



CITY OF
PORTLAND, OREGON

**OFFICIAL
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 19TH 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; Harry Auerbach, Deputy City Attorney; and Officer Chuck Bolliger, Sergeant at Arms.

Agenda Nos. 544 and 549 were pulled from Consent. On a Y-5 roll call, the balance of the Consent Agenda was adopted as follows:

CONSENT AGENDA - NO DISCUSSION

- 541** Accept bid of McCain Traffic Supply for 250 McCain SS Symbols for \$32,500 and accept bid of Harlan Baxter for 100 clamshell brackets and 140 Z-crate vizors for \$8,096 (Purchasing Report - Informal Bid)

Disposition: Accepted; prepare contract.

- 542** Accept bid of Brundidge Construction Co. for Stark basin CSO sump project Unit 3 for \$468,873 (Purchasing Report - Bid 115)

Disposition: Accepted; prepare contract.

Mayor Vera Katz

- 543** Confirm reappointment of Barbara Abrams and Richard Ritz to the Portland Historical Landmarks Commission (Report)

Disposition: Confirmed.

- *545** Amend settlement for claims of Kathleen O'Brien (Ordinance; amend Ordinance No. 168633)

Disposition: Ordinance No. 168706. (Y-5)

- *546** Pay claim of Sharon Berry (Ordinance)

Disposition: Ordinance No. 168707. (Y-5)

APRIL 19, 1995

***547** Add new City Code Section to establish intended consistency of City Code with State criminal law (Ordinance; add Section 1.01.170)

Disposition: Ordinance No. 168708. (Y-5)

***548** Adjust pay rates for certain classifications assigned to greenskeeping duties to be consistent with a grievance settlement agreement (Ordinance)

Disposition: Ordinance No. 168709. (Y-5)

Commissioner Earl Blumenauer

***550** Call for bids, authorize a contract and provide for payment for replacement of ten traffic signals at various locations (Ordinance)

Disposition: Ordinance No. 168710. (Y-5)

***551** Authorize a contract and provide for payment for the SW Terwilliger Boulevard bikeway between SW Taylors Ferry Road and SW Maplecrest Drive (Ordinance)

Disposition: Ordinance No. 168711. (Y-5)

***552** Improvement Agreement with Oregon Department of Transportation for MLK and Grand signals on NE Clackamas Street (Ordinance)

Disposition: Ordinance No. 168712. (Y-5)

***553** Maintenance Agreement with Oregon Department of Transportation for MLK and Grand signals on NE Multnomah Street (Ordinance)

Disposition: Ordinance No. 168713. (Y-5)

***554** Amend contract with Interface Engineering, Inc. for professional services to include installation monitoring during construction and extend contract through September 30, 1995 (Ordinance; amend Contract No. 29377)

Disposition: Ordinance No. 168714. (Y-5)

Commissioner Charlie Hales

***555** Authorize appointment of David Knowles to the position of Bureau of Planning Director at a rate of pay above mid-range (Ordinance)

Disposition: Ordinance No. 168715. (Y-5)

APRIL 19, 1995

***556** Allow continuance of a 54-stall surface parking lot at West Burnside and SW Broadway requiring removal of existing gas station structure and superior level of landscaping (Ordinance)

Disposition: Ordinance No. 168716. (Y-5)

***557** Contract with Hennebery Eddy Architects to provide architectural services for the Restroom Master Plan for Portland Parks and Recreation for \$28,906 (Ordinance)

Disposition: Ordinance No. 168717. (Y-5)

***558** Agreement with ODOT for improvements on the western portion of the Springwater Corridor (McLoughlin Blvd. to OMSI) (Ordinance)

Disposition: Ordinance No. 168718. (Y-5)

***559** Agreement with ODOT for improvements on the Eastbank Esplanade (Ordinance)

Disposition: Ordinance No. 168719. (Y-5)

***560** Deed land on SW Hall Blvd. to State of Oregon, Department of Transportation, for public right-of-way purposes (Ordinance)

Disposition: Ordinance No. 168720. (Y-5)

***561** Deed land on SW Scholls Ferry Road and SW Oleson Road to Washington County for public right-of-way purposes (Ordinance)

Disposition: Ordinance No. 168721. (Y-5)

Commissioner Gretchen Kafoury

***562** Agreement with the Oregon Community Foundation in the amount of \$166,700 to support the Neighborhood Partnership Fund programs to assist non-profit housing development organizations and provide for payment (Ordinance)

Disposition: Ordinance No. 168722. (Y-5)

Commissioner Mike Lindberg

***563** Extend contract with Black & Veatch to provide consulting services on local discharge standards (Ordinance; amend Contract No. 28436)

Disposition: Ordinance No. 168723. (Y-5)

APRIL 19, 1995

564 Amend City Code to clarify the criteria for mandatory sanitary sewer connection (Second Reading Agenda 523; amend Code Chapter 17.33)

Disposition: Ordinance No. 168724. (Y-5)

City Auditor Barbara Clark

***565** Cancel sidewalk repair assessment for property at 1812 SE 46th Avenue (Ordinance; amend Ordinance No. 157096)

Disposition: Ordinance No. 168725. (Y-5)

REGULAR AGENDA

544 Confirm appointment of Bertha Ferran to the Civil Service Board (Report)

Disposition: Continued to April 26, 1995 at 9:30 a.m.

549 Support the National Railroad Passenger Corporation (AMTRAK) for continued and improved inter-city passenger rail services (Resolution)

Discussion: Commissioner Blumenauer said the Mayor and he hope to discuss this with Transportation Secretary Pena tomorrow. He said it is lunacy that the nation that had the finest rail passenger system in the world would end up taking away a vital transportation choice for people.

Disposition: Resolution No. 35386. (Y-5)

539 **TIME CERTAIN: 9:30 AM** - Accept 1995 version of "Portland Today: Urban Environment Update" from Portland State University and recognize those involved for their efforts (Report introduced by Commissioner Lindberg)

Discussion: Commissioner Lindberg said this is a project proposed by the Energy and Environment Commission to work with Portland State University (PSU) to track key urban environmental indicators. Today, they will make their first report.

Ethan Seltzer, PSU faculty member and Energy and Environment Commission member, said under this agreement PSU produces an annual update on the state of the City's natural environment. This publication far surpasses expectations and provides a base line for figuring out how the City is doing in protecting natural resources.

APRIL 19, 1995

Bill Becker, Director of the Center for Science Education, PSU, introduced the students who co-edited this project.

Leontyne Liebe, 4535 NW Utah Court, Camas, WA, described how she came to be involved in co-editing this environmental update, working with a team of approximately 10 to 15 assistant editors, City employees and non-profit organizations.

John Swift, 2330 NE Halsey, said they used benchmarks provided by the Portland Energy Office and attempted to address each one.

Mayor Katz asked them to let the City know if its benchmarks for the environment need to be adjusted. She said the City wants to make sure that what it measures is what it needs to measure.

Mr. Swift said this report is a test run which could be refined in years to come to incorporate new and better ideas. He said this is a new format that could well serve as a model.

Mr. Becker said students reviewed the credibility of the documents, synthesized the work that has been done already and looked at the trends. They were aware of the City benchmarks but did not use them as a starting point.

Disposition: Accepted. (Y-5)

567 Accept annual report of the Land Use Hearings Office (Report)

Discussion: Barbara Clark, City Auditor, noted the appendix to this report which explains how the hearings process works, information that has never been published before. She said this report provides worthwhile feedback to Council because this is where its legislative decisions hit the road.

Elizabeth Normand, Land Use Hearings Officer, said their case load is currently very heavy and is expected to continue. She said she is appreciative that the rewrite of the Subdivision Code is underway, as it is much needed. She said bureaus with a stake in that process need to work as a team because every subdivision application requires a team approach.

Mayor Katz asked how the hearings officers process a mountain of highly technical engineering reports from both sides.

Ms. Normand said battling experts and hordes of technical information make some cases very difficult and takes many hours to sort through. Ultimately the hearings officers must decide which information to relay

on and explain why. Any evidence a reasonable person would rely on is substantial evidence to support the decision.

Mayor Katz asked if she had assistance on conflicting technical information in making those decisions.

Ms. Normand said all the assistance they get has to be on the public record. Hearings officers review the written information so that they can ask the right questions at the hearing. They do not have a staff that does research, partly because everything has to be on the record.

Disposition: Accepted. (Y-5)

540

TIME CERTAIN: 10:00 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: Dean Marriott, Director, Bureau of Environmental Services (BES), said, at the close of last week's meeting, a question was raised about people in Mid-County who may have taken some action in order to qualify for the drainage discount when they were hooked up to the sewer. The Bureau was asked to estimate how many people might have done that.

Noam Stampfer, BES, said they researched this question from several angles and worked with the Bureau of Buildings to see if mitigation facilities such as drywells would be required in those areas in any case. They determined there were some customers who put in dry wells in order to get the discount and do the right thing, not realizing they would have been required to do so in any case because of Code requirements. Staff also looked at the existing discount applications in Mid-County to see if anyone made improvements to their property in order to get the discount. They found no cases where someone, in reliance of the discount, went to some expense to install a dry well, splash box or soakage trench. He also reviewed the letters filed with the Council Clerk and found none that fit that profile.

Commissioner Blumenauer cited a letter from Laura Wycliff, 2402 SE Main, who described what she did on her property with the encouragement of BES, spending almost \$400 for materials and a permit. He asked if she would be required to do that anyway.

Mr. Stampfer said he had not seen the letter.

Commissioner Blumenauer said there seems to be some people inside the City, not just in mid-County, who did make investments in reliance of the discount. What is proposed now probably overcompensates 90 or

APRIL 19, 1995

95 percent of the people who signed up just because they had a less impervious area while others, who made significant investments, would be undercompensated. He said this is troubling as part of the rationale was that there would be a system benefit if people were encouraged to deal with stormwater. He asked if non-residential customers will still be allowed to mitigate and get a break.

Mayor Katz asked when Mid-County residents had to get the permits for the drywells.

Mr. Stampfer said the requirement for plumbing permits goes back to the 1960's and has not changed since the drainage discount was put into effect.

Responding to Commissioner Blumenauer, Mr. Marriott said the Public Utility Review Board (PURB) recognized that the compensation package was not perfect. Some people who spent nothing will be reimbursed while others may come up short. He said there may be a way to deal with some of these hard cases.

Mayor Katz asked if Ms. Wycliff would have been required to expend that money anyway for her permit.

Mr. Stampfer said from the address, he was not sure that property would be required to install a drywell. This may be one of the hard cases.

Commissioner Blumenauer said he heard that the overwhelming percentage of people, 90 percent, will be getting a lot of money for signing up and not doing anything.

Mayor Katz said at the Council Informal there was a consensus among the Commissioners to terminate the program. The Citizens group agreed and came back with a formula for repayment. Commissioner Blumenauer asks if that is a valid approach. She said it is hard for her to tell if someone did more than they needed to do.

Commissioner Lindberg said staff should also review the options PURB looked at, such as tailoring the reimbursement to the actual amount spent.

Commissioner Blumenauer said at the Informal he thought Council agreed that something needed to be done but did not remember agreeing to terminate the program.

Commissioner Lindberg said he thought a majority wanted to terminate the program but were unsure how to do it.

APRIL 19, 1995

Paulette Rossi, PURB member, 3710 NE 147th, 97230, said she talked to four different neighborhood associations in Mid-County last week and people told her overwhelmingly that they did not support compensating individuals already receiving the discount but do support the incentive for the downspout disconnect program in the Combined Sewer Overflow (CSO) area. They believe compensation unfairly increases rates. These groups felt BES contradicted itself when it said the discount program did not cover system costs and then stated there was money to pay compensation for loss of the program. The many questions raised about this proposal indicate BES has failed to provide the public the information they deserve. People want BES to talk with them, not to them.

Ms. Rossi said people in Mid-County liked Commissioner Blumenauer's proposal, but did not approve of compensating the 90 percent of people who did nothing. Neighbors also did not like the idea of having to jump through hoops in order to get the reimbursement. She also cautioned against relying on the number of letters received as a measurement of how many people took action in reliance of the discount. There are probably people who put in dry wells on their own and did not hear about this as BES sent only 10,000 letters to those already getting the discount. People in Mid-County who are not yet connected do not know what is going on. Partial notification is not sufficient.

Mayor Katz said a whole part of the City which was connected was not even aware of this program.

Renee Kimball, 2224 SE Umatilla, 97202, said she is planning to spend about \$700 to disconnect from the storm drainage system and yet is unable to apply as the work has not been done yet. She called for retention of the discount in order to give people some incentive to disconnect. She asked why those who use the roads, which cause so much of the problem, cannot pay some of the cost.

