



CITY OF
PORTLAND, OREGON

**OFFICIAL
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 12TH DAY OF APRIL, 1995 AT 9:30 A.M.

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

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

Agenda No. 505 was pulled from Consent. On a Y-5 roll call, the balance of the Consent Agenda was adopted as follows:

CONSENT AGENDA - NO DISCUSSION

500 Cash investment balances March 9 through April 5, 1995 (Report; Treasurer)

Disposition: Placed on File.

501 Accept bid of Brant Construction for street, storm sewer and bikeway improvements on SW Terwilliger for \$287,636 (Purchasing Report - Bid 111)

Disposition: Accepted; prepare contract.

502 Accept bid of Courtesy Ford for five pickup cabs and chassis for \$96,159 (Purchasing Report - Bid 117)

Disposition: Accepted; prepare contract.

Mayor Vera Katz

503 Confirm reappointment of Paul Schuback and Bruce Fong to the Portland Planning Commission (Report)

Disposition: Confirmed.

***504** Pay claim of Jon Kathman (Ordinance)

Disposition: Ordinance No. 168680. (Y-5)

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***506** Accept a grant addendum of \$22,250 from the State of Oregon Public Utilities Commission for Motor Carrier Safety Inspection Program in the Police Bureau Traffic Division (Ordinance)

Disposition: Ordinance No. 168681. (Y-5)

***507** Increase change funds for the Bureau of Police in the amount of \$25 (Ordinance; amend Ordinance No. 152321)

Disposition: Ordinance No. 168682. (Y-5)

***508** Establish Portland Police fitness rooms through partnership agreement with Portland Police Association, City of Portland's Health and Fitness Advisory Committee, and the Portland Police Bureau (Ordinance; amend Code Sections 5.04.470 and 5.08.140)

Disposition: Ordinance No. 168683. (Y-5)

Commissioner Earl Blumenauer

509 Set hearing date, 9:30 a.m., Wednesday, May 10, 1995, to vacate the east 20 feet of SE 7th Avenue north of SE Division Place (Report; Petition; C-9868)

Disposition: Adopted.

***510** Approve construction of private pipelines within vacated NW Front Avenue (Ordinance; amend Ordinance No. 146216)

Disposition: Ordinance No. 168684. (Y-5)

***511** Intergovernmental Agreement with the City of Milwaukie to provide for design and construction management of certain roadway improvements to the SE 17th Avenue/Ochoco Street intersection (Ordinance)

Disposition: Ordinance No. 168685. (Y-5)

***512** Agreement with Hong West & Associates for geotechnical consulting work for the North Portland Road bridge replacement project (Ordinance)

Disposition: Ordinance No. 168686. (Y-5)

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***513** Authorize personal services agreement for Special Hearings Officer for Westside Light Rail blasting, waive City Code Title 5.68 and provide for payment (Ordinance)

Disposition: Ordinance No. 168687. (Y-5)

Commissioner Charlie Hales

514 Accept completion by Snyder Roofing of roofing projects at various sites, make final payment and authorize release of retainage (Report; Contract No. 29062)

Disposition: Accepted.

***515** Contract with H & W Emergency Vehicles for \$1,098,917 for purchase of five 1500 GPM triple combination pumpers for the Fire Bureau and provide for payment (Ordinance)

Disposition: Ordinance No. 168688. (Y-5)

Commissioner Gretchen Kafoury

***516** Contract with Multnomah County's Community and Family Services Division for \$199,580 in Emergency Shelter Grant funds to administer homeless programs and provide for payment (Ordinance)

Disposition: Ordinance No. 168689. (Y-5)

***517** Contract with Community Action Agency of Yamhill County for \$10,000 as fiscal agent for Oregon Housing NOW Coalition to organize the Piedmont Plaza residents council and surrounding community located in the Bureau of Housing and Community Development's target area and provide for payment (Ordinance)

Disposition: Ordinance No. 168690. (Y-5)

***518** Contract with Multnomah County's Community and Family Services Division for \$505,680 in Community Development Block Grant funds to administer homeless programs and provide for payment (Ordinance)

Disposition: Ordinance No. 168691. (Y-5)

***519** Authorize Agreement with Portland Adventist Medical Center for access to the City of Portland's 800 MHz trunking radio system (Ordinance)

Disposition: Ordinance No. 168692. (Y-5)

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***520** Authorize Agreement with Kaiser Sunnyside Medical Center for access to the City of Portland's 800 MHz trunking radio system (Ordinance)

Disposition: Ordinance No. 168693. (Y-5)

Commissioner Mike Lindberg

521 Adopt eligibility and selection criteria for Community Events at the Memorial Coliseum (Resolution)

Disposition: Resolution No. 35382. (Y-5)

***522** Authorize Purchase Order to serve as a contract with Envirex, Inc. for primary clarifier collector equipment conversion purchase for the Bureau of Environmental Services at the estimated amount of \$543,000 without advertising for bids, authorize a contract and payment (Ordinance)

Disposition: Ordinance No. 168694. (Y-5)

523 Amend City Code to clarify the criteria for mandatory sanitary sewer connection (Ordinance; amend Code Chapter 17.33)

Disposition: Passed to Second Reading April 19, 1995 at 9:30 a.m.

***524** Amend contract with Black & Veatch, Inc. to increase the scope of work and provide for payment (Ordinance; amend Contract No. 28549)

Disposition: Ordinance No. 168695. (Y-5)

***525** Authorize a revised easement, including new agreement and amendments and supplements to previous agreements, for construction of the Forest Park (High) water storage facility (Ordinance)

Disposition: Ordinance No. 168696. (Y-5)

City Auditor Barbara Clark

***526** Reduce sidewalk assessment (Ordinance; amend Ordinance No. 168617)

Disposition: Ordinance No. 168697. (Y-5)

REGULAR AGENDA

***505** Amend City Code to create right of appeal from designation as a gang affiliate (Ordinance; amend Chapter 22.10.020)

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Disposition: Referred to Commissioner of Finance & Administration.

496

TIME CERTAIN: 9:30 AM - Amend Title 17 of the City Code to eliminate the Drainage Fee Discount Program (Ordinance introduced by Commissioner Lindberg; amend Chapter 17.36)

Discussion: Commissioner Lindberg said the drainage discount program, initiated several years ago, seemed reasonable after passage of Measure 5, when it appeared that the City would be losing its ability to provide essential services. After implementation, however, they found it did not significantly lower overall system costs but did reduce the number of customers financially contributing to the total system. Also, customers who do not get the discount unfairly pay more to cover costs than those receiving the discount. In the past year, the Bureau of Environmental Services (BES) has been exploring options to adjust the program. He added that over 10,000 people are receiving the discount and a projected 40,000 more are expected to apply over the next five years. BES sought suggestions from customers about the program and also referred this issue to the recently-formed Public Utilities Review Board (PURB) which will present its recommendation today. BES staff will also make recommendations.

Mayor Katz said both she and Commissioner Lindberg decided to ask PURB to review this because of the serious policy issue involved although they realize that PURB is supposed to set its agenda independently. She expressed thanks for the enormous time contribution.

Doug Morgan, PURB Chair, described the makeup of the 15-member committee, noting that the request to look at this issue came shortly after the committee was formed. He said an ad hoc sub committee of seven members met three separate times and then met twice with the whole PURB. He said in looking for acceptable solutions they considered the following: 1) most of the costs (98 percent) of the drainage utility program are fixed; and 2) at least 45 percent of its costs are a part of common property, such as streets, highways, etc., which those left in the system must cover. He said the drainage program costs are going to be extraordinarily high over the next three years to pay for infrastructure maintenance and federally mandated mitigation requirements. In addition, the existing discount program will cost \$10 million over the next five years and the roof drain disconnect program will add another \$6 million, contributing to a very high escalation of rates. He described the process PURB used to consider various options and why it concluded that it would be best to discontinue the discount program and compensate the existing discount holders. They considered grandfathering in the existing discount holders but felt it would be unfair as those customers benefit but do not pay for either the fixed or

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common costs of the system. They then considered dividing up the charges between common, fixed costs and variable costs but concluded this would be an administrative nightmare, although a great idea in principle. The Board unanimously recommends that the discount be discontinued and that there be compensation. There is also a minority report which would expand the compensation package beyond what the majority of PURB recommends.

