for such mitigation so there is no net loss of canopy.

Kay Durtschi, 2230 SW Caldew, said this has long been needed. One issue still not addressed is what happens when an addition to a house is made. Also trees in the middle of the road should be under historic preservation regulations as sewer systems need to be routed in such a way that the trees are not killed.

Mr. Auerbach said trees in rights-of-way are protected under street tree regulations.

Mayor Katz said she hopes Commissioner Hales will fine tune this as he and Council finds this is necessary.

Commissioner Hales said he will meet with staff to see if some of the suggested amendments should be moved on immediately and possibly others can be taken up later. He said he wants to put one version of this into action and see how it works. He suggested review of the nuisance tree list and taking another look at the definition of a house footprint. The assumption here is that a single family house on a lot would not have to deal with the ordinance in the area where the house would be constructed. He also wants to recheck the dead tree portion

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where the environmental zone process is referenced to make sure the disconnection is clear. He will also research the point about subdivisions made by Mr. Rochlin.

Commissioner Kafoury asked Mr. Auerbach to make sure no other part of the ordinance conflicts with the permitting process.

Mr. Auerbach said this is intended to provide a single permitting process. Regarding the concerns, he noted that 20.40.2030 (2) which states that the requirements of this chapter do not apply to tree cutting reviewed pursuant to other Code provisions. Thus, if trees are addressed in planning regulations, the regulations in this ordinance do not apply. These regulations would apply, however, on development applications where there are no other limitations on tree-cutting. Tree cutting outside the footprint is not precluded when constructing single-family homes but would be subject to other conditions of approval, including mitigation requirements. He said there will be no problem changing the definition of tree to exclude trees on the nuisance list.

**Disposition:** Substitute as amended continued to February 2, 1995 at 2:00 p.m.

At 4:20 p.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 FEBRUARY, 1995 AT 2:00 P.M.

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

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

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

**CONSENT AGENDA - NO DISCUSSION**

- 100** Accept bid of Courtesy Ford for seven standard cab 3/4 ton pickups for \$208,254 (Purchasing Report - Bid 68)

**Disposition:** Accepted; prepare contract.

- 101** Accept bid of American Flow Control for annual supply furnishing fire hydrants for \$75,361 for two years (Purchasing Report - Bid 78-A)

**Disposition:** Accepted; prepare contract.

**Mayor Vera Katz**

- 102** Confirm appointment of current members of the Metropolitan Arts Commission to the Regional Arts and Culture Council (Report)

**Disposition:** Confirmed.

- \*103** Establish one Clerical Specialist, one Associate Accountant, five Architect/Landscape, five Associate Architect/Landscape, one Architectural Supervisor, one Sr. Facilities and Maintenance Supervisor and two Facilities and Maintenance Supervisor position(s) in Parks & Recreation; one Field Representative, one Plumbing Inspector and one Inspection Supervisor II position(s) in the Bureau of Buildings in accordance with the Personnel Rules adopted by the City Council (Ordinance)

**Disposition:** Ordinance No. 168467. (Y-4)

- \*104** Pay claim of Nathan Miller (Ordinance)

**Disposition:** Ordinance No. 168468. (Y-4)

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**\*105** Pay claim of Ruth Gert (Ordinance)

**Disposition:** Ordinance No. 168469. (Y-4)

**\*106** Authorize the Purchasing Agent to sign a Purchase Order as a contract with Software AG for annual software maintenance (Ordinance)

**Disposition:** Ordinance No. 168470. (Y-4)

**\*107** Amend contract with Associated Third Party Administrators to provide expanded medical claims payment services (Ordinance; amend Contract No. 50091)

**Disposition:** Ordinance No. 168471. (Y-4)

**\*108** Amend contract with Ethix Pacific to provide expanded case management services (Ordinance; amend Contract No. 50099)

**Disposition:** Ordinance No. 168472. (Y-4)

**\*109** Amend contract with Managed HealthCare Northwest for expanded preferred provider discount services (Ordinance; amend Contract No. 50101)

**Disposition:** Ordinance No. 168473. (Y-4)

**Commissioner Earl Blumenauer**

**110** Set hearing date, 9:30 a.m., Wednesday, March 1, 1995, to vacate a portion of SW Pennoyer Street west of SW Kelly Avenue (Report; Petition; C-9865)