Fran Davey, 8258 NE Holladay St., said they were originally told that individual properties created quite a stormwater runoff problem and now they are told they do not. He questioned the statement that those who did not respond are unfairly burdened when he is being asked to subsidize their unwillingness to cooperate with the program. Sewer improvement fees should be paid out of the regular sewer fee, not out of the drainage fees. He said BES, in order to justify elimination of the program, is not drawing an accurate picture.

Jerry Ernst, 308 SE 148th Ave., Wilkes Neighborhood Association, disputed Mr. Stampfer's testimony, contending that they were told they could put in dry wells and filtration pits and no one ever said they

APRIL 19, 1995

would have had to do it anyway. He suggested adding \$1.00 to the DEQ smog fee to pay for this.

Mr. Ernst read a letter from the Wilkes Neighborhood Association requesting a 90-day study period of the proposed fee schedule before any action is taken. He said promises were made to thousands of homeowners and many people spent substantial amounts of money in good faith in an attempt to comply with the stormwater drainage program. To change the rules now is inconsistent with knowledgeable management.

Ms. Kimball said no one in Sellwood received any letters about the discount.

Mayor Katz said only those in the drainage discount program areas, not everyone in the City, received them.

Bob Nepple, 8249 NE Holladay, said he put in dry wells several years ago and then applied for the discount. He said he was billed \$71 for \$10 worth of water and does not know what people on fixed incomes are supposed to do.

Commissioner Lindberg asked him to meet with staff to go over his bill as it does not sound correct.

Dennis Reilly, 6105 NE 46th, said in the last few years utility lines were put in on his block and the road is now full of pot holes. There is no drainage whatsoever and when it rains, a lake forms. He said they complied with the request to take care of the drainage and received the rebate. Now the rebate is being taken away and instead \$15.00 will be added every three months, an out-of-pocket difference of about \$25.00. He said many of the fees do not apply to his unpaved street and he objects to something he is not getting.

Tom O'Keefe, United Community Action Network (UCAN), said he has handed out thousands of drainage discount applications to people who were being overbilled or charged for services the City did not provide them. He said he is against eliminating the discount and would rather move to a system which prorates everyone for the exact amount of square footage they have.

Mayor Katz asked if he believes there is a fixed cost for the service that everyone should pay.

Mr. O'Keefe said the City should look at other ways to generate revenue, such as prorating and bringing parity between commercial and residential customers into the rates. He said the City should consider

APRIL 19, 1995

value added tax on such items as oil, dog food, toilet paper, etc. He said this has been a very stressful issue for him but the discount does provide an incentive to meet the cleanup orders issued by the EPA. Every city tries to meet those on a voluntary basis but in every case so far this has failed and people have been required to disconnect and put in dry wells. Another 30,000 people on the disconnect program would meet the EPA requirements. He agreed with Commissioner Blumenauer that a lot of the applications filed were for existing systems so the City will be paying people for work that actually never took place.

Mayor Katz repeated her question.

Mr. O'Keefe said yes, although Transportation should start paying their fair share through the gas tax or whatever.

Commissioner Lindberg said of \$4.51 total monthly charge, an estimated \$.30 relates directly to what happens on the property. He said they sent this issue to the PURB which made four recommendations: 1) discontinue the drainage discount; 2) compensate current discount holders and qualified applicants; 3) provide a one-time incentive payment; and 4) vigorously research equitable rates for all customers. PURB considered at length whether BES should measure every property (approximately 120,000) and then apply individual rate paying methods for absolute equity. However, in addition to the high administrative cost, they found that a very small proportion related to what actually happened on the property. It would not influence the total rate that much.

Mr. O'Keefe said the City is already prorating multi-family and commercial. Prorating would involve a onetime charge for a lifetime fee and everyone would pay a proportionate share for services rendered. That is the fairest way and the money involved would probably be a wash. He repeated his preference for value added taxes and said commercial property rates also need to be reviewed because they are currently getting a big break.

Mayor Katz said she does not want to move quickly on this unless she is sure this is equitable.

Mr. O'Keefe said the best thing about the discount application is the incentive, causing a lot of people to step forward on a volunteer basis. Perhaps Portland will be the first city in the nation to reduce flows on a volunteer basis.

Steve Gunther, 1040 SE 78th Ave., 97215, a UCAN member, said he finds it rewarding to help seniors reduce their charges. He said the

APRIL 19, 1995

application should be maintained as there are more seniors out there who could benefit in a reduction. Those with large impervious surfaces should have to pay more before forcing all rate payers to do so. He said he is at a loss to explain why water and sewer rates are so incredibly high.

Commissioner Lindberg said the average water bill is \$11 a month, the lowest in the metropolitan area. But then you add the drainage fee and the sewer charges.

Erwin Bergman, 5330 NE Holman, 97218, said he just spent money to repair dry wells on his property and the information disseminated that one can install a dry well for \$60 is grossly inaccurate and the \$221 rebate is not quite the bargain it is being billed as. He opposed discontinuation of the discount program as it removes the incentive to remove storm runoff and increases the burden on the City to treat and dispose of the additional volume. After receiving the letter from BES, he requested additional information but did not receive a reply. He said BES is trying to justify a cause and no effect relationship which is highly speculative.

Jim Worthington, 3232 SE 153rd, 97236, member of Centennial Neighborhood Group, said he is not hooked up to the sewer yet but plans to use the present sewer disposal system to take care of stormwater drainage. Most of the area has unimproved streets and has its own drainage area. Drywells should be included in the cost of all future street improvements. He said a few years back residents in Mid-County were told there would be no sewer capacity problem in Portland for years and years. Whatever action Council takes, it should be equal for everyone and should be delayed to allow citizens more time for input and study. He said Council should not make up its mind ahead of time.

Ernest Marbott, Marbott's Greenhouse, 1808 NE Columbia Blvd., said the discount program has benefitted the City and people should not be penalized for putting in drywells. He said he has 19 drywells and his water bill is very low but his sewer bill is terrible even though the only water he puts in the system is from three sinks. The rest goes into drywells or cesspools.

Jack Menashe, owner of an apartment complex at 3641 NE 122nd, said as part of the building permit process they were told they needed to handle some of their stormwater on site. They were also told there was the possibility of a stormwater discount. They decided to handle all their stormwater on site, with an opportunity to get the discount at some time in the future. To be told that they will get \$212 when they spent over \$20,000 for the drywells at the site seems inequitable. He said he likes the idea of billing every site for the impervious area that

APRIL 19, 1995

exists. He asked for an answer from BES as to how it intends to handle multi-family developments.

Eugene Graber, 11920 NE Stanton, said he is sure the cost of his drywells was covered by the prior owner of his property and included in the purchase price. He asked why people should pay extra when they do not cause the problem. When the sewer was put in his street, he ended up with a three- to four-foot wide river at the end of his driveway when it rains. He fears the street will cave in one day.

Mayor Katz said in changing the discount program, the tradeoff between that and a reduction in rates over a long period of time should be figured out.

Commissioner Lindberg said he has asked BES to figure out what the rate impact would be if the discount program was not discontinued. He said this summer they hope to kick off their roof drain disconnect program, targeting about 38,000 homes and if Council wishes to continue working on the discount program that program will be delayed. However, a lot of valid issues regarding equity have been raised and he would prefer taking more time to resolve them. He noted that PURB, which is a representative citizens group, has gone through a long process and given its advice. The Bureau also sent out 10,000 letters and got 400 responses.

Commissioner Hales said he appreciates the PURB's work but this package is not right and waiting several more weeks is the first and only choice.

Commissioner Blumenauer said he would feel comfortable coming back in several weeks but does not feel there is a need to go back to PURB. Now it is time to refine what Council has heard.

Commissioner Lindberg asked staff to make a matrix of the issues raised.

Commissioner Kafoury said she feels strongly that the overall goal is to get water and sewer rates down. She has not heard an idea that would be at all cost-effective. There will always be charges of unfairness and she votes to go ahead with the program.

Commissioner Lindberg said PURB spent dozens of hours on these issues. He said Council members and some members of the public are hearing these for the first time and may need more time to raise their comfort level.

Mayor Katz said another Council informal may be needed. The tradeoff

APRIL 19, 1995

is that by doing the roof disconnect program and eliminating the discount program, which is not Citywide, rates would be lowered. She said utility rates are too high compared to median household income.

Mr. Marriott said starting the roof disconnect program this summer could save ratepayers over \$40 million by reducing the size of wetweather treatment facilities. However, they need to solve the discount program now before the 30,000 people targeted for inclusion in the disconnect program sign up for the discount, creating a \$16 million drain on revenues over the next five years. That would drive up the rates of those remaining on the system substantially. The benefit of ending the discount program now is that it will reduce the projected rate increases by one half of one percent for everyone.

Commissioner Lindberg said one reason why they want to get the roof drain disconnect program going is because BES needs to decide how big its pipes should be as it enters the design phase for the CSO project. He said they need that data soon.

Mr. Marriott said if they miss this summer opportunity, they will have to make design decisions which could come back to haunt them later.

Commissioner Hales said the assumption can be made that the roof drain disconnect program will go forward as it is a valid CSO strategy.

Mr. Marriott asked for Council direction on whether BES should assume there will be a one time reimbursement rather than a discount when they meet with the neighborhood associations about the disconnect program.

Commissioner Lindberg said Mayor Katz had suggested an informal.

Mayor Katz said enough issues have been raised to merit revisiting them so they can get to closure.

Commissioner Blumenauer said it is valid to assume that the roof drain disconnect program will go forward this summer. The other assumption was that there would be a significant change in the way the drainage discount would work. One option was to freeze the program and there is a relatively narrow range of other options to consider. He said two weeks should not hurt too much.

Mayor Katz suggested that Council instruct staff about the information they need. She noted the options outlined in the PURB report and the reasons why they were discarded.

APRIL 19, 1995

Commissioner Lindberg said some of the options Commissioner Blumenauer outlined could hold up the roof drain disconnect program. He suggested holding an informal before this comes back to Council in two weeks.

Disposition: Continued to May 3, 1995 at 9:30 a.m.

Commissioner Charlie Hales

***566** Amend City Code fire regulations to increase fees for sprinkler inspections (Ordinance; amend Table 40D of Code Chapter 31.40.040)

Discussion: Commissioner Hales said this is a sprinkler rate increase developed with the participation of the affected fee payers and he does not believe there is any controversy about it.

Jim Swogger, Fire Bureau, said in February, 1994, Council passed a 105 percent fee increase, contingent on State Buildings Code approval. They approved an 82 percent rate increase which covers 100 percent of the program's existing cost. This will lower what had originally been approved.

Disposition: Ordinance No. 168726. (Y-5)

City Auditor Barbara Clark

568 Transmit Certificate of Completion for SW 50th/Marigold District LID (Report; C-9805)

Discussion: Dan Vizzini, Auditor's Office, said this is something they do at the end of every project. The next step will be the final assessment hearing.

Disposition: Accepted. (Y-5)

569 Assess benefitted property for the costs of street, storm sewer and sanitary sewer lateral improvements within the SW Caraway Court LID (Hearing; Ordinance; C-9835)

Discussion: Mr. Vizzini said they received some phone calls about this and either the Auditor's Office or the Bureau of Transportation Engineering have addressed them. There are no written remonstrances.

Disposition: Passed to Second Reading April 26, 1995 at 9:30 a.m.

570 Assess property for private plumbing sewer connection contracts for period ending March 22, 1995 (Second Reading Agenda 533; P0008)

APRIL 19, 1995

Disposition: Ordinance No. 168727. (Y-5)

571

Assess property for sewer system development contracts for the period ending March 22, 1995 (Second Reading Agenda 534; Z0599 through Z0600)

Disposition: Ordinance No. 168728. (Y-5)

At 11:30 a.m., Council recessed.

APRIL 19, 1995

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 19TH 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; Ruth Spetter, Senior Deputy City Attorney; and Officer Chuck Bolliger, Sergeant at Arms.

572

TIME CERTAIN: 2:00 PM - Appeal of Costco Wholesale Corporation, applicant, against Hearings Officer's decision to deny a conditional use to locate a new store in the Northwest Industrial Sanctuary at 2825 NW Yeon Avenue and 2345 NW Nicolai Street (Hearing; 94-00603 CU)

Discussion: Ruth Spetter, Senior Deputy City Attorney, noted procedures regarding testimony and the appeal process.

Council members individually described their ex parte contacts, including personal contacts, letters, postcards and coupons, newspaper advertisements and editorials. They stated their belief that most of the issues raised were already a part of the record and that they expected to make their decision based on the record and the material presented at this hearing, not on the ex parte communications.

Ms. Spetter said those present have the right to question Council members about any of their ex parte contacts.