Paulette Rossi, 3710 NE 147th, said she wrote the minority report because she believes the compensation proposal discriminates against mid-County sewer owners who were unable to apply for the discount program because the application process is linked to first having sanitary sewer service. She said less than half the properties in Mid-County now receive sanitary sewer service but most residents became part of the sewer system in 1992 and 1993 when they signed contracts for financial assistance on their sewer line assessments. Many will not be connected until 1998 or billed until 1999. People in that area expected to receive the drainage discount and decided to remodel their homes upwards, not outwards, to reduce the impervious area. The PURB recommendation to compensate only existing discount holders is discriminatory, treating people unequally and pitting neighbor against neighbor. She said some PURB members argued that no one owes unsewered Mid-County residents any compensation because they received stormwater community system benefits they did not pay for in monthly fees. However, she said, current discount holders also receive benefits they did not pay for but will be compensated \$212.50. She filed a number of letters for the record from mid-County residents offering suggestions and criticisms. She said many question why the community was not more involved in solving the stormwater problem.

Mayor Katz said Ms. Rossi's issue is that there are people not yet hooked on who have made improvements in anticipation of being eligible for this program.

Ms. Rossi said anyone who could have qualified during the time the discount program existed should have a grace period to apply for it.

Commissioner Lindberg asked if her idea was costed out. Would most of mid-county residents be eligible?

Ms. Rossi said no. About half the people (25,000) in mid-County are already connected to sewers and those who have already connected but did not apply for the discount have missed their chance. This should apply only to those who still have to connect but could not apply. About 25,000 might be eligible. She said people should be paid off once, even if it is a large sum of money now, so that the City does not lose the fee in the future.

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Commissioner Lindberg said if a majority did participate and it cost an additional \$7 million dollars there would be another equity issue for all the other sewer rate payers.

Ms. Rossi said all the compensation is coming out of the rates.

Mayor Katz said the dilemma for the City is the cost and the effect on rates.

Chris Thomas, 2611 NE 12th, PURB member, said PURB recognized Ms. Rossi's issue but found there was no perfectly fair way to extract the City from this situation. The discount itself could be termed unfair because it shifts fixed costs to a group and people are receiving benefits they are not paying for. With this program, PURB decided that a line had to be drawn somewhere and tried to derive a plan that would not, for instance, require administrative decisions as to who among the 25,000 unconnected sewer customers took steps in anticipation of the discount versus those who did not know the program was available. He said the issue Ms. Rossi raises brings up other questions about how other groups of people are treated, i.e. those who did not hear about the program because it was not publicized in their areas. There is no easy solution and some groups are going to be left out although some Mid-County residents might have had heightened expectations because of the publicity. Part of PURB's position, in terms of credibility, is to say the City make a mistake which needs to be corrected.

Mayor Katz asked if any other issues were raised at PURB which were not covered by the sub-committee.

Mr. Thomas said no, although some wording was changed to emphasize the need to look at the overall rate structure, fixed versus variable costs and how street drainage is financed.

Commissioner Hales asked if the committee discussed what grace period would be given if Ms. Rossi's suggestion were adopted.

Ms. Rossi said 90 days to put an application into the pipeline.

Mr. Thomas said the PURB recommendation might change if that group was to be included because of the significant additional cost.

Commissioner Lindberg said it could be several million dollars.

Mr. Morgan summarized PURB's recommendations: 1) discontinue the drainage discount; 2) compensate current discount holders and qualified applicants; 3) provide a one-time incentive to participants in the new roof drain disconnect program in the CSO targeted area; 4) research

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equitable rate methods; and 5) address the application of this program to industrial and commercial customers.

Dean Marriott, BES Director, said with 20-20 hindsight it is easy to say BES should have done something different but in 1992 they were told this had to be done to protect the drainage utility. Now additional resources are needed to maintain the drainage infrastructure and prevent the continued erosion of the financial base. BES proposes to implement PURB's recommendations to end the discount both for those who have taken mitigation measures and those who remeasured the amount of impervious surface on their lots. It would cut off future applications at the close of business today and compensate discount holders or qualified applicants up through today. He described the compensation program, noting that the majority of holders would receive the full compensation package. Estimated cost to the rate payers of the proposed compensation program is \$1.6 million. This would prevent a loss of \$16 million over the next five years as more and more people signed up for the discount program. He outlined the Bureau's planned public information efforts over the next three months and described the public involvement process to date.

Mr. Marriott said, regarding the cost of Ms. Rossi's proposal, BES estimates that if 25,000 new people signed up it would cost between \$5 and \$6 million in additional compensation. He said ending the discount program will cut future rate increases for all customers by about half of one percent each year for the next five years.

Mayor Katz said that assumes that the infrastructure will be improved too.

Commissioner Lindberg asked if the 25,000 people who are not connected yet are paying a drainage fee now.

Mr. Marriott said no.

Commissioner Lindberg asked if, as City residents who use the streets, they are receiving services.

Mr. Marriott said yes, they are.

With regard to Mid-County, Commissioner Lindberg noted that the advantage of not being connected means that they do not have to pay about \$4.00 per month in drainage fees but are still receiving services. He asked if there are other unsewered areas other than Mid-County.

Mr. Marriott said there are a few pockets, which will be sewered within the next decade.

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Commissioner Lindberg said if this applied to mid-County it would apply to them also.

Mayor Katz said one issue Council raised at its informal was the issue of grandfathering until the property is sold.

Mr. Marriott said BES suggested that as an option but PURB chose the one-time compensation package instead because of the equity issue. Estimated cost of grandfathering is about \$600,000 a year so after about three years it would cost more than the one-time compensation package.

Commissioner Blumenauer said he believes the City should be careful about characterizing this program as a mistake rather than trying to explain to the public the complex and difficult situation it tried to address. He noted that the people who say this is a mistake are the same people who recommended this program to Council earlier. He said to simply call this a mistake is an unfortunate and an inaccurate portrayal of what actually happened. He said today's proposal also has inequities and imperfect solutions.

Mr. Marriott said nothing has been said that in any way is meant to diminish the credibility or status of government. He said many people have urged the Bureau to say that in hindsight, it made a mistake. That was the route it decided to take.

Commissioner Lindberg said the present approach is to ask what is the right thing to do now, regardless of what was done a few years ago. He said the current program is a flawed and inequitable one. He said they have been trying to fix this for several years and have found that whatever is done, given the complexity and the equity tradeoffs, is going to be imperfect and unsatisfactory to some customers.

Leonard J. Kirschner, 5333 SE Rhone, 97206, said Council has a dilemma on its hands and will not please everybody. He applauded Mr. Marriott's willingness to admit to a mistake and said citizens will go along with this as long as they know that City government is watching the costs carefully. He said the Water Bureau is offering assistance to low-income residents which is more than what is offered under the senior citizen discount program.

Mayor Katz said the Bureau had done an analysis of the senior citizen discount versus the current assistance program and it can be sent to him.

Faith E. Ruffing, 1437 SW Hall, 97201, said the drainage discount program is a good example of the City taking on major problems one step at a time and not looking at the whole picture. She said this

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approach led to a program allowing discounts not related to reductions in costs and resulted in inequities among rate payers. Since untreated storm water can no longer be discharged and future treatment will result in additional rate increases to pay for more sewer and water facilities, she recommended that BES and the Water Bureau consider developing neighborhood water parks to handle stormwater runoff from private and public properties. These retention systems could be equipped with filters to remove grease, grit and heavy metals and the water could be used to wash streets, for fire protection or to irrigate lawns. The cost of these water parks could be weighed against the cost of providing additional stormwater treatment facilities and drinking water supplies. The cost could be apportioned to the beneficiaries of the new development and not distributed to present ratepayers.

Commissioner Lindberg noted that Ms. Ruffing had submitted this idea in less detail before and he forwarded it to the regional water planning group. He said an analysis is being done of the cost of local water retention and how the water could be used.

Ms. Ruffing said when PURB discussed the drainage discount program, it separated the residential and street storm water. She said a multiple solution to storm water is needed.

Commissioner Blumenauer asked if anyone had done water parks yet.

Ms. Ruffing said she has not done any research on other cities.

Commissioner Lindberg said he thinks United Sewage Agency has several. He said only a handful of cities in the world have two-pipe water systems - one for drinking and one for irrigation.

Ms. Ruffing said one problem is that, with the sewer line, there are three separate pipes.

Kay Durtschi, 2230 SW Caldew, supported the PURB proposal, adding that this is something that probably has to happen even though emotionally she believes everyone should have a discount for storm water runoff.