**Disposition:** Adopted.

**\*111** Authorize the annual computer maintenance agreement with Intergraph Corporation through June, 1998 (Ordinance)

**Disposition:** Ordinance No. 168474. (Y-4)

**\*112** Authorize a contract with Zellerbach, a Mead Company, to furnish photocopy paper for an estimated annual amount of \$200,000 and provide for payment (Ordinance)

**Disposition:** Ordinance No. 168475. (Y-4)

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**Commissioner Charlie Hales**

- \*113** Contract with the City of Milwaukie to provide mutual aid and assistance during disasters (Ordinance)

**Disposition:** Ordinance No. 168476. (Y-4)

**Commissioner Mike Lindberg**

- \*114** Consent to transfer of Elmer Andre of Elmer's Sanitary Service solid waste and recycling franchise to Bruce R. and Cherrie L. Louis of Elmer's Sanitary Service (Ordinance)

**Disposition:** Ordinance No. 168477. (Y-4)

- \*115** Consent to transfer of Wayne's Midway Sanitary Service, Inc. solid waste and recycling franchise to Alpine Disposal & Recycling (Ordinance)

**Disposition:** Ordinance No. 168478. (Y-4)

- \*116** Consent to transfer of Weber Disposal & Recycling solid waste and recycling franchise to Weber Disposal & Recycling due to the retirement of one of the owners (Ordinance)

**Disposition:** Ordinance No. 168479. (Y-4)

**City Auditor Barbara Clark**

- 117** Accept Second Quarter Fiscal Year 94/95 Minority/Women business enterprise participation in City contracts (Report)

**Disposition:** Accepted.

**REGULAR AGENDA**

**Commissioner Gretchen Kafoury**

- \*120** Authorize City consent to Modification Agreement between United States National Bank of Oregon and Portland Community Reinvestment Initiatives, Inc. (Ordinance)

**Discussion:** Commissioner Kafoury said an amendment was proposed for this. She said this is a reaffirmation of the City's arrangement with U.S. Bank to buy and rehab the Dominion properties. She said this was set over for three weeks because of negotiations about the language as everyone wants to make sure they are protected.

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Martha McLennan, Bureau of Housing and Community Development, said these are three legs of a stool which describe a relationship between the City, Portland Community Reinvestment Initiatives (PCRI) and U.S. Bank. The City is providing a loan guarantee to the bank, which is providing private financing to PCRI. This modifies the original agreement executed in 1992, extending the term of the agreement by one year and altering slightly the sequence of the security offered so that the City is relied upon more heavily than in earlier drafts. The fundamental risks, however, have not changed.

Commissioner Kafoury moved to adopt the amendment as distributed. Commissioner Hales seconded and, hearing no objections, the Mayor so ordered.

**Disposition:** Ordinance No. 168480 as amended. (Y-4)

**S-\*121** Authorize Restated City Agreement with United States National Bank of Oregon regarding Portland Community Reinvestment Initiatives, Inc. (Previous Agenda 87)

**Discussion:** Commissioner Kafoury moved the Substitution. Commissioner Hales seconded and, hearing no objections, the Mayor so ordered.

**Disposition:** Substitute Ordinance No. 168481. (Y-4)

**S-\*122** Authorize Amended Indemnification and Reimbursement Agreement with Portland Community Reinvestment Initiatives, Inc. (Previous Agenda 88)

**Discussion:** Commissioner Kafoury moved the Substitution. Commissioner Lindberg seconded and, hearing no objections, the Mayor so ordered.

**Disposition:** Substitute Ordinance No. 168482. (Y-4)

### **Commissioner Mike Lindberg**

**\*123** Intergovernmental Agreement with the Multnomah County Community Services Division for \$106,000 to provide services for the Block-by-Block Weatherization Program (Ordinance)

**Discussion:** Susan Anderson, Energy Office, said this program weatherizes homes for low-income residents and the average income of participants is about \$1,000 per month. The program attracted 1,200 people to this year's Energy Fairs, with people lined up hours beforehand for free weatherization kits. She noted the program

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received a national award for environmental achievement from Renewal America.