Mayor Katz read the schedule, noting that it had been included in the notice. She said Council will not take a dinner break and will stay until everyone who wishes to speak has that opportunity.

Susan McKinney, Planning Bureau, said her presentation will include a summary of the proposal, why it requires a land-use review and is before Council today, a discussion of relevant conditional use approval criteria including the relationship of the industrial sanctuary policy to the conditional use criteria, a summary of the Hearings Officer's determination of compliance with each conditional use criteria. Laurel Wentworth, Office of Transportation will elaborate on approval criterion B and the relationship of industrial sanctuary policy to the transportation system.

Ms. McKinney described the 125,424 square foot membership-based, retail store Costco proposes to locate at the corner of NW Yeon and Nicolai. She described the proposal's reuse of the U.S. Steelworks building as well as additional buildings and a 640-space parking lot.

APRIL 19, 1995

Public access will be via NW Yeon at two locations. The site is within an industrial sanctuary and zoned for heavy industrial use. Individual retail sales and service uses with less than 3,000 square feet are allowed without a conditional use. Since the store will exceed that limit, it was evaluated under a Type III process for compliance with relevant approval criteria. In October, 1994, the Bureau of Planning recommended denial and the Hearings Officer subsequently also issued a decision for denial.

Ms. McKinney said the relevant conditional use approval criteria (33.815.125 A-E) ask: A) will the proposed use have significant adverse effects on nearby industrial firms; B) is the transportation system capable of supporting the proposed use in addition to existing uses; C) will this use alter the overall industrial character of the area; D) does the proposed use need to be located in an industrial area because industrial firms constitute its primary market; and E) are City-designated scenic resources preserved. The proposal is exempt from meeting Criterion d and e because the site was designated a historic landmark in 1994 and because there are no scenic resources on the site. She noted that these conditional use approval criteria and other Code sections regulating development in industrial zones were written to implement the industrial sanctuary policy of the Comprehensive Plan. Industrial sanctuaries were created to preserve and protect lands for industry while allowing other uses when they are supportive of that use or not detrimental. Supporters of Costco cite its convenience to shoppers, including businesses within the sanctuary, which may save regional vehicle miles travelled (VMT). The approval criteria does not address such reasons, however. It is the applicant's burden of proof to show that the proposal meets all the applicable criteria. Ms. McKenney summarized the reasons why the Hearings Officer found that applicant's evidence did not support approval or comply with approval criteria. Regarding Criterion A, she found that the store would have significant adverse effects on nearby industrial firms, with additional traffic exacerbating current access problems and posing a safety hazard. The presence of Costco would create a distinct incentive for commercial activity and undermine the economic investment of nearby companies. Regarding Criterion B, the Hearings Officer found that the transportation system would be incapable of accommodating the proposed use. Regarding Criterion C, she found a large retail use would have a significant impact on the character of the industrial sanctuary, making it less hospitable to the needs of industrial businesses. Applicant asserts that this proposal is significantly different from its 1989 proposal for the same site. However, the Hearings Officer denied this for reasons similar to those Council stated when it denied the earlier proposal. At that time Council found that, taken as a whole, the proposal violated the policies of the industrial sanctuary and that approval would require a distinct change in policy by the City.

APRIL 19, 1995

Laurel Wentworth, Office of Transportation, said Transportation's recommendation of denial both in 1989 and today is based on inherent policy conflicts between this proposed retail use, the intent of the industrial sanctuary policy and public transportation system investments made to support that policy. The City has had a long-term commitment to the industrial community reinforced by significant transportation investments, including \$50 million in 1978 for capital improvements as part of the package known as Alternative to I-405 Freeway Improvements. These improvements were completed expressly to serve the needs of industrial users and to support the growth of future industrial uses as well as to provide regional connections. The improvements were designed to meet special industrial needs, such as larger curb radii and lane widths to allow for easy truck movement. The reasons these investments were made rests on the industrial sanctuary policy and in this case conditional use Criterion B is used as an evaluator. The transportation system must be capable of supporting the proposed use in addition to existing uses. The Portland Department of Transportation (PDOT) and the Oregon Department of Transportation (ODOT) agree with applicant's technical analysis which states that, with the addition of a fourth leg to a signalized intersection and access modifications on NW Yeon, Yeon and its immediate intersections could operate at acceptable levels, with some reserve traffic capacity. Knowing the proposed use can meet minimum transportation standards and satisfies Criterion B, the only remaining issue is whether this meets the test of the industrial sanctuary policy. PDOT believes that the industrial sanctuary policy prohibits large commercial uses that are more than incidental to the surrounding industrial uses and that use of some part of the transportation system's reserve capacity for a large retail use will not allow the primary industrial uses to grow nor attract new industrial uses. PDOT believes the neighborhood's health and vitality relies on the compatibility of land uses and by introducing non-industrial uses into the community, the ability of the transportation system to support the intended function is compromised. Allowing this retail use to usurp some of the capacity committed to the industrial sanctuary means that some future new industrial expansion will not be able to locate here. For these reasons PDOT finds the conditional use criteria are not met and the appeal should be denied.

Ms. McKinny read into the record the applicable approval criteria and showed slides of the site.

Jeff Brotman, 10809 120th NE, Kirkland, Washington, Chairman of Price Costco, said after their earlier proposal was turned down in 1989 he instructed his team to find another site in Portland in order to pursue their urban strategy and serve their small business customers. He said Costco has over 50,000 customer in the trade area for this store

APRIL 19, 1995

who currently drive to the suburbs for this sort of shopping. After a long search, he was told that the only site that would work for the City, not Costco, was the Steelworks site. In 1994, he began talks with people in the area to see what it would take to make this project acceptable to the City. A whole series of recommendations was made, including reuse of the building, plowing back tax benefits they might receive into the community for urban projects, setting up a delivery into the Northwest District Association to allay fears about traffic and use of Job-Net as a first source for 175 jobs. They also agreed to install a four-legged intersection at a cost of \$1 million and ended up agreeing to spend \$14 million for this urban facility. He said it is easier to go to the suburbs but because of their membership base, they wanted to be in an urban setting. After adopting all these suggestions, he was quite upset that such an uproar occurred as a result of this application and even more so with the denial. He said this is the only acceptable site they have found and he does not understand why locating a Price-Costco here is not acceptable urban policy. He said he is not asking the City to ignore the policy but to apply it and make a common sense decision that supports a very thoughtful urban strategy that creates meaningful, high-paying jobs, reuses a building and provides residents with the amenities they want. There will be very few opportunities such as this to come before Council.

Lee Coldfied, President, Western Transportation Division of James River Corporation, 3710 NW Front Ave. 97210, described his company's business interests in the Northwest industrial sanctuary. He said they are not concerned that Costco's traffic will interfere with their operations and support this project. He said many uses allowed outright under the Code on this site could have a more serious impact on traffic than Costco and none would need to make the traffic improvements Costco is prepared to make. He said this would be a great use of this site and added that hundreds of other businesses in the Sanctuary also support it as a much needed resource.

Joe Voboril, attorney for Price-Costco, Suite 1600, Pioneer Tower, 888 SW 5th Avenue, 97204, said the Northwest industrial area is very healthy, with less than two percent vacancy. The sanctuary policy has worked very well and there is no need to change the zoning of this property or the area around it from industrial. However, this industrial area is not the same as it was 10 or 20 years ago -- the days of noisy factories are over and those still in the area have changed the manner of their operations. The other change to the character of the area resulted from the relocation of Highway 30 to Yeon Avenue and an area once dominated by heavy industrial uses is now dominated by light manufacturing, warehousing and distribution activities. This is not a change from industrial to retail but from one type of industrial use to another. The Hearings Officer treated evidence of this transition as a

APRIL 19, 1995

reason for denial, concluding that it is necessary to segregate industrial from non-industrial uses. Such segregation, if it ever was required, no longer is. The industrial sanctuary policy does not call for absolute segregation of uses but actually encourages complementary non-industrial uses pursuant to the conditional use process. Costco, because of its focus on small business members, is a complementary use for the 73 percent of businesses in the area who are Costco members.

Mr. Voboril said this application is not a rerun of the 1989 application although unfortunately the Hearings Officer treated it that way, basing her decision on Council's decision six years ago. The biggest change that has occurred is in Criterion D, which requires that the applicant demonstrate that his primary market is the industrial firms and employees in the sanctuary. In the 1991 Code rewrite, an exemption was added to Criterion D for historic landmarks and, since the U.S. Steel buildings have been given landmark status, Costco is not required to meet that Criterion. Even more significant are the changes to the project itself. In 1989, Costco intended to scrape the site. Now it is willing to reuse buildings on the site. The other important difference is the change of access points on Yeon Avenue. In 1989, there were two unsignalized access points. This time Costco, at a cost of \$1 million, will add a four-legged intersection which will enable the main entrance to the store to be at a signalized entrance. From a traffic safety viewpoint, that change is critical. While in 1989 ODOT and PDOT concluded this project could not meet the applicable criteria, this time ODOT submitted a letter in favor of the project and PDOT concluded that with these traffic improvements, Costco could meet Criterion B and show that the transportation system is capable of safely supporting the proposed use. Both understood they were looking at a very different project and their recommendations reflect that.

Regarding Criterion A, Mr. Voboril said it was generally agreed in the hearing that this meant Costco would have to show that it would not impair in a meaningful way the day-to-day operations of nearby firms.

Wayne Kittelson, Kittelson & Associates, 610 SW Alders, Suite 700, 97205, further addressed Criterion A. He said the project does not adversely affect access to any nearby properties and benefits some of them. The Hearings Officer concluded that the Larry Harrington Company would be an exception but this is not true. The Company suffers poor left-in and left-out access today because its driveway is only 100 feet from the signalized intersection at Front Avenue. Because the driveway is so close, it is regularly blocked by a queue of North-bound vehicles stopping at the light. That problem was not created by and would not be made any worse by Costco. The east side of Highway 30 is a classic example of poor access management as driveways are too many and too close together. They work today only because there is virtually

APRIL 19, 1995

no traffic using them. The Costco project, however, is an outstanding illustration of good stewardship of the transportation system and when constructed will be the only section of U.S. 30 that meets ODOT's access spacing guidelines. He said other uses, permitted outright on this site, do not need to meet these spacing standards even though they easily generate much or more driveway volume than Costco. The store will also have no appreciable impact on the day-to-day operations of nearby industrial operations. Any traffic to Costco will be primarily focused on a very short section of U.S. 30, a state highway already carrying 40,000 vehicles a day. Thus, the 230 vehicles Costco would add during peak hours would scarcely register. No driveways will be blocked as a result of Costco, no left turn refuges will be usurped and no on or off-street parking will be taken away from existing businesses. Also, the sanctuary's internal road system is not affected at all. The project causes no intrusion of non-local traffic into the sanctuary as virtually all traffic drawn to the site will come via the freeway and State highway system. The huge improvements made recently to Highway 30 were not solely for the benefit of the industrial area but to serve regional and Statewide goals. The project's traffic impacts are confined to the area freeways and a 1,000-foot section of a State highway. It is the only location that would not draw significant traffic through local residential areas and streets. The look and feel of Highway 30 will remain the same with or without the presence of Costco, as 89 percent of vehicles using it are passenger cars, not trucks. Up to 50 percent is through traffic and that will not change either. To the extent the project has any impact, it will only be to improve the operating efficiency and safety of the roadway through the access design. ODOT concurs with this, noting that conflict points will be eliminated, access spacing standards will be met and traffic-carrying function will be enhanced. Mr. Kittelson said these findings are based on exhaustive studies taking over one year and he stakes his professional reputation on their accuracy, adding that both ODOT and PDOT have confirmed them. Criterion A is met.

Mr. Voboril then discussed Criterion B. He said knowing this criterion would be critical and controversial, COSTCO offered to reimburse the City for the expense of having an independent traffic evaluation of all the traffic data submitted. Costco was told this would not be necessary because the Bureau of Traffic Management (BTM) would conduct the analysis. BTM concluded that Criterion B is met. He said they were not surprised that opponents challenged not only the Kittelson analysis but the review conducted by ODOT and the BTM. However, they were surprised that the Hearings Officer ignored the conclusions of ODOT and the BTM.