Mayor Katz said this is not an emergency ordinance and additional testimony may be taken next week.

Commissioner Lindberg said the Bureau sent letters to 9,500 customers indicating they could testify next week.

Commissioner Blumenauer asked BES to determine the cost to include in the discount compensation program those people in Mid-county who

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have made investments, such as reconfiguring a driveway, in anticipation of being eligible. He said he does not believe this would be a large number. He said he is inclined to seek an amendment to cover people who could document such actions.

Commissioner Lindberg said he does not know if one can tell whether it is five or 5,000.

Mayor Katz said she likes the idea if BES can identify what the cost would be but she does not want to find out later that the numbers are huge.

Mr. Marriott said they will try to do that, pointing out that they have no way of knowing what people who have not yet applied might have done.

Commissioner Lindberg said it does seem fair and his intuition tells him that the number of people would not be great.

Commissioner Blumenauer said even if it is 5,000 people, Council ought to take a look at who it is giving money to as it seems that a number of people will be dramatically overcompensated with this buy out. If people have made substantial investments in reliance on this, they deserve compensation.

Disposition: Continued to April 19, 1995 at 10:00 a.m. Time Certain.

***497**

TIME CERTAIN: 10:30 AM -Adopt the Report and Recommendations of the Planning Commission on the Environmental Zone Streamline Project and adopt amendments to Title 33, Title 34 and the Comprehensive Plan (Previous Agenda 493; amend Titles 33 and 34)

Discussion: Commissioner Hales said Planning staff prepared a matrix in response to the issues raised last week and also negotiated with members of Citizens Advisory Committee and the Planning Commission to try to come up with a compromise on the notice and review issue. While the public hearing was closed at the end of last week's session, he invited Citizens Committee members to comment as there is not unanimity about the solution proposed.

Mayor Katz asked Mr. Knowles to identify the recommendations in the matrix.

Mr. Knowles said in some cases staff is recommending changes, which are incorporated in a set of amendments (A through E). A revised amendment A has just been distributed. As for the matrix, in some cases no action is recommended while, in others, further work by the

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Planning and Buildings bureaus is requested. There is also the basic recommendation from the Planning Commission and a memorandum dated March 30 which contains eight amendments. Staff will recommend adoption of amendments 2 through 8.

Mayor Katz said she has a question about amendment 8, the taking issue, and amendment 11.

Commissioner Hales said Item 12 is a change in the minimum density application of the standards. There was no recommended change in the original minimum-density proposal but there was a proposal that it be expanded to include multi-family.

Mr. Knowles said Item 1, regarding notice and review, attracted the most interest and controversy. He said they have worked very hard to try to develop a proposal to balance the need for citizen review with the need to move development reviews through quickly. They are recommending a process today which they believe will provide citizen participation but not unreasonably delay processing the permits. There is no formal recommendation by either the Planning Commission or the Citizens Advisory Committee but they did reach agreement on all but one point, where there may be substantial disagreement. He described Amendment A which proposes that an inspector visit the site to be developed to determine if the site plan is accurate. Once compliance is determined, a notice is sent to the neighborhood association and anyone who has contacted the Bureau will be allowed a ten-day comment period prior to issuance of the permit. There is disagreement about the Bureau's obligation when it receives a citizen comment, after the plan has been certified but before the permit has been issued. He said staff will respond to the comments and state what they propose to do. In some cases a reinspection will be required while in others the Bureau will state that it believes the information is correct and it will go ahead and issue the permit. Interested parties will be informed. Some CAC members wanted to make responding to the citizens a formal Code requirement. Mr. Knowles said he is very reluctant to recommend that because it would require a written response and would be an appealable action, something they believe goes beyond what is needed to assure good citizen participation.

Tom McGuire, Planning Bureau, described the other proposed amendments. Amendment B responds to alterations of existing developments (Issue No. 10 in the matrix). The Planning Commission and Citizens Committee differed, with the Citizens recommending a limit of 800 square feet. The Commission recommended a broader standard, allowing development on areas previously built on or disturbed. After some discussion, this amendment was crafted to try to give some flexibility about alterations to allow more than 800 feet if

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possible but also add a maximum limit. That was tied to limitations on existing development.

Amendment C responds to Issue 12 in the matrix, the minimum density issue for multi-family zones, specifically R1. Not including multi-family was an oversight and this amendment would apply the exemption for minimum density exemption to multi-family zones.

Amendment D responds to Issue 16 regarding definitions requested by Council for the terms "functional values" and "identified streams and wetlands." Those have been reworked as has the definition for "disturbance area."

Amendment E addresses Item 18 and responds to two redundant approval criteria for the Conservation Zone. One has been removed.

Commissioner Kafoury asked about Item 4.

Mr. Knowles said that is not an amendment. What they would like is for Council to direct them to come up with a plan.

Commissioner Kafoury said Margaret Mahoney of the Buildings Bureau will be proposing something this week.

Mayor Katz asked about Issue 8 regarding the "takings" issue and what it would mean if there was no ability to use the property. The response says very few private properties are totally zoned with an environmental zone and then references the Transfer of Development Rights which may be of questionable use. She asked if Planning also looks at the site again.

Mr. Knowles said staff reviews complaints from people who believe their property is totally taken or that the boundaries are wrong. Such claims are not dismissed automatically.

Mayor Katz asked if there are any properties where the owners cannot do anything on them.

Mr. McGuire said there are at least two which staff is investigating and will probably process map changes on them.

Mr. Knowles said they appreciate that total takings create a liability for the City.

Mayor Katz asked about Issue 11, minimum density within 200 feet of transit surface, and about how much property is involved.

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Mr. McGuire said their original recommendation was 1,000 feet from a transit line but testimony at the Planning Commission showed that just about every property in Outer Southeast might be affected. He said he has not investigated the number that would be affected if the line were 250 feet. It will probably pick up some of the larger properties in Outer Southeast or Northwest Hills that have not been sub-divided yet.

Mr. Knowles said the notion of removing the minimum density requirement was debated by the Planning Commission which ended up agreeing with the Citizens Committee that it ought to be removed.

Commissioner Hales said this is a policy decision for Council. He said he supports this recommendation because it may be impossible for an applicant to meet the requirements for careful site design, resource preservation, and meet minimum density requirements at the same time. He said if Council means it about the environmental regulations, then it cannot hold people to the density requirements placed on sites prior to the application of the environmental zones.

Commissioner Blumenauer said there are ways of dealing with density but natural areas are a pretty finite resource. He said he thinks neighborhoods will work with the City on density corridors for transit.

Mr. Knowles said there is another amendment that responds to the Land Conservation and Development Commission. It adds a sentence to the ordinance which states that development standards will allow development in approximately 95 percent of the potential cases. This responds to LCDC's desire to have the City remove the two-track option and not allow a discretionary review. Their focus has always been that only clear and objective standards could be used to apply environmental regulations. The City has taken the position that it is okay to allow this detour into a discretionary review if it has a beneficial result or if the consumer wanted that choice. He said staff believes it can satisfy any concerns about the legality of this second choice by including the above statement in the ordinance.

Mayor Katz asked Citizens Advisory Committee members to comment.

Stark Ackerman, Chair, CAC, said the Committee wrestled with the Type IV process this past week but was unable to arrive at a clear consensus. The Committee agreed that some type of right to review was important but backed off from allowing an appeal. What is currently being proposed by the Planning Bureau does not codify that and some members felt that language establishing the right to a response was needed. However, the development community felt one of the objectives was to have a streamlined process and felt that the time frames being created here and considerations given to the neighbors

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lengthened the process, moving it from an over-the-counter process to more of the Type II process already in place. To meet that objection, the Committee supported some very shortened time frames and the agreement they tried to work out may go beyond what had originally been intended. They wanted to give neighbors the right to be involved in a formal sense and at the same time have an abbreviated process. The Committee, while coming close, was not able to reach total agreement about how to do this. Regarding Amendment A, he believes the committee might feel this does not set a time frame for the completion of inspections.

Mayor Katz asked what the time frame was in the CAC's recommendation.

Mr. Ackerman said the Committee's time frame was to give 10 days to reach the intent to approve stage. At this time notice would be given, allowing another 10 days for comment. There would be a three working day period for a final decision.

Commissioner Lindberg asked if things like that can be put in administrative procedures rather than the Code.

Mr. Knowles said Planning staff is not prepared to put the final comment opportunity in the Code.

Commissioner Lindberg asked if he agreed with the schedule Mr. Ackerman described.