**Disposition:** Ordinance No. 168483. (Y-4)

- \*125** Create the HCD SE Lafayette/88th Avenue Local Improvement District (Hearing; Ordinance; C-9880)

**Discussion:** Council noted that a hearing had been held on Wednesday and that it had overruled the objection.

**Disposition:** Objection overruled. Ordinance No. 168484. (Y-4)

- \*126** Create street and other local improvements in the NE Mason Street Local Improvement District (Ordinance; C-9879)

**Disposition:** Ordinance No. 168485. (Y-4)

- 118** Direct City bureaus to initiate, clarify or reaffirm performance management policies, practices and work rules which promote continuous improvement in providing quality public services (Resolution introduced by Mayor Katz and Commissioners Blumenauer, Hales and Lindberg)

**Discussion:** Kirk Berger, Interim Director, Bureau of Personnel, said this resolution addresses some of the broader issues resulting from the KGW story about the work performance of some City field employees. He said as a result Personnel investigated and is pursuing some disciplinary actions. In addition, broader issues of organizational performance were identified and are addressed in this resolution. These include improving communication opportunities between the public and the City and ensuring that the best management practices are in place and that employees feel comfortable about reporting something they believe is not right. A fourth issue involves examining current performance standards and raising them, if appropriate. He said Personnel met with bureau managers twice to discuss the scope of management problems that might exist. These meetings reaffirmed the issues addressed in this resolution. Since the initial draft, this resolution has been reviewed with most, but not all, bureau managers, particularly those in the bureaus and unions most affected by the KGW story. Significant redrafting occurred as a result. Also Diane Linn, Office of Neighborhood Associations, and others were involved in addressing how best to create a communications link between the City and the public. Out of those discussions came the idea for the slogan. He said the phone line is not intended to be a "snitch line".

Commissioner Lindberg asked if this had been reviewed with labor

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unions and if changes were made because of that.

Mr. Berger said they talked to DCTU, which resulted in significant redrafting to address their concern that this resolution not look like a slap in the face to employees. Personnel sees this as a continuous improvement resolution which will help the City become a high performance organization. He said the activities proposed still seem to be appropriate and positive.

Commissioner Lindberg asked if changes were made in the Whereas section, but none in the Resolved Section, because staff still felt it was the right thing to do.

Mr. Berger said the Whereas Section communicates the sense of what this is about.

Mayor Katz said there were changes in A.

Mr. Berger said yes, although Sections B, C and D remained pretty much as first proposed.

Mayor Katz said in Section A a slogan was originally proposed for the fleet but others felt it would be better to have the slogan come from the workforce itself, with a reward for the winner.

Mr. Berger said they also worked out some additional details with fleet services about the vehicle signage to make it more cost effective. The other issue, the best practices study, is already underway because it fits in with the Human Resource Management policy which they are developing. He said he has asked Ms. Guenther to lead that study and would be happy to share the information they already have.

Mayor Katz said that information was to be shared with the bureau managers so that they could decide whether to incorporate that in their practices or not.

Rebecca Guenther, Bureau of Personnel, said they have begun surveying the current literature in management trends to determine the best practices and develop an information base. This will result in a bibliography managers can use to further explore particular areas of interest. There will also be a list of agencies that have developed effective practices and innovative employee management programs. She said they heard loud and clear that bureau managers did not want Personnel to proscribe what changes they should make in their own operations so the Bureau will facilitate information gathering. She noted a meeting with ODOT regarding their Pride in Public Service program, a program which gives employees tools to use to make tough

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ethical decisions out in the field when there is no supervisor present. One component is the safe haven program, an 800 number employees can call to talk about problems in their own work or questionable work practices they have observed. They have also developed contacts with jurisdictions which have dealt with difficult management problems.

Mr. Berger said the meetings held in December included, in addition to bureau managers, representatives from all the labor organizations. Another best practice piece Personnel is putting together is meeting with utilities and other organizations in the Portland area, particularly those who have field crews, to share information about common management issues. He stressed that this is not meant to "get employees" but a way to enhance management and performance.

Commissioner Lindberg, noting his absence yesterday, asked to hear from some of the labor groups who did not testify yesterday. He said Glen Feuerborn told him that he had not received notice of the meeting but wanted to testify.