Mr. Kittelson said this project positively addresses all eight evaluation factors listed in Criterion B, including level of service. Regarding trip

APRIL 19, 1995

generation, he said his analysis arrived at an estimated 670 total trips in and out of the driveway during the peak hour. They determined that the net number of new vehicles estimated to be drawn to this hour during the peak hours, is 230. The opposition raises the specter of 1,000 new vehicles drawn into the area. They, however, are talking about total in and out driveway trips. The real comparison is their estimate of 350 new inbound trips compared to 230, not 1,000. He said he is absolutely convinced that his estimate of 230 is the most reliable information. He said this very same question was a highlight of the Fred Meyer-Hyster hearings 10 years ago and in that case history has shown that his firm actually overestimated the traffic impacts. He said even using the opposition's estimate of 350, which would be equal to the highest volume Costco store in this country and abroad, the level of service is still acceptable. This project meets Criterion B no matter what estimate of trip generation is accepted. Also, the project actually conserves capacity because it has no impact at all on the morning peak hour. Access to Highway 30 meets all spacing and safety standards and even though Tri-Met currently offers no transit service in the immediate site vicinity, the building and site design have been modified to bring future bus riders within 20 feet of the store. The parking lot has been sized to accommodate all the expected demand at all times of the year and the primary access onto Highway 30 will be signalized, providing more than adequate capacity and safety. Sidewalks and crosswalks are provided along both U.S. 30 and Nicolai. The Bureau of Traffic Engineering found the project meets Criterion B and Council should find likewise.

Regarding Criterion C, Mr. Voboril said this enables Council to put on the brakes when it finds that a number of non-industrial uses encroach into an industrial sanctuary. That is not the case here. While the area has changed to a lighter industrial use, it is still solidly industrial. By the opponents' testimony, 90 to 95 percent of the uses in this area are industrial. He said fears that other retailers will try to follow Costco into this area, causing a domino effect, are unfounded as this has not been the pattern with any other Costcos. Furthermore, current Zoning Code criteria make it impossible for other large retail users to follow Costco unless they can find another property with historic landmark designation. He said Costco has not caused an exodus of companies when they have located in the other industrial areas of other cities. He noted letters of support from the mayors of San Francisco and Seattle, neither of whom reported any flight as a result of Costco. He said Costco's next door neighbor in Seattle, Alaska Distributors, testified before the Hearings Officer that in the 12 years that Costco has been there, his company suffered absolutely no adverse impact as a result of the store's presence but instead invested \$18 million more in their property. He said Council can grant this application without any change in policy because it involves a unique set of factors including

APRIL 19, 1995

location, building and user. If the U.S. Steel building were located in the heart of the sanctuary, rather than on the edge, at the end of the freeway off-ramp, then Criteria A and B would not permit this use. If Costco was not willing to preserve the U.S. Steel Building, Criterion D would not be met. Finally, the focus of this Costco on small businesses makes this site ideal for them but not for other retail stores. He said Council should conclude that the three applicable criteria are met.

Commissioner Lindberg said opponents have raised the issue of the project's impact on local streets. He asked Mr. Kittelson what methodology he used to conclude that a high percentage of traffic, 80 percent, would come directly from the freeway. He asked how speculative this estimate was.

Mr. Kittelson said the estimate was not speculative. He said they had a year to conduct their analysis and began with a market study. He said it would not be logical, for instance, for people from Beaverton, to come to this store. He said it is clear that the most effective way to get into and out of the site for the vast majority of customers is I-405 to Yeon Avenue. Their estimate was that 65 percent would use the freeway and 35 percent would come from the Scappoose area to the North. A very small percentage would come through the Northwest industrial area, primarily those who live in that area.

Mayor Katz noted that he had estimated the number of new cars on NW 23rd, 21st and 19th Avenues.

Mr. Kittelson said, based on that distribution, they found none of those streets would experience more than 10 additional vehicle trips during the peak hour. That is a conservative estimate.

Steve Schell, attorney at 1200 Bank of California Building, representing ESCO and other businesses in the general area of the industrial sanctuary, said these businesses strongly oppose this application and are concerned about its effect on the sanctuary and their businesses. He said Costco's application was filed August 5, 1994, prior to Council adoption of the Prosperous Portland policy. Costco is charged with following the policies in place at the time, one of which is Objective 5.17 of the Comprehensive Plan which states a goal of creating industrial sanctuaries which preserve land for industry and limit non-industrial uses. He said the policy is very clear and there is no equivocation about "primarily" or about mixed uses. That is the concern of the businesses who object. The Hearings Officer's report is a very good analysis of the many, many hours of hearings and testimony. In its testimony regarding the number of trips made, Costco came out with a very low number but when challenged they equivocated and raised their estimates considerably. Also, the facility involved, 25,000 square feet, is

APRIL 19, 1995

part of the metals industry that exists in this area. The area is fully rented and has 200 to 300 people employed there. In addition, the types of non-industrial uses in the area, a tavern, a McDonalds and the motel, for instance, all serve the area. If this facility is allowed it will increase the non-industrial activity in the sanctuary by 50 percent.

Mr. Schell said Costco's whole traffic analysis rests on the market being extended to 39th. If it goes any further, their vehicle miles traveled analysis fails. He said there are other approaches Costco could use, such as was done in San Francisco, or at the Safeway/Target site on NE 122nd. He described a number of businesses located near Costco which oppose siting the store here because of the negative effects of traffic and other factors on their businesses. He said Council should not jettison longstanding policies without a zone change or Comprehensive Plan change. This is not the place to make such a change. The concern is the incremental creep as one retail business and then another is sited here. He said zoning tends to follow commerce and unless cities take a firm stand, close-in, urban industrial firms will be pushed out.

Ed Whitelaw, Professor of Economics, University of Oregon, 99 W. 10th, Suite 400, 97401, said the economic reasons for rejecting Costco's application are even stronger now than they were in 1989. Vacancy rates have declined, indicating excessive demand for industrial sites. Manufacturing, while in decline as a share of the overall economy, is growing, not decreasing. As long as the City maintains the integrity of the industrial area, it can remain prosperous for decades to come. The Sanctuary works because it provides efficiencies of proximity -- to water, road and freeways, etc. In this regard, the Northwest Industrial Sanctuary is unique both in the Portland area and among metropolitan areas on the West Coast. Costco could jeopardize the economic functioning of these industrial activities both in the short and long run. Costco has cited a number of benefits if they locate in the area but the key economic question is what are the net benefits with or without a Costco. He contended that the Sanctuary's industrial activity, without Costco, has a better chance of surviving the next decade than Costco itself does because of increasing competition from other retailers. Retail expenditures in the City will not change if Costco is there but the industrial employment and payroll will.

Dean Alterman, 1001 SW 5th Avenue, Suite 1800, 97204, attorney representing Henry and Nancy Oseran, property owners in the district, disputed the traffic predictions made by Costco. If their count fails, so does Costco's analysis because ODOT's and PDOT's work was based on Costco's numbers for trip generation, which are very low. He said in 1989 Costco said a store at this location would generate 410 trip-ins in the peak hour. Today he is saying 670 trip-ins, a 60 percent increase but still too low. Actual counts at the Aloha store were 1,000 trip-ins.

APRIL 19, 1995

Costco's prediction when the store opened was 470, half of what it is today. At the Clackamas store they counted 900 in the peak hour, while Costco's prediction was 370. The Northeast Portland store count is 1,073 trip-ins, up 46 percent from what it was in 1989. The count at the Tualatin store, which they closed last year, was 872 trip-ins, while Costco's prediction when it opened was 470. Could the new store generate less traffic than one that was closed? At the new Tigard store, they counted 1,100 trip-ins last spring and last year Costco predicted 560 trip-ins. When you double Costco's prediction for this store, the traffic system might well collapse. He said Costco has consistently under-predicted the traffic impacts, almost by half. During the holiday season, trips increase well above the usual peak hours. He noted that on December 20, the Tigard store had more than 1,500 trip-ins at the noon hour, well above the 1,100 to 1,264 it has during the non-holiday season. He cited similar figures for the Northeast store. That causes a problem which requires denial of this appeal as Costco's parking lot is proposed to have 604 parking spaces and 175 employees. Typically, 1,600 trip-ins means 800 shoppers; there are not enough parking spaces around this site to handle this impact. Parking is a relevant factor in Criterion B and if Costco's trip generation estimates are not correct this application must be denied on that ground alone. For Costco to suggest that people will not go there when the parking lot is full should be looked at in light of what happens at Washington Square and how people circle its parking lot in December. He said sadly Costco was not willing to give Portland what it gave San Francisco -- a true urban store. Instead it has tried to go into the wrong zone and build a huge surface parking lot in the suburban style. It does not need 11 acres or 7 acres of surface parking. He cited the San Francisco store which sits on five acres in an area with other large retailers, not in an industrial area. The San Francisco proposal also called for 60 to 80 housing units, although they were never built. He said the claim that this is the only site in Portland Costco can build on does not hold up, and cited opportunities that Costco failed to pursue. He said this is a land use decision, not a publicity campaign, and must be decided by the criteria, which Costco fails to meet. Costco will have severe significant adverse effects on nearby industrial firms and the transportation system cannot safely handle its traffic in addition to the existing uses. Costco will significantly alter the character of this neighborhood. He asked for affirmation of the Hearings Officer's denial of this appeal.

Commissioner Blumenauer said Mr. Alterman was using different terms regarding trip generation and he would like to have an explanation of how his differ from Mr. Kittelson's.

Council then heard from 10 Costco supporters:

Phil Grillo, attorney at 101 SW Main, said Costco does not represent a

APRIL 19, 1995

threat to the integrity of the industrial sanctuary policy. On the contrary, like any commercial use proposed here, it must stand or fall based solely on the approval criteria. It is dangerous to peek behind the criteria to try to determine what policy drove those criteria unless they are ambiguous. The Hearings Officer in her decision went back and forth to try to determine what policy drove the 1989 Council decision. That is dangerous. There is no need for Council to base its decision on the perception that market forces will somehow outmuscle the Code and get at the industrial sanctuary policy. Council should have faith in the criteria it has adopted and apply it in this case.

Stephen Janik, attorney at 101 SW Main, said he shops at Costco, lives in Northwest Portland and is tired of driving to Beaverton or the airport to shop there. He said locating a Costco here could make a tremendous contribution towards reducing vehicular trips. Regarding the approval criteria, he said the Hearings Officer concluded that no matter what was shown, this project would not be allowed. She misunderstood that the policy calls for preserving industrial land "primarily for manufacturing purposes." Primarily does not mean setting up an exclusionary zone, which is how the Hearings Officer interpreted it. Second, the majority of uses currently in the sanctuary are not manufacturing but distribution, warehousing, etc. The real problem with her decision is her statement that the conditional use criteria have been modified somewhat since 1989 but their purpose to implement the industrial sanctuary policy has not. First, the modification she refers to as "somewhat" is a gigantic modification. The prior policy was that unless one proved the use was needed in the industrial sanctuary, it could not be built. That was completely eliminated as it pertains to historic buildings, a dramatic and significant change. In addition, to say that these criteria carry out the purpose of the policy is self-evident and adds nothing.

Joseph Weston, Weston Investment Co. 2154 NE Broadway, said he owns two facilities within the sanctuary and supports the Costco application for the following reasons: 1) the site is underutilized; 2) it does not divide the sanctuary any further than it is already divided; 3) no other buildings of the size of U.S. Steel have historic designations so there will be no further encroachment of similar types of businesses; 4) there will be no curb cuts on NW Nicolai and traffic will be well controlled from Yeon, providing superior traffic flow over what exists today; 5) the urban growth boundary mandates the provision of necessary services for those living and working within the boundary; and 6) the store will increase clean air standards by decreasing vehicle miles travelled. He said the controversy over the Fred Meyer store at 28th and Burnside was intense but all parties agree today that allowing it to operate was the right decision. He said he is confident that would be the case here. Finally, he said he is disturbed by the threat of

APRIL 19, 1995

blackmail made by ESCO if it does not get its way.

Bill Naito, 5 NW Front, said the City has a billion dollar freeway here that the community has inherited and which is underutilized at about 50 percent capacity. He said Costco is a use that a large part of the community can benefit from and there is no place in the City better to put a Costco than here. He said the world did not come to an end when Fred Meyer moved to the Hyster site and if Costco moves to this site, it will raise the standard of living for the entire community.

Homer Williams, 121 SW Morrison, said the City must support change as it evolves. He said the River District, which is projected to attract 15,000 residents, will have a tremendous impact on the area. Having them commute to Beaverton or the airport to shop does not make sense.

Bob Bay, 3155 NW Yeon, president, Fred Bay News Company, said his family owns or leases over 12 areas in the industrial sanctuary and puts over 70 commercial vehicles a day on the road system, including Yeon Avenue. He said in looking to the future one must not try to encapsulate a neighborhood. Some people talk about maintaining the capacity on Yeon for industrial users but it gives no consideration to people who travel through the neighborhood by design to get from the freeway to St. Helens Road. The Sanctuary needs to be viewed with the same flexibility that the City views the River District and the Code allows such flexibility. He said they believe traffic will be better with the Costco improvements and, no matter what Council decides, their businesses will stay and prosper in Northwest Portland.