Mayor Katz asked if 23 days was enough.

Mr. Knowles said the number of days is not significantly different.

Commissioner Kafoury asked what the time frame is now for Type II Environmental Zone review.

Mr. McGuire said 34 days from the date of complete application to the decision and through the appeal period.

Commissioner Kafoury asked if goal of the Committee was to cut that 34 days down.

Commissioner Hales said it was also to get out of a quasi-judicial process and go to a permitting process.

Commissioner Kafoury said 34 days does not seem onerous. She had envisioned that this takes years.

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Mr. Knowles said it does for the applicant because of the amount and complexity of information he/she must submit to meet the requirements.

Commissioner Kafoury said the standards will make it easier to provide that. She said for her a month does not seem that long, especially when the other issues are clearer and the process is less complicated.

Mr. Ackerman said the development community wanted to make this as close as possible to the building permit process. In comparison, this is an elongated process.

Arnold Rochlin, CAC member, said Mr. McGuire omitted a 14-day period from the time the decision is made until the appeal period expires. He described some of the time lines involved in the current review process, which actually takes about five to six months if there is an appeal, and compared that to 23 days proposed under the new process. He said he does not think the committee came that close to reaching agreement. Members who wanted to retain some right by the public to object and get a response felt that they had already made too many concessions regarding public notice and appeal. Someone with a complaint about something that will do permanent damage to the environment should have a way of legally compelling the Planning Director to take a second look. If one believes the public has a right to make objections that address the criteria then the public's role should be prescribed in the regulations. He endorsed Amendment B and the others proposed.

Mayor Katz asked who worked on the compromise.

Mr. Rochlin said it was done through conference calls. He said another feature that would be dropped in the Planning Bureau's proposal is that when the days were shortened from 42 to 23 days, the Committee added a feature that the public would know the date and time of the site inspection. That has been dropped from this proposal and makes it very difficult for the neighbors to constructively participate because they would lack the needed information. No votes on this were taken by the Committee.

Mayor Katz asked if it was fair to say that he is more satisfied with the CAC recommendation than the compromise.

Mr. Rochlin said yes.

Liz Callison, CAC member, said law suits threatened by Oregonians in Action and others will go forward after Council takes action. Planning staff have been lobbying to eliminate notification of neighbors, eliminate fee waivers and preapplication review by citizens as well as an appeal

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process. She argued that few appeals are currently taken to the Hearings Officer and fewer still to Council or LUBA. Planning should not eliminate the right to a fair and open public process, particularly as immediate neighbors often have better information about drainage, traffic, etc. than the Planning Bureau does. She said environmental zones were created upon the assumption that resources were being preserved but this has not turned out to be the case, citing numerous examples of environmental damage. She criticized the role City bureaus have been given during the progress of this rewrite. The Bureau of Buildings has been released from its responsibilities to notify citizens and inspect and enforce developments. Transportation will get to create streets out of dirt tracks without proper review while the Bureau of Environmental Services will get to enlarge sewer lines and stream channels without proper review. The Planning Bureau will get to do everything with no effective review by the pesky citizenry. Ms. Callison said the best option is the purchase of environmentally-zoned lands or permanent conservation easements. She asked that fish habitat protection be a priority also and that fish protection language from the Balch and Miller Creek watersheds be included in Code section 33.430.250 a (i) (f). She noted a number of letters in support of this cited by Mr. Knowles which are not in the matrix.

Mayor Katz asked if the record was closed.

Commissioner Hales said the record was kept open this past week and additional written testimony submitted today is also a part of that.

Mel Fox, CAC member, addressed the review process. He said the Planning Bureau and Planning Commission recommendations for review are immensely complicated and difficult to administer. They are also expensive and time consuming. He noted a document used by the Permit Center and suggested that a similar document be prepared for this as well. He proposed a new 10-day review process involving notice to the neighborhood association and posting of the site plan on the applicant's property with an invitation to comment. A site inspector would then visit the site and, if approved, the permit would be issued. If denied, the applicant could make corrections for an additional fee and request another inspection. If denied another time, applicant could then chose to go through the second-track review process. Such a process would eliminate uncertainty and minimize the potential for neighborhood turmoil.

Commissioner Hales said the recommendation now before Council does not seem to be that different from his suggestion. The current proposal goes some distance toward the simplicity he is suggesting.

Mr. Knowles said the main difference is that under the Bureau's

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proposal the 10-day period would not begin until after the inspection in order to pass along the inspector's conclusions about the site plan.

Mr. Fox said the 10-day period after the site inspection has been approved is not necessary. The public can have input on the front end and once determination is complete, it should end there.

John Alland, CAC member, supported Arnold Rochlin's comments regarding the amendments, particularly Amendment A. Also the neighborhood coalition should be notified as well as the neighborhood association itself. Regarding Issue 7 in the matrix, storm water has not been addressed.

Mayor Katz said the committee will have to go back and review this and some other issues later.

Kay Durtschi, 2230 SW Caldew, said listing the coalitions is very appropriate and the "recognized organizations" also need to be identified so the coalitions know who is being notified. In some cases more than one neighborhood association needs to be notified. She described possible liability and other burdens regarding notification this proposal places on neighborhood associations. She also suggested that, to save time, all developers go to the neighborhood associations before their preapplication conferences.

Logan Ramsey, NW Skyline, requested that the record be left open for seven days for additional comments. He said the environmental zone regulations continue to represent a partial if not total taking and public lands should not be exempted from environmental zone review as the same standards should apply to both public and private lands.

Mayor Katz asked him to confine his remarks to the amendments only.

Mr. Ramsey said the exemption to minimum density standards (Amendment C) is a conflict with Goal 10 and the conflict between Goal 5 and 10 has not been adequately resolved. He said his property was downzoned to Farm and Forest and by removing the minimum density, further downzoning is allowed. Amendment E is so vague it could easily be used capriciously to deny development. He said he is not sure what is before Council today.

Mayor Katz said what is before Council is consideration of the 18 issues on the matrix which Council identified and which grew out of earlier public testimony. All Council wants to hear comments on today are the amendments.

Mr. Ramsey said Amendment D, functional values, can be also

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interpreted capriciously and used to deny development as it is just about impossible to prove that those values have been met.

Michael Carlson, Portland Audubon Society, said the CAC attempted to represent the entire community and has recommended a full review process

(Amendment A) including the opportunity and right for citizens to respond. He said the development standards are new and untested and the City should be happy to have citizen involvement to help gauge how these are working. The Audubon Society supports the CAC recommendation on Amendment A and also Amendment B.

Commissioner Hales moved the technical amendments (2-8) proposed in Mr. McGuire's March 30 memorandum. Council would then deal with Amendments A through E separately. The review process is not included. Commissioner Kafoury seconded. Roll was called and the motion carried.

(Y-5)

Commissioner Hales noted that because of the LCDC action, the City has had to take action more rapidly than it would have liked. He said there is still sharp disagreement over the review process but he believes the proposed approach is the one that should be taken, at least for now. There is a need for careful monitoring but Council is responding to three pressures: 1) the need for effective, efficient regulations; 2) the LCDC mandate for improvements in the regulations; and 3) the need to honor the work of the CAC in trying to balance conflicting concerns. With the exception of the change in the review process recommended by the Planning Bureau, he supports the CAC recommendations even though some are a stretch for him.

Commissioner Hales moved Amendment A. The motion failed for lack of a second.

Commissioner Blumenauer moved Amendments B through E. Commissioner Hales seconded. Roll was called. (Y-4)

Commissioner Kafoury asked what happens if Council fails to define the review process.

Mr. Knowles said they will fall back on the Planning Commission recommendation.

Mayor Katz said if Council moves away from the package approved by the CAC on one of the most critical issues, the balance is thrown off. This may not be the perfect solution but she would tend to support the

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CAC recommendation submitted at the last hearing.

Mr. Knowles said that is different from what is before Council now. What is before Council is the requirement for a 14-day time period and a requirement that the Planning Bureau respond in writing to any objections filed to the issuance of a building permit. This is the Planning Commission recommendation.

Commissioner Lindberg asked him to describe the difference between that and the CAC recommendation.

Mr. Knowles said Mr. Ackerman should describe that.

Mayor Katz said this is the one the CAC came to Council with.

Commissioner Blumenauer said he thinks this will be refined and he does not feel comfortable picking one over the other. He said he is happy to go with the Planning Commission recommendation and revisit it at a later time.