Mayor Katz said she would take testimony from one labor representative.

Commissioner Kafoury noted she had proposed a number of amendments and while she understood that one was not satisfactory, she understood that the clarifying language regarding the signage was acceptable.

Mr. Berger said they have already agreed to do it that way but if she wants clarifying language, there is no problem putting it in the resolution.

Glen Feuerborn, Business Manager for Local 483 and Secretary-Treasurer of the DCTU, said putting the telephone number on the trucks is a bad idea because field crews already have enough pressure on them. This will invite the reporting of every frivolous incident. He cited a recent incident where a crew taking a break at Safeway were confronted by an angry citizen and asked for more training for entry level employees as many do not know how to handle such situations.

Mayor Katz said this was an on-site confrontation that did not involve phoning.

Commissioner Lindberg said he thought the training suggestion was a good one as such confrontations seem to be increasing.

Mayor Katz said her office gets a lot of phone calls about such matters and is often able to explain situations to citizens who do not understand

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how the City operates. Having the phone number on the trucks also gives the public an opportunity to tell bureaus when they do a good job and allows bureaus to explain why someone may be taking a break at 8:45 a.m.

Commissioner Hales said each Council member acts as CEO for the bureaus he/she oversees as well as serving as a member of Board of Directors. He noted the high public rating given the Fire Bureau, the overwhelming support voters gave the Parks levy, as well as the good press received by the Planning Bureau. However, the City has to be more businesslike in order to make the organizations more productive. Actions such as placing a phone number on vehicles may be a little scary but are necessary because public institutions are held to a higher standard than private ones. The way the number is presented to the public is very important and should also allow access to the City information and referral system for all sorts of purposes.

Commissioner Kafoury said she has a lot of problems with this resolution. She said Council worked so hard to get an information referral number for the City and this should not be overshadowed by the idea that this is where you call to rat on employees. Second, this resolution puts the Personnel Bureau in a new role and, while she is comforted to hear that Personnel will serve more as a resource bank, that is not obvious from reading the resolution. Finally, the big issue for her is the management "fad of the month" as she believes the City has gone overboard on the number of initiatives and techniques it is requiring. She said this resolution does not meet the test of giving clear instructions about what is expected of bureaus. The number of different reporting formats greatly adds to their work loads. She asked for a clearer management directive and voted no.

Commissioner Lindberg said it is ironic that recent surveys show significantly higher public ratings for City services. He personally feels most employees give full day's work for full day's pay but believes a number of things in this resolution are right on target. It is very important to do a best practice performance study and set higher performance standards. He said he never considered the phone line a "snitch line" and believes there is a very fair process for dealing with complaints. This should not be viewed as only for employees in the field or as a statement that Council has lost confidence in its employees.

Mayor Katz said this reflects Council's goal to improve customer service. These are not new management gimmicks but about providing a more responsive government and constantly improving, including sustaining high morale. She noted that morale was currently low but she believes that will pass as 99.99 percent of the workforce does a superior job. The second issue for her is that acting as a board of trustees is somewhat

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troublesome as, in a commission form of government, one can ask why Council is directing the City workforce as a board of trustees. She said the Charter clearly sets out that the Mayor shall exercise careful supervision of the affairs of the City. This resolution is a way of bringing to the board of trustees an issue about managing and supervising employees. This will take time and change always brings chaos but it is part of growth.

**Disposition:** Resolution No. 35363. (Y-3; N-1, Kafoury)

**S-\*129**

Amend City Code to create new Chapter 20.42, Tree Cutting (Previous Agenda 64)

**Discussion:** Commissioner Hales moved adoption of two new amendments. Commissioner Kafoury seconded but the vote was postponed until testimony was taken.

Commissioner Hales said they propose two amendments, one to include a reference to trees on the nuisance list and one to eliminate the reference to conditions of approval in the provision for Dead, Dying and Dangerous Trees. He said the forester might require someone to leave dead trees standing in an area where there is no development. If development is being done, resources will be reviewed under the normal development review process.

Commissioner Kafoury asked about the duplication regarding permitting.