Mike Hopkins, 3033 NW Yeon Avenue, President, Lincoln & Allen Bindery and Graphic Arts Publishing, said he represents a large portion of the Northwest Industrial Neighborhood Association (NINA) membership which supports Costco. He said early on opponents supplied misinformation but once neighbors learned the fact over 270 Northwest industrial firms have gone on record in support of Costco. Over 100 other firms have indicated that they are neutral and the real opponents appear to number fewer than 100 out of 500 to 550 firms. NINA proponents believe Costco is good for the City and that it meets the criteria. Regarding Criterion A, the impact on the neighborhood, his company will be the only adjoining neighbor on the west side of Yeon. They support Costco and expect a significant positive impact from their \$1 million investment in the traffic intersection. Another supporter is the James River Corporation which will be its largest adjoining neighbor on Nicolai. He cited other companies located close by which support Costco. He said unless one assumes no development, traffic is bound to increase and most of the significantly-impacted neighbors would prefer Costco traffic over that of another, larger industrial user.

APRIL 19, 1995

Mayor Katz asked why there is such division among area businesses.

Mr. Hopkins said firms in the area are not large, averaging about 20 and less employees. If you took the top 10 companies out of that, the remaining would average less than 10 employees. They shop at Costco and also worry that a large industrial user will make traffic worse than Costco.

Mr. Bay said his firm believes the traffic improvements Costco plans will make the situation better compared to an outright use which would not have to go through a review.

Mike Byrnes, Historic Preservation League of Oregon, PO Box 40053, Portland, 97240, said they are strong supporters of the Costco project and its use of a historic building. They are unconvinced that a new tenant could be found for this building who would preserve the structure.

David Bissett, 322 NW 5th Avenue, 97209, State Preservation coordinator, American Institute of Architects, said they support adaptive use of this unique "white elephant" building and believe it is an ideal fit for a user like Costco. When one tries to preserve a historic building, one tries to promote minimum changes to the structure. Their proposal does this, probably more than other users who would require more intensive modifications. He cited a number of other historic preservation organizations which support this use. He said this proposal supports such City objectives as reducing sprawl, encouraging shorter travel distances to shopping and rebuilding the City infrastructure. Finally, the conditional use process allows a user to present their case and show how their needs are compatible in a zone which might not otherwise allow such uses.

Ernest Hartzog, SW Burlingame Terrace, United Negro College Fund, said Price/Costco is a leader in funding education programs for employees and is the largest corporate contributor to the Fund.

Opponents of Costco provided testimony for the next hour.

Henry Swigert, 2141 NW 25th Avenue, President, ESCO, said they have invested heavily in Portland over their 82-year history and today have 2,300 employees, 800 of whom earn family wage jobs and benefits at two Portland plants. He said they have invested heavily here, including \$16 million over the past five years and they would not have made such investments in heavy industry without the full support of the City. He said in Portland they must rely on industrial zoning and tightly administered variance standards in order to create this sanctuary. They need the Sanctuary in order to maintain the industrial character

APRIL 19, 1995

of the neighborhood and the City has steadfastly lived up to its promises and helped it to grow, promising that non-compatible enterprises will be kept out. To allow a very large retailer in the industrial sanctuary would severely and adversely affect their operations. Manufacturing jobs will be lost as it makes no sense to continue investing in this area without strong assurances that the neighborhood will stay industrial. He said a \$7 million investment in the Yeon Street plant is on hold right now pending this hearing.

Mayor Katz asked him to clear the record regarding his threat to move if Council approves this.

Mr. Swigert said if Costco locates here, it will not be prudent for ESCO to continue making large annual expenditures every year. Eventually, over the next few years, these two manufacturing plants will dwindle and the company will not manufacture in Portland anymore.

Mayor Katz asked what if Costco was allowed to locate here and the perceived negative impacts did not occur.

Mr. Swigert said the expectation of a huge retailer moving in between their two plants scares them as they believe allowing Costco in will push up the price of the land. If so, ESCO may have to move manufacturing to another of its 13 North American plants.

Commissioner Hales said as he understands it both sides agreed to define "significant" to mean that it would not impair in a meaningful way the operation of nearby stores. He asked what, beyond the perceptual realm, the location of this store would do to his operation.

Mr. Swigert said two ESCO executives testified at length before the Planning Commission as to the traffic impacts on nearby streets. The traffic impact of an industrial user on the U.S. Steel site does not come close to the Costco situation. They estimate the Costco traffic at nine times the ESCO impact. The immediate impact on Plant 3 and the difficulty it would cause their employees and suppliers getting in and out would be substantial. Noting their use of heavy, slow-moving vehicles to move castings, he said they do not believe they can operate in a mixed-use area.

Lloyd Anderson, 11 Oregon Yacht Club, former Port of Portland Executive Director and former City Commissioner, said he strongly opposes this application because of earlier major commitments to the protection of key industrial land. He said easy access to Terminal Two is an important factor in its success and a Costco will add traffic congestion and interfere with the movement of traffic in and out of the terminal. The realignment of the highway, as a result of dropping the

APRIL 19, 1995

proposed Upshur corridor, and creation of the Sanctuary stabilized a land use pattern which should be continued. Industry creates wealth while shopping centers do not and the industrial sanctuary is important to that wealth creation.

Ogden Beeman, port and waterways consulting engineer and President, Ogden Beeman and Associates, 421 SW 6th, 97204, said the Costco site is inappropriate as the industrial sanctuary requires a higher level of protection because of its unique location in relationship to the Portland Harbor and the deep draft navigation channel on the Willamette River. The proximity to the waterfront has resulted in a large population of companies located in the area which are served by or serve water-dependent industries in the area. This synergy which exists between the water-dependent and upland facilities in the area is important for the survival of both classes of users, for the survival of the waterfront and for the protection of a significant public and private investment. He cited San Francisco as a city where urbanization and gentrification of land adjacent to navigation channels led to the loss of water-dependent uses. The highway improvements are only a fraction of the public investment represented in channel and navigation development. Because of this unique situation, the highest level of protection is warranted for both the land use and traffic capacity for future growth. An urban, retail-use Costco changes the character of this unique area and could preclude the continuing synergistic relationship between water-dependent facilities. No other area provides the same direct access to the harbor or river transportation service.

Bud Clark, former Mayor, said Council should stick to proven principles and reject this proposal for the same reasons it did in 1989. He said when City Council says no, that should be taken seriously and alternative sites considered.

John Russell, 1727 SW Hawthorne Terrace, opposed the application based on the need to: 1) preserve the Sanctuary; 2) maintain the integrity of the land-use process in the face of an enormous and expensive publicity campaign by Costco; and 3) avoid fragmentation of a community that has taken so much work to create.

Bill Furman, President and CEO, Greenbrier Companies, 1 Center Point, Lake Oswego, said their manufacturing arm, Gunderson, operates on Front Avenue, not far from the proposed Costco facility. He said each year Gunderson buys and transports through the streets of the industrial zone over 100,000 tons of steel. Retail shoppers would compete with their trucks, causing a needless safety hazard. The retail shoppers do not need to be there but his workers and truck drivers do need to be there. The City should remain faithful to its planning process and keep its commitment to existing industries. He said

APRIL 19, 1995

companies like Gunderson with 1,300 employees will fight to keep industrial jobs in this area but cannot fight a City which does not want them.

Kimberley Ponchart, 15714 SE Mill Street, forklift operator at Calbag Metals Co. and a divorced single mother with three children, said her job requires her to move goods across the street. She said if Costco is allowed to locate there, it will make her job more difficult and also threaten her job.

Robert Bernstein, transportation, planning and engineering consultant, 507 18th Avenue East, Seattle 98112, said Henry Oseran hired him to analyze the proposed Costco store. He said estimates for traffic generation are far too low, because Costco based them on the square footage of buildings when they should be based on market area, particularly as defined by travel time. This store would have a huge market area, particularly as its closeness to the freeway makes it quicker and easier to get to in addition to having a significant amount of passby traffic. Vehicle miles travelled is not an appropriate measure for an individual property as it is almost impossible to compute for specific locations. In response, however, to Costco's computation of VMT, he said their analysis showed that VMT is actually increased at this particular store.

Commissioner Hales asked if these traffic generation figures show trips or trip-ins.

Mr. Bernstein said there is no difference if you are talking about cars. However, one person going to the store makes two trips and has two trip-ins, one coming in and one going out.

David Parisi, CH2M Hill, 825 NE Multnomah, 97232, said the analysis they conducted, at the request of ESCO, of the traffic impact of Costco indicated that the Costco store would generate between 950 and 1,100 trip-ins, not the 230 to 460 Costco estimates. This is consistent with its suburban area stores. Using the 950 figure, they found that Costco would violate all seven traffic safety criteria in Criterion B. Regarding street capacity, he said the impact of Costco traffic would consume 86 percent of the remaining capacity at the intersection of Yeon and Nicolai, severely limiting industrial growth throughout the entire district. It would also constrain commodity flows throughout the Sanctuary. The second criterion Costco would violate relates to access requirements. Once high-turning volumes are added to the center refuge lane, access to Eastside businesses would essentially be lost. By quadrupling the number of vehicles in the refuge lane, Costco would immediately eliminate the attributes such a lane serves for industries in the area.

APRIL 19, 1995

Ray Bozlee, owner, Larry Harrington Co., described the traffic situation at his location and how Costco would adversely affect his company's operations, forcing him to move.

Chuck Martin, President, Northwest Industrial Neighborhood Association (NINA), representing 555 businesses, two-thirds of which are within the sanctuary, said their Board voted against Costco by a simple majority a year ago but when a recent vote was taken only one Board member still supported Costco. He said strong industrial sanctuaries keep manufacturing and distribution-oriented jobs in the City. All six industrial sanctuaries are watching to see if this highly successful zoning strategy will be upheld. Applicants complain that there is capacity on Yeon to handle Costco traffic and it will not interfere with the peak 8:00 a.m. traffic time because they are not open. However, the next highest peak is between 1:30 and 2:30 p.m. Costco shows 2,800 trips currently during that time period and if 700 trips are added, that is a 25 percent increase in traffic, giving a much larger afternoon peak. NINA believes that taking the service level to Level D, the minimum acceptable in an urban area, would be a mistake. The full four-way light at 26th may benefit one company, Lincoln and Allen, but will be difficult for large trucks. The property owner told NINA he had been unable to sell his property for nine years for industrial use but they found out later that he had turned down a fully appraised cash offer. The problem is that a buyer with an industrial use cannot match Costco's offer. Applicant states that 50 percent of the cars are travelling on U.S. 30 through the Sanctuary, not into it. NINA, however, believes it is 88 percent. NINA also found that 48 percent of employees in the Sanctuary are classified as manufacturers, 27 percent are classified as wholesale and three percent retail.

Mayor Katz asked why there is such a major split among the businesses on this issue.

Mr. Martin said he does not agree there is a great split as between 70 and 80 percent of business owners oppose Costco.

Commissioner Blumenauer said there has been testimony that there is a large number of relatively small employers, averaging about 10, if the top 10 businesses are excluded. He asked Mr. Martin if there was a split among businesses, based on the number of employees they have.

Mr. Martin said he did not find any difference between the largest and smallest employers. He said the area is a great incubator for new businesses and is also an important distribution center.

Mayor Katz asked if NINA supported this in 1989.

APRIL 19, 1995

Mr. Martin said yes. He said his research indicated the issue was not studied thoroughly and that people were hustled through the process.

Commissioner Hales asked what he saw as the future for the industrial sanctuary. Will there be a lot more distribution or more manufacturing?

Mr. Martin said they have a very good mix now of distribution and manufacturing, which go hand in hand. Wacker Siltonics is doubling their employment here and people are moving out of the Pearl District, trusting that the industrial sanctuary will remain. He said the concept of a sanctuary was a brilliant one on the part of the City as a way of generating jobs in sections of the City that most need a diversity of employment opportunities. Retail is not the answer to providing family-wage jobs.

Marvin Pohl, Northwest District Association (NWDA) President, called for Council to uphold the Hearings Officer's decision and deny the conditional use permit.

Marjorie Newhouse, NWDA Planning Committee Chair, said the committee is unanimous in opposing this application as it meets neither Criterion A or C. She said it will set a precedent for other businesses with clever consultants. NWDA is the most densely populated neighborhood in the State with mixed use and it takes vigilance to keep a balance. Major problems come from regional businesses and the automobiles they bring; Costco will exacerbate that. She said what this neighborhood needs is small, diverse stores within walking district, not Costco.