Mr. Ackerman said the last recommendation the CAC made, characterized as the revised committee recommendation, was that there be an application submitted to the permit center. The applicant would then post a notice on the property and notice would also immediately be given to the neighborhood association and, he believes, to adjacent property owners as well.

Mayor Katz said immediate neighbors were not included.

Mr. Ackerman said following notification of the inspection date, within a 10-day time frame, there would be a decision by the inspector as to whether the plan met the applicable development standards and the Bureau would then send out a notice of intent to grant the permit. There would then be a 10-day comment period during which time anyone could submit comments on the proposed permit approval. If no comments were received, the permit would be issued. If comments were submitted, the Planning Bureau would respond within three days. Not all of this proposal has been committed to writing.

Mr. Rochlin said Planning staff did not want to draft the language applicable to the Bureau of Buildings.

Mr. Knowles said he was incorrect in stating that the notice and review procedure is contained in the green document. If Council wants to adopt that recommendation, it needs to adopt Item 1 in Mr. McGuire's March 30 memo. As it stands now there is no review process.

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Commissioner Kafoury asked if a process was needed to submit this to LCDC.

Mr. Knowles said without a process, applications will be treated as any building permit is treated.

Commissioner Hales said he is prepared to support the Planning Commissions's recommendation for the review process in order to get something done today. Since amendment language has not been prepared for the CAC version, he believes that is better than doing nothing.

Mayor Katz asked if anyone else, in addition to herself, supports the CAC recommendation. Would Council prefer coming back this afternoon.

Commissioner Kafoury said she thought the procedure was set out in Mr. Rochlin's April 5 memo. She said she is comfortable waiting until the Bureau has a chance to put it in writing.

Commissioner Lindberg said he will not be here this afternoon. He said he would support the Planning Commission recommendation.

Commissioner Blumenauer moved to adopt the Planning Commission recommendation (regarding the review process). Commissioner Hales seconded.

Mayor Katz said she would still like a refinement of the CAC recommendation and on this round she will vote no.

Commissioner Kafoury said those who support the environmental zones are giving up a lot in the name of expediting the process. These are lands that the Planning Bureau has said are delicate and need special attention. Given that, and her discomfort about the process, she will vote no.

Commissioner Lindberg said he will vote to include the Planning Commission approach as he is uncomfortable about the continual changes to the proposals before Council. However, he agrees with much of Ms. Callison's testimony about improper development and would like to see more work done on this over the next few months.

Mayor Katz said she agreed with Commissioner Kafoury that if you pull out one of the most critical pieces, the whole package is thrown off balance.

The motion carried. (Y-3; N-2, Kafoury and Katz)

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Commissioner Hales moved the adoption of the Report and Recommendations as amended, including the change to the findings that was distributed today. Commissioner Blumenauer seconded.

Mr. Knowles said he presumes Council has asked the Planning Bureau to pursue Item 4 in the matrix regarding the fiscal impact.

Mayor Katz said perhaps a Council Informal could be held on those issues which were discussed but not addressed. Also, there should be an evaluation of the notice issue to see how it is working.

Disposition: Ordinance No. 168698 as amended. (Y-5)

***498** Adopt revisions to clarify Economic, Social, Environmental and Energy analyses in three natural resource plans (Previous Agenda 494)

Disposition: Ordinance No. 168699. (Y-5)

***499** Adopt revisions to Economic, Social, Environmental and Energy analysis for Site 55 of the Columbia Corridor Environmental and Industrial Mapping Project (Previous Agenda 495)

Disposition: Ordinance No. 168700. (Y-5)

Mayor Katz asked that the following item be heard out of order.

531 Condemn California's Proposition 187, Oregon House Bill 2933 and any similar legislation denying undocumented immigrants access to health care, education and social services and requiring health care providers, educators, social workers, police and others to inform the Immigration and Naturalization Service of suspected illegal immigrants (Resolution)

Discussion: Lowen Berman, 5908 NE 32nd, member of the Metropolitan Human Rights Commission, spoke in support of the resolution. He said the premise underlying this legislation is that the presence of illegal aliens causes economic hardship and increased criminal conduct. He said this is totally untrue. Every study shows that the contributions of immigrant populations, documented and undocumented, far exceeds any costs associated with their presence. These people are much more likely to be victims of crimes than perpetrators and more likely to suffer in silence than demand an undue share. They deserve respect and compassion. The legislation is also an attempt to divide people into "them" and "us" and can lead into directions that are profoundly evil.

Commissioner Lindberg said this legislation is embarrassing and not in keeping with the humane principles this nation exemplifies. Bullies

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have decided to blame foreigners for the country's economic problems and many Americans have been suckered in by this. Immigration issues should not be dealt with by holding the health and welfare of innocent children hostage. He thanked the Metropolitan Human Rights commission for bringing this forward and for its more aggressive role in this area in the last year.

Disposition: Resolution No. 35383. (Y-4)

Commissioner Charlie Hales

***527** Authorize personal services agreement between the Bureau of Planning and Gabriele Development Services to provide design and development strategy services for Goose Hollow (Ordinance)

Disposition: Ordinance No. 168701. (Y-5)

528 Amend the Central City Plan by adopting Action Charts for the University District and River District, and making related changes (Previous Agenda 426)

Disposition: Resolution No. 35384. (Y-5)

529 Amend the Central City Plan to adopt and implement the University and River sub-district policies, further statements and land use designations (Second Reading Agenda 427; amend Code Chapter 33.510)

Disposition: Ordinance No. 168702. (Y-5)

Commissioner Gretchen Kafoury

530 Recognize the week of April 10-16, 1995 as Community Development Week and call upon the citizens of Portland to display their support for the Community Development Block Grant Program (Resolution)

Discussion: Steve Rudman, Bureau of Housing and Community Development, said this block grant program is now in its 21st year and the City has received almost \$190 million in that time. He said about 150 public agencies and non-profit contractors in the community are doing this work. The Consolidated Plan, which they must submit also, is now out for public review and the Bureau will return in May for that.

Disposition: Resolution No. 35385. (Y-4)

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Commissioner Mike Lindberg

- *532** Addendum to the EPA Green Lights Memorandum of Understanding making Portland a "Charter Partner" in the EPA Energy Star Buildings Program (Ordinance)

Disposition: Ordinance No. 168703. (Y-4)

City Auditor Barbara Clark

- 533** Assess property for private plumbing sewer connection contracts for period ending March 22, 1995 (Hearing; Ordinance; P0008)

Disposition: Passed to Second Reading April 19, 1995 at 9:30 a.m.

- 534** Assess property for sewer system development contracts for the period ending March 22, 1995 (Hearing; Ordinance; sewer system development charges Z0599 through Z0600)

Disposition: Passed to Second Reading April 19, 1995 at 9:30 a.m.

At 12:40 p.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 12TH DAY OF APRIL, 1995 AT 2:00 P.M.

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

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

***535** **TIME CERTAIN: 2:00 PM** - Execute Intergovernmental Agreement with the City of Gresham creating Multnomah Emergency Transport System (Ordinance introduced by Commissioner Hales)

Disposition: Ordinance No. 168704. (Y-4)

***536** Execute offer to perform emergency ambulance services for Multnomah County (Ordinance introduced by Commissioner Hales)

Discussion: Commissioner Hales said this action responds to Multnomah County's request for proposals. The County has decided there will be one ambulance service area and a single provider to ensure the best possible service at the lowest possible price. Two proposals have been submitted which will be reviewed by two outside experts and the County will also seek a financial review. After some confusion the City of Gresham voted to approve the agreement this morning. Citizens have the right to efficient, compassionate service at a reasonable cost. This proposal meets those requirements and is a fine piece of work.