Commissioner Hales said that was adopted yesterday when Council changed it to a single permit.

Logan Ramsey, NW Skyline, said the first version was better than the second as it allowed some activity such as fire cutting without going through a permit process, but the approval standards are still not objective and are too vague. This is another version, and has the same problems, as the interim forest zone which was remanded by LUBA. It also circumvents Goal 5 requirements. People who had only partial E zone but were allowed to use other parts of their property now have to go through a review process. He asked what justification there was for lengthening it from one to two years. He said the means should be consistent with the ends, preserving the environment, and called this a temporary taking without compensation and without notification to affected property owners. He said it does not protect trees throughout the City, only those on undeveloped land.

Cay Kershner, Clerk of the Council, called roll on the amendments. (Y-4)

Commissioner Hales said the regulations need to be carefully targeted to deal with some of the severe problems they have had with tree cutting on undeveloped land. This ordinance has been structured carefully so that people brought into the land use process can deal with tree cutting issues there, while those on undeveloped sites will deal with this ordinance. While standards should be clear wherever possible, this ordinance does rely to a large extent on the judgment of the City forester and his staff who deal with property owners daily regarding street trees. He said their good judgment can be seen in how few of their decisions ever are appealed to Council and he expects the same to occur with this. That is why it is not written as a land-use ordinance. He noted that the ordinance includes a sunset clause and will also be reviewed as part of the Urban Forestry Management Plan to make sure it is working as intended.

**Disposition:** Substitute Ordinance No. 168486 as amended. (Y-4)

**130**

**TIME CERTAIN: 2:00 PM** - Adopt Forest Park Natural Resources Management Plan and amend official Zoning Maps (Ordinance introduced by Commissioner Hales)

**Discussion:** David Judd, Parks Bureau, said Forest Park is a truly unique park, the largest forested park in any City in the nation. This plan both guards the natural resources and guides future development so that it becomes America's premier urban ancient forest.

Nancy Gronowski, Parks Bureau, reviewed the background of this plan, noting that the levels and kinds of use, such as mountain biking and running, have increased and changed considerably since the last plan was completed in 1976. Development, the spread of invasive plants and conflicts between users need to be addressed as well. There are also conflicts in adjoining neighborhoods, particularly in the Thurman Street area where too many users are entering the Park. She said since most of Forest Park is covered by E zone regulations, adoption of the Plan streamlines the approval process for various projects. The Plan reflects heavy citizen involvement and, most importantly, presents ten major strategies aimed at achieving a balance between protecting the natural resources and enhancing recreational use. She reviewed some of the major projects proposed, including trailhead acquisition which would move the main access from Thurman Street to St. Helens Highway. Parks will work with the Bureau of Environmental Services on improvements to Balch Creek, including building an ADA accessible trail in Lower Macleay Park. An extension of Wildwood Trail is also proposed and many other trail improvements, both for cyclists and pedestrians, are included. As a result of the Planning Commission hearings, some additional analysis was done so that people could more easily understand the balance of trail use. Trail improvements include

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adding almost nine miles for pedestrians of which 3-1/2 miles will be usable by cyclists.

Jim Sjulín, Natural Resources Supervisor, Parks and Recreation, showed slides to illustrate the significance of the resource. The Plan calls for additional property acquisitions and for the reduction of invasive, exotic plants, such as English ivy. It also calls for planting conifers in areas dominated by big leaf maple to encourage a more diverse habitat. Another resource issue is protection and improvement of surface water resources as there are only two creeks within the Park -- Balch and Miller, both small and sensitive. They also hope to improve biological linkages between the upland forest and rearing areas in the lower watershed. Stream and stream bank habitat improvements on Balch Creek are included along with education and enforcement measures. They hope to work with the Bureau of Environmental Services (BES) to improve habitat at the lower end of Balch Creek while developing flood storage capacity. Finally, it is imperative to preserve Forest Park's connections to rural areas in order to retain wild life. The Plan recommends acquisition, primarily through conservation easements, of critical areas and development of a Pacific greenway linking Forest Park with the lower Columbia River down to the Pacific Ocean. One question facing them is whether to use herbicides. The plan does allow their use, especially to control exotic vegetation and, in a limited way, in the release of conifers.