Steve Fosler, NWDA Transportation Committee Chair, said preservation of the existing zoning is vital to the continued livability of the Central City neighborhoods. Very clearly, this application should not be an exception to this zoning. He said a significant amount of traffic cuts through Northwest and Costco will only make this worse. The neighborhood knows from experience there is no way the City can mitigate for this cutthrough traffic. NWDA has concluded after a year of observation that this should be denied.

Commissioner Lindberg asked if NWDA had a split vote, like NINA had.

Mr. Pohl said the NWDA Board voted 10 to two against, with two opposed to the process, not in favor of Costco. The Transportation committee's original vote was in favor of Costco, based on its ability to provide necessary mitigation, but then the committee decided it could not.

APRIL 19, 1995

Jack Foyt, general manager, Airport Price-Costco store, said any inference that Costco provides substandard jobs is false. He said with 400 retail employees, his business is a warehouse as well as a retail operation and he has people who drive forklifts, load and unload trucks, etc. He noted that cashiers get \$34,000 a year after two years and 86 percent of the employees receive complete benefits. He noted that his store has only a two percent turnover per year. It needs to be recognized that these people put money back in the economy.

Commissioner Lindberg said he asked his staff to get information from the Portland Development Commission about Costco's pay rates and they found that these jobs actually pay higher wages than the average manufacturing job now. He said that is not part of the criteria but it does relate to some of the testimony.

Commissioner Hales asked how often his parking lot is full or nearly full and what happens to overflow parking.

Mr. Foyt said he has 1,100 spaces and the building has 165,000 square feet. The parking lot is probably half full at all times and two-thirds to completely full on the weekends. Only for about a month during the holidays do they need to hire outside traffic control people.

Mike Cutting, Northwest Atlantic Partners, 10500 NE 8th Street, Bellevue, WA, clarified the earlier testimony of Bud Clark. He said in 1992 they proposed swapping City-owned lands and facilities below Emanuel Hospital for the Steelworks site and to build a Costco on the site by Emanuel. Unfortunately they concluded that the project would cost nearly double what they now expect to spend on the Steelworks site; Costco was prepared to spend the same \$12 to 14 million they are prepared to pay now and the City was going to invest a similar amount in the new facilities on the Steelworks site. He said he worked with the City to come up with tax increment financing for the City's share but the City could not raise the funds. He said location of a City facility on the Steelworks site would have resulted in adding many City employees and vehicles without the benefit of the proposed four-leg intersection.

George "Bing" Sheldon, 123 NW 2nd, 97209, described attempts to find a suitable five-acre site for Costco, including Stanton Yards and on Martin Luther King, Jr. Boulevard. He said Costco does not fit within the zoning code -- it is not quite industrial and not quite retail. He said this hybrid use could be accommodated in the area without negatively impacting the Sanctuary.

Commissioner Lindberg asked if Costco had looked at other sites.

Mr. Sheldon said Costco asked Robert Stacey (former Planning Director)

APRIL 19, 1995

to find an appropriately zoned site. The Hollywood site came the closest but they were unable to put it together.

Mayor Katz asked if some kind of design could be created for a large retail facility that can fit in an urban area and does not have to use five acres of land.

Mr. Sheldon said the problem is that it is very difficult for people to push carts around on multiple levels. Costco is essentially a warehouse where the storage floor and the sales floor is the same. Typically these stores are over 100,000 square feet while a Portland city block is only 40,000 square feet. In San Francisco, the parking was put under the store but that would still take roughly five blocks. Because of street vacation problems, it is hard to find an area where such vacation does not create an urban design problem. The City is very proud of and wants to retain its small block structure so the developer is forced to look in industrial areas where there never was a block structure.

Jack Frank, 10809 120th Avenue NE, Kirkland WA, said he assesses development sites for Price-Costco. This site, given its proximity to I-405 and the major arterial roadway network, has one of the most premier access configurations in the entire chain. He said they tried to work with the community and met with the NWDA Transportation Committee about their concerns and to determine key intersections for study. They made a series of commitments to the neighborhood, including initiation of a business delivery service, recommended travel routes to employees and members, implementation of a transportation-demand management policy, establishment of an employee transportation coordinator to manage carpool and rideshare programs, etc. He said those commitments could be made part of the conditions.

Commissioner Blumenauer asked what the radius of the customer base is for the proposed store.

Mr. Frank said it is a market area by default because there are four Costcos in the perimeter area and what is left over is a trade area where they have identified about 50,000 card members. He said both the Aloha and 138th stores are overserving their trade areas and it is naive to believe that a facility in the urban core would mimic their trip generation rates or sales volumes. With a fifth unit, the demographic base would stay virtually the same and act as a pressure relief valve.

Commissioner Blumenauer asked why Costco would want to make a \$14 million investment in another store if there was no significant increase in business.

Mr. Frank said often a painful decision is made to deliberately take the

APRIL 19, 1995

pressure off one unit that is overperforming as well as to service customers who are either travelling to the surrounding areas or refuse to travel to the surrounding areas.

Commissioner Blumenauer asked him to describe a reasonable radius that customers will travel from.

Mr. Frank said others could speak to that better than he. He said it could be travel distance from eight to ten miles, but it is a function of demographics, geography and accessibility through the local roadway network.

Joel Benelitto, Senior Vice President, Price-Costco, said they believe that the primary area they will draw from will be bounded on the north by the Columbia, 39th on the east, south by the Terwilliger curves and by the West Hills on the west. He said they expect the proposed store, after three years, to produce \$100 million in sales revenues, with 50 percent of that volume coming in the form of cannabilization from the other four stores while the other 50 percent would be net new sales. He said that prediction is based on very precise information provided by membership records at their other four stores.

Randy Miller, President, Moore Co., said a retail use like Costco could be accommodated in the industrial sanctuary without sacrificing its integrity. He noted that his company is in the Central Eastside industrial sanctuary, which has an active retail corridor along the corridor and is also in the middle of the Convention Center. The two uses, industrial and retail, work very well together. He said he also believes Council would prevent any domino effect from occurring which would lessen the Northwest Industrial Sanctuary's integrity.

Other individuals speaking in support of Costco included:

Richard Caplan, Cronin and Caplan realty
Lewis Arnold, 1000 SW Broadway, Suite 1640
John Forsgren, 2856 NE Rodney, 97212
Junki Yoshida, CEO, Yoshida Group
Patricia Ryan, 2116 NE Flanders
Geri Tisdale, Lake Oswego resident
Lyon Berger, Costco employee at the Aloha store
Lonnie Hanslick, Costco employee and Gladstone resident
Bob Gerding, President, Gerding Investment Co. (commercial real estate development)
David Pietka, 110 SW Yamhill, real estate appraiser
David Bell, 2164 SW Park Place, partner in GSL Properties
Clark Worth, 1211 SW 5th
Gary Walls, Trailblazer Fruit, 8700 NE Columbia Blvd.

APRIL 19, 1995

Vern Rifer, real estate developer
John Hanna, 3615 NE 124th, International Yogurt Company
Michael Sheridan, 831 NW 24th, 97210
Ron Stokes, 2804 NW Cumberland, 97210
Kent Studebaker, G/S Associates, 3530 NW St. Helens Road
Charles Landskroner, real estate broker
David R. Hazard, President, Power Stations, Inc.
Maurice Lucas, ex-Trailblazer
Linda Gutierrez, Parkrose School District, 10525 NE Prescott
Jay Esmee, Doernbecher Foundation
Jim Winkler, 210 SW Morrison
Tom Hughes, Raven Creamery, 3303 Martin Luther King Jr., Blvd.
Hugh Ackroyd, Ackroyd Photography Inc., 3840 NW Yeon
Rowena Shoos, Milwaukie resident and Costco employee
Carlene M. Sanderson, 28830 SW Ashland Dr., Wilsonville, OR 97070
Elroy Ashmore, 2233 SE 57th, 97215
Randy Miller, President, The Moore Company
Mike Gemmet, 3223 U.S. Grant Place, President, Portland French
Bakery
Jan Tuttle, 2726 SW 1st Ave., 97201

Supporters pointed to the sizable transportation improvements Costco would make to mitigate negative impacts on the Sanctuary and noted that other uses allowed by right within the Sanctuary could have a more severe impact. They cited a number of other uses which had been proposed for this long underutilized site, such as the ODOT headquarters and a City Bureau of Maintenance facility which had little or no industrial character. Proponents argued that City policies should be subject to frequent reevaluation, not cast in stone. Residents of the central City need to have access to affordable retail choices, provided by stores such as Costco, particularly as density increases with such nearby development projects as the River District. Many cited the vehicle miles that would be saved by the many businesses within the Sanctuary who are Costco customers and others if they could shop closer to home. Employees of Costco described the benefits and high-paying wages they enjoy and noted the almost non-existent employee turnover rate.

Jim Helser, 7077 NE Columbia Blvd., Vice President and General Manager, Helser Bros. Transfer Co., noted opposition from the Oregon Trucking Association, representing 1,200 transportation companies, and the Oregon Drayman Association, representing over 80 local trucking companies.

Rick Kuehn, Oregon Transportation Manager, CH2M Hill, said the major element of the proposed improvement package is a remodeling of the traffic signal at Yeon to make it into a four-legged intersection. It

APRIL 19, 1995

requires a revision from a three-phase to a five-phase signal and while it provides driveway access, it does not make Yeon traffic better. It will add more signal cycles requiring stoppages and could cause a problem for southbound trucks. Regarding the adequacy of the parking lot, he said the parking demand numbers they developed mirror very closely those at the 138th store. However, the parking lot at the proposed store will only be half as big, resulting in undercapacity at peak times and during the holiday season. Traffic will circulate not only within the parking lot but on neighborhood streets, exacerbating congestion and frustration.

Commissioner Blumenauer asked him to comment on assertions that this store might actually reduce vehicle miles travelled.

Mr. Kuehn said they calculated that vehicle miles travelled per month, based on a five-mile one-way trip, would actually increase by 400,000 miles.

Commissioner Blumenauer said he believes a reasonable draw would be from eight to ten miles with a catchment basin that suggests that people from East Hollywood and Laurelhurst, as well as those from Clark County, will drive out to Airport Way rather than come to this store.

Dave White, plant manager, ESCO Corp, Plant No. 3, 2770 NW Yeon, said they run 24 hours a day, six days a week and average about 350 trips in and out per day. Access and road capacity are critical as production increases. The Costco store would block traffic movement and the proposed improvements on Yeon would give shoppers the middle lane and take the "hover" lane currently used by ESCO's trucks. He said if Costco goes in, 86 percent of the remaining transportation capacity at that intersection will be used up immediately and other companies will be unable to grow and compete.

Mayor Katz asked how Esco would respond if the U.S. Steel site was put to another use, one that did not require conditional use process but would generate truck and car traffic.

Mr. White said currently the site is 100 percent consumed by people storing materials or conducting business in and out of there. He said there are 182 to 198 employees currently working there so he cannot imagine a whole lot more traffic than there is today. Those people are all used to driving in truck traffic areas.

Mayor Katz said she would like an accident count.

APRIL 19, 1995

Other individuals speaking against approval of Costco's conditional use application included:

Zanley Galton, 4025 NW Express, president, Western Wire Works
Diane Humpke, Ken R. Humpke Co., 13725 SE Leann Court, Boring
Bruce Halperin, 2717 SE 33rd Pl., 97202, operations manager, Calbag Metals
Sejo Kato, Oregon Metal Slitters, 2245 NW Suffolk
Steve Abouaf, chief operating officer, Oregon Metal Slitters, 2245 NW Suffolk
Harold Carlson, employee at Hercules Inc., 3366 NW Yeon
Bill Olshen, Irving Street Pharmacy, 638 NW 23rd, 97210
Eugene Smith, 30075 E. Meissner Rd., Deer Island, Green Transfer employee
Doug McGowan, read the testimony of Ronald Karls, Vice President and General Manager, Power Transmission Products, 2750 NW 31st
Nielson Abeel, 1325 NW Flanders, Pearl District Neighborhood Association
Barbara Meyer, 2537 NW Northrup, 97210
John Bowman, John Bowman Realtor
Carol Smith Larson, 405-A NW 9th Ave., Vice President, Pearl District Neighborhood Association
Greg McKenzie, Jones Oregon Stevedoring Company, 2318 NW Suffolk
Kathleen Sharp, 2748 NW Thurman, 97210
Joseph Manly, 1828 Maple Street, Longview WA 98632, Esco employee
Susan Brost, 2908 SE Malcolm, Milwaukie, 97222
Chris Wrench, 3103 NW Wilson, 97210
John Snyder, President, Helser Machine Works, 2401 NW 22nd Avenue
Richard Singer, 824 NW Albermarle, 97210
Ruth Roth, 2227 NW Johnson, 97210
Neil Thorton, President, American Steel
E. Kimbark MacColl, 2620 SW Georgian Place
Henry Oseran, 2455 NW Marshall, 97210
Ruth Roth, 2227 NW Johnson, 97210
Mary Booth, 1404 NE Hancock, employee at Plant No. 1, Esco Corp.
Yoshio Kurosaki, Mt. Hood Chemical Corp.
Warren Rosenfeld, Calbag Metals Co., 2495 NW Nicolai
Arnold Cogan, managing partner, Cogan Owens Cogan Consultants, 10 NW 10th Ave. 97209, consultant for Esco
Linda Davis, Cogan Owens Cogan Consultants, 10 NW 10th, 97209
George Stonecliffe, 2375 SW Montgomery Dr., 97201, General Tool & Supply Co.
John B. Warren, Esco employee, no address stated
Darleen Cahall, PO Box 10123, 97210
Larry Schick, Vice President, LaGrand Industrial Supply, 2620 SW 1st
Rich Michaelson, 2227 NW Johnson, 97210
Louise Weidlich, PO Box 19224, 97219

APRIL 19, 1995

Brian Sonnenberg, President, Portland Bolt and Manufacturing Co.
Dan Volkmer, 2205 NW 22nd, realtor specializing in Northwest
Portland

Stu Soren, 2723 NW Vaughn, 97210

Scott Jones, 2724 NW Thurman, 97210

Dave Anderson, Expressway Developing Co.