Chief Robert Wall, Fire Bureau, described the intent of two cities and a private ambulance company, working together, to form the Multnomah Emergency Transport System (METS) and submit a proposal to provide ambulance services. The Bureau seeks approval of the intergovernmental agreement establishing METS and of a cover letter affirming support of the proposal. If the County selects METS as the ambulance service provider, a full contract would be negotiated with the County, with final approval by Council. He highlighted major points of the proposal, including user-fee funding. The proposed rate (\$492.00) is a reduction in rates currently charged, a savings of approximately \$186.00 per transport. He said their numbers are sound and all the economic and financial information has been submitted to independent, outside analysis. He described the financial elements and safeguards in the proposal to ensure that METS remains self-reliant. To improve patient care, the proposal calls for every engine crew in the Bureau to include a firefighter paramedic. Chief Wall said the Bureau would add

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six new paramedic units to the six now in service and described how staffing would be shifted in accordance with this arrangement, which has been accepted by the Fire Fighters Association. Total staffing would increase by six persons per day over current levels. He said the Bureau also foresees increased operational efficiencies because it currently provides transit when other providers are not available in a given area, specifically Multnomah county. He said the work force will be more effectively stabilized with this proposal as each time the bureau hires paramedics it hires the best of the best, leading to a highly trained and motivated workforce. The Bureau is committed to recruiting local private sector paramedics to fill the 18 new positions that would be created. He said the Bureau believes it can provide employment opportunities for a significant portion of the private paramedics that would be affected by implementation of METS. A new system is needed because current paramedic transport costs are a burden to the community and this proposal can provide significant economic relief and also improve service. This plan, which is an example of cost-effective and more productive government, has been debated for years and it is now time to act.

Jeff Rogers, City Attorney, summarized the basis for determining that the City has the authority to provide this service, citing City Charter and other authorities.

Randy Leonard, President, Fire Fighters Association, responded to assertions that a subsidy occurs when the Fire Bureau does these transports. He said there is also a subsidy by taxpayers of the private ambulance companies. The \$499 bid by the private ambulance company (ARM Northwest) can only occur if the County allows it to have a 10-minute response time. That is improper as it depends on the Fire Bureau serving as the first responder. AMR also does not subsidize the 9-1-1 system as the Fire Bureau does. Finally, in the most serious medical emergencies where more than one person is required to attend to a patient, that person is a firefighter.

Eugene Guillaume, 1572 N. Prescott, 97217, said the taxpayers earlier said no to the takeover of the ambulance service by the Fire Bureau. This circumvents private business and takes away employment and business tax revenues, placing more burdens on the back of taxpayers. He said governments act very arrogantly and do what they want without respect to what citizens want.

Mayor Katz said the final decision will be made by Multnomah County Commission which will have experts outside this jurisdiction reviewing the proposals.

Pam Beery, attorney with O'Donnell Ramis law firm, addressed the

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implications of the Oregon tort claim act which limits claims due to negligence by public employees to \$100,000. The question is whether customers of this proposed transport system should be fully protected by the millions of dollars in insurance coverage required by the RFP or whether it is better to limit recovery to \$100,000. She said that amount is clearly not adequate in cases of catastrophic injury. She said earlier statements by the Fire Bureau that it would waive the \$100,000 limit appear to be in error as State law preempts the City's ability to do this.

Tim Ramis, attorney representing AMR Northwest, outlined some issues he believes the City has not adequately dealt with. First, he contended that the City Attorney has three times prior to this informed the Fire Bureau that the City does not have the authority to impose a fee directly on customers for EMS. The Bureau was told to seek a Charter amendment to make the authority clear. Second, this proposal offers an unqualified legal opinion that the administration, equipment, personnel and capital items paid for by City taxpayers may be used to subsidize rates for non-City taxpayers. He said his law firm has concluded that without a differential rate for those outside the City, this is not permissible. Third, there is an unqualified legal opinion that the City can make a binding contractual financial commitment without the usual non-appropriation clause. He asked for a review of all regulations relating to the stream of payments. That review would identify a Medicare rule which allows them not to pay a charge from any entity that already receives any level of government subsidy. That is a critical issue throughout the country and a cost-cutting Congress might very well enforce that regulation.

Commissioner Hales said the differential issue is an interesting one. He asked asked if the City would be required to charge non-residents more for such items as renting a picnic shelter or for a building permit.

Mr. Ramis said the precedent with regard to the Fire Bureau is to make sure the differential rate is charged as it is called for in ordinance regulations.

David Smallwood, Campaign Manager for the Council on Safe Emergency Services, said they will take this issue to the voters to prohibit a Fire Bureau takeover of emergency medical services. Regarding the confusion in Gresham about the vote on the intergovernmental agreement, he said undue pressure was placed on one Gresham commissioner to change his vote. Mr. Smallwood disputed the 65 percent projected cost recovery rate and asked if fees would increase if this rate is not achieved. He said a big selling point in Gresham is that the METs program would pose absolutely no risk to Gresham as Portland would pay for all equipment and take all the risk. If that is not true, false testimony was given at the Gresham Council

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meeting. He cited earlier voter rejection of the Fire Bureau takeover of emergency services and concerns raised by the Oregonian and the Medical Advisory Board of Multnomah County. It is inappropriate to put several hundred of the best paramedics in Multnomah County out of work so that the Fire Bureau can justify higher budgets in the face of Measure 5 cuts.

Mayor Katz noted that what was on the ballot previously was a two-provider proposal.

Jack Wilborn, partner, Arthur Anderson & Co., said the Fire Bureau proposal does not contain adequate information for Council to assess the financial risk the City may be assuming. He cited three areas where inadequate information could affect the contingency: 1) utilization of bureau standby times without incremental cost to METS; 2) assumed level of METS memberships; and 3) personnel costs.

Warren Andrews, paramedic, 11811 NE Russell, 97220, said at least 100 paramedics will lose their jobs if the Fire bureau takes over this service. He said he is too old and knows the Fire Bureau will not hire him. Women, a number of whom are single parents, also need their jobs.

Trace Skeen, President, AMR-Northwest, said the reason so few bidders responded to Multnomah County's proposal is because of the subsidy available to one of the bidders -- the City. He said the role of the first provider, which the City provides, is not required by the County but is something the Bureau has opted to do. If that is a function of public safety it should be paid for with tax dollars. The patient benefits because of the first responder role. If it is not a public safety mission then the City should charge a rate that represents the cost. What has occurred is that both resources are being counted on the fire side and only the 45 minutes it takes them from the time they leave the scene with the patient and get back to the fire station is counted on the ambulance billing side. That accounts for the difference between the \$492 proposed by the Bureau and the \$800 or \$900 which Arthur Anderson said would be the charge if all resources were accounted for. He asked Council to compare his company's rate to what it would cost the Fire Bureau to provide that entire service. He said his company's proposal is an enhancement which recognizes the first responder.

Mayor Katz asked if AMR-Northwest is changing its bid.

Mr. Skeen said they bid the proposal the way the County designed it. He said there have been arguments for years about response time and whether eight minutes is better than ten. He said AMR is saying that if Portland and Gresham want to participate as first responders this

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should be integrated with what the private sector is doing. In turn, funding should be provided to the fire services to offset their costs. If the City chooses that role without receiving funding, then the rates ought to be reduced more. If they want to receive funding to make up for the subsidies, then the money is there and available.

Commissioner Kafoury asked him to go over the full costing issue.

Mr. Skeen said 14 units require 98 people. He said Council should look at the personnel costs and see what portion of those people is being accounted for on the ambulance side. He said they do not think the Fire Bureau provided a schedule to show that. Instead, they took a portion of those people's salaries and applied that to the ambulance side, with the balance applied to fire services. That is what his company claims is the subsidy.

Commissioner Kafoury asked if what he meant is that the down time has to be accounted for in the cost of providing service.

Mr. Skeen said yes, part of this mission is not just transporting the patient but having vehicles available in the right place at the right time. The geographical coverage is being discounted in the City's proposal.

Mayor Katz asked him to explain the enhancements and what happens when this decision shifts to Multnomah County.

Mr. Skeen said it is obvious the Fire Bureau has a strong commitment to add paramedics to all the engine companies. The question is will they continue to do that if they do not get the bid. He said he believes the answer is yes, pointing out they can continue to carry out that portion of their mission and receive some funding to offset the cost. The real issue is how much risk is involved in using existing capacity with the addition of some training. The liability is still on the private contractor providing the service.

Mayor Katz asked if ARM would present its enhancement bid during the first discussions at the County level.

Mr. Skeen said yes, they will state that the bid can be enhanced by including this component.

Mr. Skeen said the other issue concerns the financial commitment the City is making when it references a four-minute time 90 percent of the time. He noted the Tri-Data study showed a response time of five minutes 75 percent of time, contending that it could be expensive for the City to live up to its commitment if the County accepts its bid.

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Pontine Rosteck, paramedic with AMR, said she does not believe she could have advanced to her current level if she had been with the Fire Bureau, adding that state certification requirements are the same for private and public paramedics. The main difference is that the Fire Bureau pays for the training. As a single mother and taxpayer, she does not believe in subsidizing this service.