Tim Brooks, Planning Bureau, said of particular interest to the Planning Commission is the creation of vision statements for each of the three management units -- North, Central and South -- so that planners in the future can easily figure out whether a proposed trail or dog policy complies with the vision for that particular unit. He showed slides and described some of the major enhancements planned for each unit. He noted that the central unit is made up almost entirely of big leaf maples and the vision here is to make it more diverse and encourage more conifer growth. Finally, in the north unit, they hope to restore salmon runs on Miller Creek.

John Sherman, President, Friends of Forest Park, said the Friends wholeheartedly approve this plan. He urged Council to support passage of Metro's Open Space ballot measure which allots \$5 million for Forest Park acquisitions and will allow completion of the original vision proposed by the Olmstead Brothers. He added that in the past five years, the Friends have raised \$1.3 million for acquisitions.

David Morgan, Management Plan Citizens Advisory Committee member and professor of urban studies at Portland State University, stressed the need for active management, noting that in the last 15 years it has been passively managed, based on the idea that it was a natural area

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that would take care of itself. However, with the growth in use and recognition of the problems posed by invasive species, an active management strategy is now needed. He said having 1-1/2 employees for 5,000 acres is not going to work and how best to manage this park is a challenge the whole City must deal with.

Gregory Holt, Portland United Mountain Peddlers, asked that the plan be amended as time goes on to reflect new uses, such as mountain biking. Proper use of the Park can be addressed through education. He said his organization has started a bike patrol and published maps to show where mountain biking is permitted. He said he would like to see everyone work together so there will not be conflicts between pedestrians, equestrians and bikers and everyone can enjoy the park without misusing it.

Commissioner Lindberg asked if was correct that 3-1/2 miles of biking trails were added over and above what they had before.

Mr. Holt said yes.

Mayor Katz asked if he was suggesting that as time progresses, he would like to raise some of these issues.

Mr. Holt said yes, since at this point the plan is rather broad and it would be nice to have ongoing changes to keep up with the times.

Michael Orendurff, mountain bike guide book author, said there are an estimated 50,000 to 100,000 mountain bikers in the area and 75 percent have probably biked on Leif Erickson. He said many of the trails are riddled with bicycle marks because cyclists want to bike on trails and until this is addressed "poaching" will continue. He said biking on trails needs to be accepted as a legitimate use of the park and ways need to be found for hikers and cyclists to interact without conflict. He questioned Parks contention that cyclists travel up to ten times faster than pedestrians, contending that was not true on trails. He said trails can be created that force bikes to go slowly making bicycle and pedestrian traffic possible on the same trail. He said this multiple use is allowed in state and other parks and this is the one place where separation is used. He said the Parks Bureau's whole focus seems to be to facilitate high speed bicycle travel and that should not be the goal.

Commissioner Lindberg said he has spent a lot of time working on that issue and will have questions to ask about that next week.

Mary Vogel, 3700 NW Columbia Avenue, representing the Native Plant Society of Oregon, said they support removal of exotic plants and restoring native species but object to the proposed use of herbicides on

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English ivy and big leaf maples. She cited studies which indicate the damage caused by the use of triclopyrs and called for more studies as too much remains unknown about the toxicity and there are viable alternatives.

Commissioner Hales asked if she could recommend any alternative to herbicides other than time and progression.

Ms. Vogel suggested logging or girdling, although the Parks Bureau has indicated they do not have enough staff to do the logging. She said she would like to see more funds allocated for manual destruction. She noted Parks staff has stated they do not intend to use herbicides on the ivy as it was ineffective.

Theo Patterson, President, Portland United Mountain Peddlers, said they approve the Plan but propose a number of amendments. He said when people hear the word mountain bikers, they tend to see conflict. He said they have been working with the Parks Bureau for the past seven years to promote safe and responsible mountain biking and have been instrumental in raising money for Forest Park. He said they would like to see a better response other than pats on the back. He said paths with an 8-foot minimum width should not be a steadfast rule and suggested a lesser width.