Douglas Pfeiffer, 3019 NW Yeon, Editor and Chief of Graphics Arts
Center Publishing Co.

Opponents stressed the need to preserve the Sanctuary for industrial uses and shared their fear that Costco would push them out bit by bit. They described concerns about traffic safety, congestion and access, citing the negative effect an auto-oriented retail outlet would have on the Sanctuary. They also expressed concern about additional traffic through the Northwest neighborhood.

Mayor Katz noted that Council's decision must be made on the basis of the approval criteria only.

Sid Woodbury, 1001 SW 5th, owner of the subject property, clarified the number of employees on the site. He noted that one man said 300 employees will be displaced, another said 200, etc. He said the closest estimate, however, is somewhere between 50 and 75 employees, all on a month-to-month basis. The largest tenant is Broadway Cab which has one full time employee, a dispatcher, on site. It is a cab garage and it is not reasonable to assume that all these cab drivers work at the site. Right now, there are other tenants on site and the only virtually empty building is the brick office building. Of the other tenants, only two have any payroll on site, the rest have pure storage. Finally, there is American Transport but most of their people are off site.

Commissioner Lindberg asked Mr. Woodbury to address allegations that no effort was made to sell this property for manufacturing use and that a full price offer was turned down.

Mr. Woodbury said they assembled the truck terminal property with the U.S. Steel property in 1987 and almost immediately engaged architect Bing Sheldon to help them come up with a creative plan for its reuse. They concluded that the structure could be reused and it was never their intent to sell the property but to redevelop it to its highest and best use. The first plan, which included 50,000 square feet of retail space was approved. Costco became interested in the property in 1988 and the original development scheme was abandoned. After Costco's conditional use request was turned down in 1989, his company continued to try to find a creative use, including a film and video production center, which failed to be financed, and as ODOT headquarters. The motivation has always been to find a creative reuse

APRIL 19, 1995

of the building. He believes Costco is the perfect solution.

Steve Schell, opponents' attorney, cited the brief of Ed Sullivan, attorney representing Expressway. He stressed the importance of protecting jobs in the industrial Sanctuary, an important intermodal hub of activity, as well as the infrastructure investments made to support this use. He noted that the current vacancy in the Sanctuary is two percent, indicating that it is very healthy and attractive to businesses closed out in other parts of the City. If Costco comes into the area, it will take the refuge lane on Yeon with negative effects on truck traffic. He noted nearby firms such as Larry Harrington's, which have repeatedly cited the serious adverse effects a Costco would have on their business. As to transportation, 86 percent of the remaining capacity of the Yeon/Nicolai intersection is lost once Costco goes in. That puts a lid on industrial growth. Costco puts traffic into the area which interferes with the normal work of moving goods and the consequence is that these companies will lose money. Approval of this starts an incremental change and sends a message that the City has changed its policy on industrial sanctuaries. If Council wants to change the policy it should do it in an appropriate forum, not through a conditional use process. Costco does not fit in this area even though it is a good employer and a good corporate citizen, as is Esco, the Rosenfelds, and other families in the area. These industries sell their goods outside the area, bringing money here, while Costco just turns the money around. If you do not buy your peanut butter from Costco you can buy it somewhere else. He said the industries in this area deserve protection and deserve to be able to count on an industrial Sanctuary.

Joe Voboril, attorney representing Costco, said Mr. Grillo told Council it had to be careful when it began peeking behind the criteria as the Hearings Officer did, always reaching back to the industrial Sanctuary as she analyzed each criterion. He said the zoning code criteria implement the industrial Sanctuary policy and if you get the criteria right, you get the policy right. Regarding Criterion A, the impact on day-to-day operations, Council has heard contradictory testimony from people who are similarly situated. Some businesses, such as ESCO, fear it, while others welcome it as an improvement to the area. Traffic is the key as it comes down to what is real and what is perception. The traffic experts can testify to the difference. Regarding Larry Harrington's company, he said the slide showing trucks blocking his driveway today is correct. His driveway is often blocked by queuing in the far right lanes. Mr. Voboril said he believes Costco will not have a negative effect although Mr. Harrington believes his business will be destroyed. Esco is concerned it will have to leave the area but the number of cars leaving their driveway at the peak hour is estimated at five. Would someone with five cars in an hour be unable to get out of their driveway because of Costco? Regarding the adequacy of the

APRIL 19, 1995

parking lot, he said the proposed Costco should not be compared with the Airport Way store which has been expanded twice and is the number one store in the chain, with 170,000 square feet. The Seattle store has a more comparable trade area and has 504 parking spaces. This store will have 604 spaces. The mix of cars and trucks will occur only over a very short area -- 1,000 feet on Yeon and 380 feet on Nicolai. Council will have to decide if that is unreasonable.

Mr. Voboril said, regarding Criterion B, the question is will the transportation system, with the improvements, safely accommodate the use. This is an operations question and this is why the Bureau of Traffic Management should have refereed this. Laurel Wentworth, Office of Transportation, also peeked behind the criteria to read back the industrial Sanctuary policy. He said you cannot do that; you must apply the factors and if they work, the policy works. He said Council needs to find out from the traffic experts whether the level of service meets the standards. Regarding Criterion C, he said this boils down to location. This probably could not be sited anywhere other than on the edge of the Sanctuary, at the end of a freeway off ramp, or other than in an existing historic structure. It can be done here but probably not elsewhere in the Sanctuary. Council should not fear the domino effect as other facilities would have an impossible time getting into the Sanctuary because they could not meet the criteria. The promise to ESCO and others was to keep out non-compatible uses, not keep this for industrial alone. That is what the zoning code does and if Costco cannot prove that it is compatible, that it will not create negative impacts on nearby firms, meet the transportation safety requirements and keep the character of the area, then Council cannot approve this. Mr. Voboril said Council can properly approve this at this location with the conditions and improvements Costco has proposed. He said Costco sincerely tried to find another location and asked the City to help find one. Costco belongs in the Central City and if not here, they do not know where else.

Commissioner Hales asked Mr. Kittelson if he could explain how the peak hour was selected, if it was a certain time of the year, and how he dealt with holidays.

Mr. Kittelson said they picked a weekday evening peak hour, when there is generally the greatest demand on the street system. They looked at the total impact of traffic, not just Costco's, at all different times of the day. They found that the weekday evening peak hour -- from 4:00 to 6:00 p.m. -- put the greatest stress on the system. They did not look at holiday times as that is not typically done for commercial developments as they design for a typical high volume that they can reasonably expect to occur on a regular basis.

APRIL 19, 1995

Commissioner Lindberg, noting that the dueling traffic engineers paint totally different pictures, asked Ms. Wentworth who is right.

Ms. Wentworth said questions raised about traffic include: 1) how did the Office of Traffic Management conduct their analysis of this application; 2) how can Council come to grips with conflicting sets of technical information; and 3) what is the accident history. She said when zone changes are involved PDOT requires a detailed traffic analysis of impacts on the site. Staff then determines if the information is technically sound but they do not conduct an independent traffic analysis to support or refute what has been said.

Elizabeth Papadopoulos, Bureau of Traffic Management, said the trip analysis information is added to existing conditions, a standard process. What is not standard are the assumptions about how many trips there will be as there are lots of different ways of coming up with the number, including market area, building square footage, number of employees, comparable sites, etc. Traffic engineers cannot necessarily say what the perfect piece of information is. Instead they try to say what is reasonable. That is why traffic engineers argue over different numbers. They can all be right as this is a modelling setup and there is not one right set of numbers. Staff's task is to ask if reasonable assumptions have been made that might affect the level of service. She noted that staff believes the opponents' information is also reasonable; they show that the numbers get to Level D. This service level is acceptable to the City. To get to an unacceptable level one would have to triple the trip generation the applicant has suggested -- from 670 trips to almost 2,000. Staff does not believe either side is that far off the mark although one could argue about who is closest, the applicant, with 670, or the opponent, with 900. Both estimates are acceptable and staff believes the system is okay from a capacity standpoint. She said applicants are not asked to look 30 years into the future unless their buildout is that far out.

Commissioner Hales said Criterion B says the transportation system is capable of safely supporting the proposed use, in addition to existing uses. It does not say in addition to current traffic volume. He said Council has heard testimony that the existing uses have experienced significant change in business volume. How does one interpret the word uses rather than just looking at current traffic volume.

Ms. Wentworth said trip generation does reflect use and staff can translate the approximate type of use on the site and turn that into trip generation rates.

Commissioner Blumenauer expressed concern about what happens in the Sanctuary during the holiday period. He also questions the

APRIL 19, 1995

accuracy of the catchment area Costco has described as he cannot believe, for instance, that people in his neighborhood near 39th would go to Airport Way rather than to Northwest. He said he heard nothing about changes in consumer behavior if people can go to a store they know is less crowded. He said some of the assumptions about traffic behavior seem to him fundamentally wrong and Council needs to exercise some judgment here.

Mayor Katz said while both assumptions are possibly right, what kind of impact will it have on the edge of the Sanctuary and the Northwest neighborhood.

Ms. Papadopoulos said one could question the boundaries on trip lengths but, from a purely capacity standpoint, by changing the boundary the new traffic could still be accommodated at the technical level the City accepts.

Mayor Katz asked what would happen during holidays.

Ms. Papadopoulos said holidays are very different. Typically staff does not ask people to build for the highest use as it is a tremendous strain to ask that a parking lot accommodate every single car during the Christmas season. However, Costco does have a substantial impact and when staff looks at Criterion B it tries to look at the level of capacity and service and at strongly-identifiable safety flaws. A lot of what is being talking about tonight is not that black and white. When one looks at industrial sanctuaries, the question arises as to the impacts on people already there. In normal land use, staff does not do this.

Commissioner Lindberg said in this case a lot of nearby businesses are saying there would be an impact. Council's job is to meld information from the dueling experts with the testimony and apply its judgment.

Ms. Papadopoulos said staff believes there are impacts even though, technically, the traffic can be accommodated. People are going to feel differences during the long holiday season and will feel differences getting into driveways, especially with the dual left turn lanes changed to left turn pockets, eliminating the refuge. There will be more traffic and times when the lot will overflow and people may go looking for spaces on surrounding streets. People will also feel the impact of the mix of trucks and passenger vehicles. This is not something staff wants to encourage but it is not something it is often allowed to evaluate. Staff looks at what the system is capable of. PDOT is not trying to say there are not impacts but these fall more into the category of policy issues of an industrial Sanctuary and staff is unable to decide those issues for Council.

APRIL 19, 1995

Mayor Katz said when you say something is technically okay, you are saying that traffic will still move but the impacts will be felt and to what extent is still a good question.

Ms. Papadopoulos said there is nothing that says there will be a terrible safety situation here. But when you mix cars and trucks, there will be some increase in accidents. Staff noted that Costco's traffic study showed that about 25 percent of the accidents involve trucks although the overall rates are not high.

Mayor Katz asked about the impact on 21st and 23rd.

Ms. Papadopoulos said, looking at the capacity issue, the numbers will not trigger a capacity level on 23rd. That does not mean you will not see additional traffic on those streets but they can handle it.