Mayor Katz asked what percentage of ambulance service would continue to be in private service if the Fire Bureau is awarded this contract.

Mr. Skeen said 75 people plus would be laid off.

Commissioner Blumenauer asked what percent of ARM transport business is 9-1-1 and what is the other range.

Mr. Skeen said about 70 percent of all his company's activities are 9-1-1 related.

Francis Martinez, 1078 SW 10th Dr., Gresham, 97080, said acceptance of this proposal flies in the face of the City's commitment to equal opportunity to the hiring of minorities and women. He said the history of the Fire Bureau is such that many women who apply cannot cut the mustard because of the physical requirements.

Terry Marsh, AMR Northwest, said AMR was the first to advocate for a competitively bid, single-provider service even though, as the largest providers, they had the most to lose. He said they believe it is appropriate for the Bureau to participate but if it does, it needs to fully cost-recover. He questioned a number of Fire Bureau cost assumptions, including a 65 percent collection rate, revenue from the sale of ambulance membership to 16 percent of Multnomah County households, work load figures which do not reflect possible impact on bargaining by the Fire Fighters Association because of the doubling of the work load and the limitation of increases to the CPI only. Finally, Coopers and Lybrand used assumptions developed by the Bureau and did not evaluate all the details.

Commissioner Blumenauer said his information shows the rate of recovery for the three current ambulance companies is between 69 and 74 percent.

Mr. Marsh said the collection rate for his company is below 60 percent for 9-1-1 calls. The higher rate is blended, for both emergency and non-emergency transport.

Ron Heintzman, president, Amalgamated Transit Union, 1801 NE

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Couch, 97232, questioned how many current women paramedics the Fire Bureau would hire if it gets the bid and said he would like guarantees that they would get those jobs. He also questioned relying on the commitment of the Gresham firemen that they would not seek any raises for 10 years. He said everyone knows that would not hold.

Don McIntire, 929 SE Phoebe, Gresham, 97080, said he is cynical about this and perceives it as another case of the government taking over private jobs. As evidence, he cited reconsideration of the proposal by the Gresham City Council the day after it had been turned down. He said Multnomah County Commissioner Tanya Collyer told the Gresham Council members that if they did not participate in the program, they were toast as far as benefitting from any tax breaks for industries, etc. He said the idea of saving money in the long run is also false. The unions are overstating their recovery and understating the cost as a way of protecting their jobs.

Jim Bolgren, 3038 SE 119th, 97261, said this should be a free service. Second, hiring extra people is not reducing government, which all politicians are touting now. The government should not be in competition with private business. He called for revising emergency procedures so that a fire truck does not show up every time you need an ambulance.

Susan Holtscher, 1282 3rd St., #12, Layfayette, 97127, said she is a paramedic who has no desire to also be a firefighter. She questioned whether she would have the upper body strength to be hired as a firefighter.

Bill Neibert, Vice President, CARE Ambulance, 11725 SW 129th Place, addressed the recovery rates. He said he believes the 65 percent in the Fire Bureau proposal is conservative. He noted that the rate review conducted by Multnomah County three years ago did not take into account such factors as the Oregon Health Plan and the growth of health maintenance organizations which have taken over as the payment source for the ambulance industry.

Mayor Katz asked Chief Wall to respond on the issues raised, including the recovery rate, the subsidy, Portland's assumption of all the risk, job loss, diversity and the four-minute response.

Regarding the 65 percent collection recovery rate, Chief Wall said their research showed that other government entities across the board had a higher collection rate than what the Bureau has projected.

Mark Drake, Fire Bureau, shared data the Bureau used in making their assumptions about the recovery rate.

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Mayor Katz said if these assumptions are wrong the Bureau will have to find the money elsewhere.

Chief Wall said Mr. Marsh's statement that the Bureau assumed a 16 percent membership rate was wrong. The assumption was six percent, based on a market analysis and review of other jurisdictions. They specifically kept the rate very low so they would not be dependent on this program to balance the books. Regarding the jobs issue, he said they are concerned about any lost jobs and realize that their physical requirements may be higher for fire paramedics than for paramedics in the private sector. However, he said they had successfully recruited women paramedics, adding that of the latest 24 hires, 75 percent were from private paramedic sector. He said if AMR were selected, there would also be some job loss because paramedics in other companies would have to readjust.

Mayor Katz asked about the contingency for wrong assumptions, the 4-minute response time and the contention by Gresham that Portland will take all the risk.

Chief Wall said it is true that the proposal calls for Portland to acquire the new ambulances. The RFP requires all ambulances to be new ones.

Regarding the liability issue, Tom Steinman, Fire Bureau, said they were advised by legal counsel that if Portland employees do something wrong, Portland will be liable; if Gresham employees do something wrong, Gresham will be liable.

Chief Wall said the four-minute response time is a goal which the Bureau believes it can reach as it becomes more efficient.

Mayor Katz asked what the penalty is if they do not achieve it.

Chief Wall said the Bureau would have no trouble meeting the RFP goals. The Bureau's goal meets and exceeds those and he is confident they can achieve them.

Mr. Steinman said there is no response time requirement in the RFP or the bid. The four-minute response is a Bureau goal which it has had for many years.

Mayor Katz asked about the contingencies if the Bureau is wrong.

Chief Wall said a contingency reserve fund of \$4.5 million is being established and even if the assumptions are off a little, there is relief to the General Fund of \$1.8 million a year. He described other elements the Bureau has built into the proposal to respond to contingencies, keep

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the rates stabilized and minimize the economic risk. He said many other cities provide paramedic services cost effectively and it can happen here too.

Commissioner Blumenauer asked about how the staffing premise relates to suggested benchmarks in the Tri-Data study, specifically the four-person crews. Second, he asked how the term of the contract relates to the labor agreement which expires a third of the way through the contract.

Mr. Leonard said Commissioner Blumenauer's first question refers specifically to putting three firefighters, instead of four, on the fire trucks with two firefighters on the rescue vehicles. The second question is whether, when the FFA contract expires in 1996, will it bring up a transport-related issue even though the contract with the County has not expired. Regarding staffing, he said he is very comfortable with the Chief's testimony to the effect that there should be no less than four firefighters per apparatus and the number of on-duty currently in existence should not be any less. He said they are not so much removing a firefighter from the apparatus as they are placing a fourth, and fifth, firefighter on a second piece of equipment. On-duty staffing is being increased by six firefighters. He said they have not violated the integrity of the Tri-Data report by adopting this plan.

Commissioner Blumenauer asked if in the vast majority of instances, there will actually be an increase in on-duty staff.

Mr. Leonard said yes, coupled with the realistic reallocation of personnel to a second piece of equipment at the same station. He said this is a different way to accomplish the four-person crew, something the FFA feels strongly about. The reason the Bureau could make the bid it did, given the higher personnel costs for the ambulance services, is because those individuals on the rescue vehicle are performing two different functions -- fighting fires and providing transport. Second, the FFA will not raise issues regarding the contract with Multnomah County when its collective bargaining agreement expires as these were dealt with in the last agreement. If there are problems they will be dealt with internally and will not be a subject of bargaining.

Mayor Katz said she wants to be assured that the \$1.9 million that the Bureau estimates will come in will not belong to the Fire Bureau.

Chief Wall said they understand that.

Mayor Katz said if revenue projections are higher than anticipated she would like to see an offset on rate increases. The cash flow issue has been resolved.

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Council members made statements in support of this proposal.

Disposition: Ordinance No. 168705. (Y-4)

At 4:27 p.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 13TH DAY OF APRIL, 1995 AT 2:00 P.M.

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

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

537

TIME CERTAIN: 2:00 PM - Appeals of Hosford Abernethy Neighborhood Association and Lone Star Northwest against Hearings Officer's decision to approve the application of Portland General Electric for a zone map amendment, subdivision and greenway review, and adjustments of building setback and floor area ratio requirements for property at SE Caruthers Street and SE 4th Avenue (Hearing; 94-00896 ZC SU GW AD)

Discussion: Mayor Katz declared, as an ex parte contact, that she had discussed this project with several people but not specifically this item.