Logan Ramsey, 3026 NW Skyline Blvd., 97229, asked if this was an amendment to the Northwest Hills Management Protection Plan, noting that this Plan allows undesirable trees to be removed from the Park while the Northwest Plan does not allow similar techniques on private property. The Park is not very good habitat for deer and elk as they require a significant amount of grassland for forage and to encourage them, some areas should be cleared for grasslands. There is also nothing for migratory water fowl but a small lake could easily be created there. He suggested adding a paved bike lane on Leaf Erickson Drive to Germantown Road as people on regular 10-speeds bikes do not want to ride on a gravel road. If people with regular bikes are encouraged to use the park, there will be less intrusion in areas where bikes are not wanted. Regarding herbicide use, he suggested that controlled burning, such as is done by the Forest Service, be considered.

Arnold Rochlin, PO Box 83645, 97283, said Leaf Erickson is not the only place for bikes as there are at least 20 other miles available. He added that the lanes have a dedicated width of eight feet but because of growth on the sides, the actual width drops to five or six feet. Regarding the big-leaf maples, the way they are growing in Forest Park is not natural and if they are simply cut down they just grow back again. The only practical way is to use herbicides. The plan is to take very small islands to allow conifers to grow. This is a very careful plan

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and if things go bad, it will affect only very small areas.

Commissioner Hales asked staff to discuss the use of herbicides and multiple versus single use.

Mr. Sjulín said they have been working with the mountain bike community for seven years on this new use, adding that during that time the new biking opportunities that have been added are all for multiple use. The real issue is the single track trail. Wildwood Trail was constructed at a six-foot width and Parks does not believe it would be a suitable place for combining bicycle use. He said their experience with mixed-use on single-track trails in places such as Powell Butte indicates that there are conflicts. He said they have looked at this issue seriously and this report includes their best advice about how to handle it.

Commissioner Hales asked if once the trail system is augmented, there will be multiple options for people who want to use mountain bikes and multiple options for hikers who want to be undisturbed by bikers.

Mr. Sjulín said yes.

Commissioner Hales said any additional bike trails are going to augment the use as they will allow more access into the Park.

Mr. Sjulín said they are about maxed out in Forest Park for accommodation of bikers.

Commissioner Lindberg said he feels strongly about keeping the two uses separate but, because of the increasing number of mountain bikers, perhaps a separate park should be considered. He said as their numbers grow, the illegal use of Forest Park may increase and perhaps a new paradigm needs to be looked at.

Mr. Sjulín said one of their strategies is to develop more biking opportunities in the region.

Commissioner Hales said hikers with small children should not have to worry about mountain bikers.

Ms. Gronowski stressed that Parks wants to use herbicides as carefully as possible.

Commissioner Lindberg asked about the work program for combating ivy.

Mr. Sjulín said ivy is more than an aesthetic problem as it can totally

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overwhelm the native vegetation. They will monitor the success of program to see if it is effective.

Mayor Katz said Parks and BES ought to be a little more creative about using human power to do more of the cleanup work.

Mr. Sjulín said they have been using a youth force for the past few years.

Mayor Katz suggested using homeless people and those on welfare.

Commissioner Lindberg asked about the scope of the ivy problem.

Mr. Sjulín said they attempted to draw a map to show where the ivy is so they can check in a few years to see how they are doing.

Commissioner Hales asked if the City would still be subject to environmental zone review and other permitting requirements.

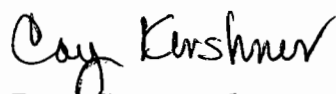
Mr. Brooks said the Plan's chapter on implementation procedures identifies if that is needed. He said perhaps 75 percent of the projects are preapproved while another 25 percent may need environmental review, subject to new criteria that have been developed in that chapter, and, finally, certain exceptions to the Plan would require a Type III, full-blown review. A procedure for Plan policy modifications is also outlined, so that if there were requests for modification of the vision or strategies, a full legislative process would be required.

Commissioner Hales said most of the time there would be preapproval. He thanked staff and citizens, noting the community support. He said this will require active management and a lot of volunteer effort, such as work parties for ivy removal or trail construction.

**Disposition:** Passed to Second Reading February 8, 1995 at 2:00 p.m.

At 4:25 p.m., Council adjourned.

BARBARA CLARK  
Auditor of the City of Portland

  
By Cay Kershner  
Clerk of the Council