Mr. Kittelson said they found that the accident rate on Highway 30 is below the statewide average. There is no intersection on that section of road that hits even the minimum threshold for monitoring by the City. He said they did not blow away the holiday season and have important information that would apply to parking and trip generation. Ms. Papadopoulos is painting an unrealistic picture of things that might happen.

Commissioner Hales asked how Costco would handle holiday-related traffic in a way that would not have a significant adverse effect on nearby industrial firms.

Mr. Kittelson said trip generation and parking are the issues in contention. Regarding trip generation, his staff relied on standard rates for similar facilities but no one had good information about the impact of a Costco. This project is the first one that actually collected trip generation for Costco sites and it is correct to say that trip generation depends more on the market than on the buildings. It is also true that market size does not change just because more shopping opportunities are provided. Costco is confident that its estimates are closer to being correct as they have access to so much information about who their customers are, where they live, and how often they come. They know that this store will go into the center of an area already served by four other Costcos. People now go to the suburbs to do their shopping, averaging about 22 miles round trip. He said that helps explain why trip generation rates are so much higher than average at the Aloha and Northeast Portland stores. People are making long trips and the VMT reduction comes with changing 22-mile trips to 12-mile trips. The trip generation rates at this store will not exceed those of the Northeast store. During holidays, the issue is parking supply. People who shop at Costco are constrained by their shopping carts and do not go off site

APRIL 19, 1995

to park when they plan to buy big, bulky items. People will either come at different times during the holidays, spreading the peak out, circulate a little longer within the lot or they will not come.

Commissioner Blumenauer asked how many people queued up, waiting to get into a lot, will it take to disrupt the traffic flow during a holiday period.

Mr. Kittelson said they will not queue up as these are repeat customers who understand what they are coming into. He said the Seattle store, which is very similar in size to this one and an urban store in an urban environment, only has 500 spaces and yet it does not overflow.

Mayor Katz asked if there is any other use for the property that would not have to go through a conditional use which could generate as much traffic as Costco.

Susan Feldman, Planning Bureau, said trip generation rates for uses permitted by right, which in this area would be industrial service uses, manufacturing and warehousing, are far below those for retail sales. The commercial uses permitted in the Sanctuary are very small scale, under 3,000 square feet, and are theoretically there to support the industrial uses. That is how the zoning code implements the industrial Sanctuary, allowing some uses by right and some by conditional use.

Mr. Kittelson said the McDonalds in the Sanctuary generates 500 trips a day.

Commissioner Hales moved to tentatively deny the appeal and uphold the Hearings Officer's decision. Commissioner Kafoury seconded.

Commissioner Hales said Costco is a very responsible employer, a strong supporter of local vendors and their corporate citizenship is exemplary. The fundamental point for him is access to retail for City residents and it is Council's responsibility to assure that those opportunities are available. To the extent that the City has failed to help Costco find a site, he wants to apologize. However, it comes down to whether this conditional use application passes the tests in City policies and Code. It is not a matter of freezing a community in amber as one must remain flexible. This district, however, is different and Portland is different because it still has industries concentrated in this district which makes steel and boxcars and other basic commodities. That is Costco's misfortune as, in this location, he believes it will have a significant adverse effect on nearby industrial firms. These firms are different from those in the other industrial areas. The burden of proof for meeting Criterion A is on the applicant. He also believes the applicant has not met the requirement in Criterion B that traffic can be

APRIL 19, 1995

safely accommodated. Finally, regarding Criterion C and the overall industrial character of the area, this is a significant incremental change and he does not think that criterion is met. Based on both big-picture policy issues and the criteria, the Council has no choice but to uphold the Hearings Officer's decision.

Commissioner Blumenauer said he supports the motion but would like some items included in the findings. He said he believes Costco will have a negative effect on nearby firms in terms of safety, costs of doing business, reduced productivity and the ability of these companies to plan for future growth and development. Regarding Criterion B, even with the most favorable interpretations of the numbers, a significant percentage of scarce transportation capacity would be used up, reducing growth opportunities for others. Regarding Criterion C, the industrial area impact, he is concerned about incremental impacts on such companies as Esco, which might force some companies to leave. He said he would like that to be a part of the findings.

Mayor Katz said what if she agrees with the motion but not very specific findings.

Ms. Spetter said they can be discussed or deleted at the time of the final vote.

Mayor Katz said she is not sure she would support all the specific findings but does support the motion.

Commissioner Blumenauer said he agrees that Costco is a good employer and good corporate citizen. He said he believes the store would be very successful if located here but the City has a world class industrial Sanctuary here. He said a Costco here would be similar to a retail mall which clearly the Council would not approve at this site. He said he would be willing to review the industrial Sanctuary policy, but this is not the place to change it.

Commissioner Kafoury said she has not heard any hard evidence which leads her to believe that a large retail facility of this type would not have a very negative impact on the industrial Sanctuary. She said she was struck by the incredible interdependence of the different businesses and the need for efficient operations in an industrial area. Besides safety, the notion of effective functioning should be noted in the findings as it is a critical piece in preservation of the Sanctuary. Another important point is the impact of people driving in this area who are not used to truck traffic.

Commissioner Lindberg said this was a major dilemma for him because this is a very good corporation with good paying jobs which meets

APRIL 19, 1995

service needs that are important in the inner City. He will vote aye on the motion because of the impact on nearby businesses. He was also impressed by the relationships between the various businesses. He said Council needs to listen to people impacted directly, so many of whom oppose this. In addition, what the industrial sanctuary policy means to businesses who make decisions about growth and the future must be considered and the fragile nature of the surrounding Northwest area also taken into account. The reasons outlined in the Hearings Officer's decision are those he would like to see in the findings although he did feel it went beyond the criteria and got into a lot of policy interpretations.

Mayor Katz said this was also very difficult for her as she felt she could go either way. She would love to have Costco in Portland but this is about preserving an industrial Sanctuary. She said she does not want the Sanctuary compromised and if there is a perception that the City is walking away from an industrial Sanctuary, it is sending the wrong message. The metals and manufacturing industries are key elements for economic security in this community. The amount of land for manufacturing is limited, especially in Northwest Portland. That is reason enough for her to support the Hearings Officer. Traffic engineers are almost as bad as lawyers but she knows traffic will have a negative impact on Northwest Portland along 21st and 23rd. For those two narrow reasons, she will support the motion. She agreed with Commissioner Lindberg that the Hearings Officer went too wide afield and she is not sure she agrees completely with some of the items Commissioner Blumenauer identified for including in the findings and will look carefully at them.

Disposition: Tentatively deny appeal and uphold decision of the Hearings Officer. Prevailing side prepare findings for May 17, 1995 at 2:00 p.m.

At 11:30 a.m., Council recessed.

APRIL 20, 1995

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 20TH DAY OF APRIL, 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; Linda Meng, Chief Deputy City Attorney; and Officer Chuck Bolliger, Sergeant at Arms.

REGULAR AGENDA

Commissioner Gretchen Kafoury

- 573** Liquor license application for Esfandiar Varzali, dba Varzali's Restaurant, 1420 SE Powell Blvd., restaurant liquor license (new outlet); favorable recommendation (Report)

Discussion: John Werneken, License Bureau, said neither the Police or License Bureaus have identified any reasons they believe would be grounds for refusal of this license. They did receive one vigorous objection from a nearby property owner protesting anything that increases the availability of alcohol. The Bureaus recommend a favorable endorsement.

Disposition: Favorably recommended. (Y-4)

- 574** Liquor license application for Excellence in Pizza, Inc., dba Rocco's Pizza & Pasta #2, 2932 SE Division St., restaurant liquor license (new outlet); favorable recommendation (Report)

Discussion: Mr. Werneken said this would be a new outlet on SE Division, which is becoming a popular commercial node. The Hosford Abernethy Neighborhood Association (HAND) worked with the applicant on some of their concerns and has no official objection to this license. Several letters of concern have been received regarding the additional availability of alcohol and the lack of parking in the vicinity. He said in making its recommendations regarding liquor licenses, the License Bureau focuses on public safety and neighborhood livability. In recent years more issues have been raised regarding the sustainability of a dense, mixed-use neighborhood when additional retail uses are operating after 5:00 p.m. He said some other process might more appropriately address those concerns. The License and Police Bureaus recommendations in this case are favorable.

Disposition: Favorably recommended. (Y-4)

APRIL 20, 1995

575

Liquor license application for Maxwell and Pamela Mua, dba United Planets Market, 2929 SE Powell Blvd., package store liquor license (new outlet); favorable recommendation (Report)

Discussion: Mr. Werneken said this is located in small neighborhood commercial center near Cleveland High School. The principal of Cleveland High School believes not only that this outlet should not be granted a license but that others nearby school should be revoked as well. Several other neighbors have written letters commenting on the proliferation of liquor outlets in the area. The applicant has signed a good neighbor agreement and Hosford Abernethy Neighborhood Association (HAND) supports this license, contingent upon fulfillment of the agreement.

Mayor Katz asked the applicant if he understood the responsibility that goes with having an outlet near a school.

Maxwell Mua, owner of United Planets Market, described some of the measures they have agreed to take regarding liquor and tobacco sales.

Gregory Mettucci, Chair, HAND, said they believe Mr. Mua is very strict about sales of liquor to minors. Cleveland High School was invited to attend two meetings but sent no one to represent them.

Disposition: Favorably recommended. (Y-4)

576

Liquor license application for Mickey Finn's Brew Pub, Inc., dba Mickey Finn's, 4336 SE Woodstock Blvd., retail malt beverage liquor license (new outlet); favorable recommendation (Report)

Discussion: Mr. Werneken said they held several meetings with neighbors to work out a Good Neighbor Plan. Support has come from a number of area businesses while there are also a number of strong and articulate objections. The License Bureau's recommendation is favorable.

Craig Miller, 4206 SE Liebe, said his family has been in business in this building for many years and believes this brew pub will provide a nice neighborhood gathering place, something currently lacking. He described the facility and added that they have agreed with adjacent businesses to use their parking after hours. He said they have a full food menu and will not rely on alcohol sales to make a go of their business.

Mayor Katz asked if children will be allowed on the premises.

Mr. Miller said yes, although they will have a pool room completely

APRIL 20, 1995

sealed off from the restaurant which will be off limits to minors.

Frances Reece, 4306 S.E. Martins, said most of the letters in support of the license come from persons not in the immediate neighborhood. She objected to allowing another liquor outlet in the area between 41st and 47th, where there are 11 establishments within six blocks. The outlet would also be too close to an adult foster home. She also protested the Millers' use of the adjacent street, which she claimed they blocked off for parking, making it unusable. Ms. Reece said neighbors are also afraid parking will spill over onto nearby streets. She submitted a petition signed by 20 people in opposition.

Mr. Miller said the street Mrs. Reece refers to is unimproved and full of ruts. He said he was not using it for a parking lot.

Commissioner Kafoury noted that this is a dispute about issues unrelated to the liquor license and has been going on between the Reeces and Millers for some time. She suggested that the parties use the mediation services of Southeast Uplift.

Both parties agreed.

Gretchen Eichentopf, President, Woodstock Community Business Association, said there is currently no business on Woodstock open in the evening for good food. Traffic will be minimal because people can walk here and the Millers have 24 parking spaces, enough so that other neighborhood businesses will not be affected. She said the Millers were very cooperative in working on the good neighborhood plan and made constructive suggestions for lighting improvements, etc.

Ruth Garvin, Woodstock business owner, said when there is mixed use, prosperous businesses may worry neighbors who are concerned about the effect on their privacy and safety. She said OLCC reported, at one of the community meetings, that brew pubs do not cause many problems regarding public drunkenness, noise and similar concerns. She supported the licensee as a great addition to the neighborhood.

Terri Griffiths, 4121 SE Reedway, Chair, Woodstock Neighborhood Association, said it endorsed the Good Neighbor Plan and Mickey Finn's application at the March meeting. She applauded the Millers efforts to work with neighbors and noted that Woodstock neighbors had previously indicated their desire to attract new businesses of this sort. She noted that this site used to house a used auto parts store.

Commissioner Kafoury moved to approve the application.
Commissioner Hales seconded.

APRIL 20, 1995

Commissioner Hales said the liquor license process cannot be used as a substitute for addressing land use planning and zoning concerns. He said there is concern about saturation of liquor outlets in the neighborhood but no pattern of problems. The applicant appears to be responsible. He urged Mr. Miller to try to work out the disagreement with neighbors.

Mayor Katz said it is nice to have a place where neighbors can feel comfortable but management has to keep an eye out for what happens at 1 a.m. when the outlet closes.

Disposition: Favorably recommended. (Y-4)

At 2:47 p.m., Council adjourned.

BARBARA CLARK
Auditor of the City of Portland

Cay Kershner

By Cay Kershner
Clerk of the Council