Marguerite Feuersanger, Planning Bureau, described the proposed project, noting that it includes four concurrent reviews, including subdivision of the property into four lots which would also include dedication of right-of-way for the continuation of the Water Avenue extension. She said one of the appellants, the Hosford Abernethy Neighborhood Association, has withdrawn its appeal. Lone Star Northwest has appealed, contending that the Hearings Officers failed to adopt findings demonstrating that the decision complies with the Transportation Element of the Comprehensive Plan and that the decision assesses unaffordable fees against and causes interference with the use of Lone Star's property. Lone Star and Portland General Electric (PGE) have come to a joint agreement which would modify the Hearings Officer's decision. The Planning Bureau and Office of Transportation are generally in agreement. She explained that future phases, including development on Lots 3 and 4, would require the improvement of a neighborhood collector street continuing to Division Place.

John Gillam, Office of Transportation Planner, explained elements of the agreement reached between Lone Star and PGE. In essence, the requested revisions involve clarification that a specific alignment for the Water Avenue extension has not been determined through this

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application and that a preferred alignment recommendation will be made following a study of alternatives. The study will be funded by the applicant. The agreement does meet approval criteria, subject to the understanding that: a) various technical and policy assessment criteria relating to the public interest must be applied to the study and give preference to existing rights of way; and b) the criteria giving preference to existing rights of way assumes the PGE zone change but with current levels of development and business activity on other properties in the area. With this understanding, Planning and Transportation support the revisions.

Ms. Feuersanger showed slides and cited the applicable approval criteria.

Gregory Mattucchi, President, Hosford-Abernethy Neighborhood Association, said they have now reached a compromise agreement about the number of parking spaces and wish to withdraw their appeal.

Jeannette Lanner, attorney representing Lone Star Northwest, said they do not oppose the PGE development or the zone change as long as the conditions do not impose an unbearable burden on Lone Star. Council must make a decision that strikes a balance between the necessary transportation elements and the Industrial Sanctuary Plan in the Comprehensive Plan. The Council is compelled to require conditions of approval that satisfy PGE's need to connect to an approved collector street but unfortunately this could substantially harm Lone Star's business. Specifically, the Hearings Officer stated that as a condition of the zone change, development beyond a modest Phase 1 requires a connection to the collector street system at SE Division Place. The alignment shown on all the materials submitted by the Office of Transportation shows this passing directly through the Lone Star property, taking a 64-foot right-of-way and a useful building. The Hearings Officer's decision contemplates that the cost of acquisition and improvement of the collector street would be borne through a Local Improvement District (LID). As a property owner within the District, Lone Star's assessment could have amounted to \$400,000. Since Lone Star's property is assessed at \$500,000 this is an unconscionable situation which prompted this appeal. She said all parties are now recommending clarifications and changes to the Hearings Officer's decision that could successfully balance the competing interests. She said the changes make it clear that the City has not committed to an alignment extending Water Avenue through the Lone Star property. Instead the City has agreed to reasonable standards for the placement of the alignment, including alternative placements which favor existing rights-of-way that would allow PGE to go ahead but preserve Lone Star's business.

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Jim Rutman, President, Lone Star Northwest, 110 SE Carruthers, said while they favor the PGE development they believe it is unfair to ask his company to assume an unfair financial burden. They are happy to have reached this joint agreement and are willing to withdraw their appeal. They hope the study will lead to an alternative alignment that they can live with.

Joe Voberil, attorney for PGE, said they tried to separate the land use decision from the alignment decision in the amendments they have proposed. He said the appeal filed by Lone Star raised two issues: 1) the Hearings Officer failed to adopt findings that address the Transportation Element of the Comprehensive Plan; and 2) the Hearings Officer violated the Transportation Element by imposing conditions for street improvements that could only be implemented by constructing a roadway through Lone Star's property. He said they have taken care of the second issue but have a technical defect in the findings. When the Hearings Officer considered the Transportation Element, she received two memoranda, one from Transportation staff (12/28/94) addressing all the applicable policies of the Transportation Element and a second memo (1/24/95) from John Gillam modifying the earlier memorandum. The Hearings Officer's decision reflects information in those memoranda but they were never incorporated into the findings by reference. He said he could argue that they are attached as exhibits and that is adequate but, if Lone Star had continued its appeal, he would have asked that those findings be included in support of Council's final decision. He said he is still making that request.

Ms. Lanner agreed.

Mr. Voboril said he added some comments to Mr. Gillam's January memo which are consistent with the modifications suggested today. Those changes should be part of the findings too.

Ms. Meng said because Lone Star is requesting a change in the findings, the second appeal should not be withdrawn.

Marty Brantley, General Manager, KPTV, 735 SW 20th Place, said their proposed site is for an initial 45,000 square foot building which will cost about \$7 million. He said they spent over two years searching for a site in the downtown area and believe this location is advantageous for both the station and for the development of the Eastside. While many conditions have been attached, they are acceptable to KPTV. He said the process has been very long and asked Council to move as quickly as possible.

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Peter Fry, Central Eastside Industrial Council, said they strongly support KPTV at this location. They are concerned about the impact on the surrounding industrial firms but believe the settlement that has been reached will adequately protect their interests.

Melvin Mark, Jr., President, Melvin Mark Companies, 111 SW Columbia, 97201, said his company has been working with PGE, KPTV and City staff for over a year on a development plan for this site. He described some of the benefits the City will enjoy from increased density in the area and from the on- and off-site improvements that will make it more attractive to pedestrians and bicyclists and provide access to the river from OMSI to Caruthers Street.

Bill Wiley, 330 SE Division Place, 97202, said he has a warehouse operation nearby and was told his assessment would be over \$200,000. He said he could not believe they would be assessed for the PGE improvement.

Commissioner Blumenauer moved to deny the appeal and incorporate into the findings the language discussed by Mr. Voboril, referencing the two documents and adding the recommended action in the April 13 staff memo on Page 7, paragraph 3, where it states that the applicant has agreed to fund a study of the alternative alignments, giving preference to the use of existing rights-of-way with the understanding that the final alignment will be determined by Council based on Transportation and other land use criteria.

Commissioner Hales seconded.

Commissioner Blumenauer said he was suggesting a specific finding to include the two documents referenced by Mr. Voboril. This would be a tentative decision that would be reviewed.

Ms. Meng said those documents need to be included in the record too.

Commissioner Blumenauer said he has personally been concerned about the heavy cost that might be imposed on some property owners by the LID and he hopes something more equitable can be worked out.

Commissioner Hales said he is very pleased to see City staff serving as a catalyst in finding a solution that is a success for the project, for the neighborhood and the whole community.

Mayor Katz said she too is very pleased that staff moved this ahead and resolved the conflicts.

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Disposition: Appeal of Hosford Abernethy NA withdrawn; Appeal of Lone Star NW denied; Decision of H.O. amended: Prepare findings for April 26, 1995 at 2 p.m.

Commissioner Gretchen Kafoury

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Liquor license application for Northwest Food Services, Inc., dba Old Town Cafe & Saloon, 32 NW Third Avenue, Dispenser Class "A" liquor license (renewal); Unfavorable recommendation (Report)

Discussion: Mike Sanderson, License Bureau, said the Bureau was forwarding an unfavorable recommendation based on a documented history of serious and persistent problems. Files show that this licensee has the highest level of criminal activity occurring inside the premises in the entire State. While the applicant has cooperated in the past by consistently calling police when illegal activities were observed on the premises, recently the applicant has chosen to cease reporting illegal activity in order to create the appearance of improvement.

A representative from the Old Town Chinatown Neighborhood Association said because of a lack of timely information, they were unable to take a stand.

Mr. Sanderson said the presence of criminal activity justifies the unfavorable recommendation. He said when the crime rate dropped to zero the Bureau did some further investigation and believes this drop results less from a decrease in illegal incidents and more from a failure to report them.

Perry Christianson, Drug and Vice Division, related several incidents which he believes illustrate the unwillingness of Mr. Roberts to report criminal activity to the police. This license would place public safety at risk if renewed.

Greg Hendricks, Portland Police, Old Town Chinatown, said the Old Town Cafe is one of the top two trouble spots related to the sale of drugs. They believe Mr. Roberts was willing to give the appearance of implementing measures to improve the situation only when it did not affect his bottom line. Officer Hendricks said the problems are now at least as bad as they have ever been and cited examples of what he had observed during his last visit. He said he sees no other solution than an unfavorable recommendation because of the seriousness of the problem.

Commissioner Kafoury moved to adopt the unfavorable recommendation. Commissioner Hales seconded and the motion carried.

Disposition: Unfavorably recommended. (Y-4)

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At 3:00 p.m., Council adjourned.

BARBARA CLARK
Auditor of the City of Portland

Cay Kershner

By **Cay Kershner**
Clerk of the Council