



CITY OF
PORTLAND, OREGON

**OFFICIAL
MINUTES**

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

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

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

Agenda No. 1411 was pulled from Consent. On a Y-5 roll call, the balance of the Consent Agenda was adopted as follows:

CONSENT AGENDA - NO DISCUSSION

- 1408** Accept bid of Analytical Automation Specialist for laboratory information management systems for \$51,185 (Purchasing Report - Bid 10)
- Disposition:** Accepted; prepare contract.
- 1409** Accept bid of Hubco Excavation for NE Knott Street, 37th to 39th, sewer reconstruction for \$227,370 (Purchasing Report - Bid 21)
- Disposition:** Accepted; prepare contract.
- 1410** Vacate a portion of SE Ellis Street, under certain conditions (Ordinance by Order of Council; C-9881)
- Disposition:** Passed to Second Reading September 6, 1995 at 9:30 a.m.

Mayor Vera Katz

- *1412** Pay claim of Ronald Paul Fedor (Ordinance)
- Disposition:** Ordinance No. 169231. (Y-5)

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Commissioner Earl Blumenauer

***1413** Establish a fee schedule for service provided by the Bureau of Traffic Management (Ordinance)

Disposition: Ordinance No. 169232. (Y-5)

Commissioner Charlie Hales

1414 Accept contract with Davis & Hibbits for public opinion research as substantially complete and authorize final payment (Report; Contract No. 29988)

Disposition: Accepted.

Commissioner Gretchen Kafoury

1415 Accept remodeling of the ninth floor offices of Bureau of Buildings in the Portland Building by Jasco Construction Services as complete and release retainage (Report; Contract No. 29927)

Disposition: Accepted.

1416 Accept contract with Commercial Affiliates for recarpeting of the ninth floor offices of Bureau of Buildings in the Portland Building as complete and release retainage (Report; Contract No. 29976)

Disposition: Accepted.

***1417** Enter into a lease agreement with AT&T for tower space at Mt. Hood (Ordinance)

Disposition: Ordinance No. 169233. (Y-5)

***1418** Enter into a special use permit with US Forest Service for tower space at Mt. Hood (Ordinance)

Disposition: Ordinance No. 169234. (Y-5)

***1419** Contract and provide payment for Homeless Assistance Center building construction project (Ordinance)

Disposition: Ordinance No. 169235. (Y-5)

***1420** Modify agreement with SERA Architects for City Hall renovation for an additional fee not to exceed \$1,682,670 for a total contract amount of \$2,511,630 (Ordinance; Contract No. 29088)

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Disposition: Ordinance No. 169236. (Y-5)

- *1421 Lease agreement for space at Central City Concern for the Police Bureau (Ordinance)

Disposition: Ordinance No. 169237. (Y-5)

- *1422 Agreement with SW Washington Medical Center for access to the City's 800 MHz trunking radio system (Ordinance)

Disposition: Ordinance No. 169238. (Y-5)

- *1423 Agreement with Columbian Publishing Co. for access to the City's 800 MHz trunking radio system (Ordinance)

Disposition: Ordinance No. 169239. (Y-5)

- *1424 Agreement with King Broadcasting Company dba KGW for access to the City's 800 MHz trunking radio system (Ordinance)

Disposition: Ordinance No. 169240. (Y-5)

- *1425 Contract with Atez, Inc. for interior demolition and hazardous material abatement of Southeast Precinct in Penumbra Kelly Building for \$69,969 and provide for payment (Ordinance)

Disposition: Ordinance No. 169241. (Y-5)

- *1426 Amend contract with Pacific Northern Environmental by \$41,384 for integrated fuel management/leak detection system project (Ordinance; amend Contract No. 29582)

Disposition: Ordinance No. 169242. (Y-5)

Commissioner Mike Lindberg

- 1427 Confirm appointment of Jeff Merkley and reappointment of Juanita Chereck, Jim Dietz and Bud Farm to the Mid-County Citizens Sewer Advisory Board (Report)

Disposition: Confirmed.

- *1428 Authorize agreement to sublease property from Tri-Met for radio communications site (Ordinance)

Disposition: Ordinance No. 169243. (Y-5)

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***1429** Authorize contract with Barbara Foster Associates for Emergency Plan update (Ordinance)

Disposition: Ordinance No. 169244. (Y-5)

***1430** Contract with Analytical Automation Specialists, Inc. to furnish and install a Laboratory Information System (LIMS) for the Bureau of Environmental Services Water Pollution Control Laboratory and provide for payment (Ordinance)

Disposition: Ordinance No. 169245. (Y-5)

REGULAR AGENDA

1411 Confirm appointment of George Bell and Kevin Kelly to the Regional Arts and Culture Council (Report)

Discussion: Commissioner Lindberg recognized George Bell and introduced Kevin Kelly, new members of the Regional Arts and Culture Council.

Disposition: Confirmed.

1431 Request of Harold A. McDonald to address Council regarding proposed sidewalks on NE 122nd (Communication)

Discussion: Commissioner Blumenauer said Mr. McDonald wishes to address a pedestrian improvement project for 122nd which would provide a continuous and fully accessible sidewalk from Powell to NE Shaver. This is a priority project for the East Portland District Coalition. Currently 122nd is pretty user unfriendly and this design includes street trees and detached sidewalks where possible, which is one of the goals of the Livable Cities agenda. The project has been endorsed by the East Portland District Coalition Board and Transportation Subcommittee and by the Pedestrian Program Citizen Advisory Committee.

Harold McDonald, 12216 NE Stanton, said he and 12 other homeowners, the majority of people who live there, oppose including street trees in this project. He said leaves from the street trees will clog the storm drains and the tree roots will uproot the sidewalk, making homeowners liable for repairs. He said the neighborhood already has enough trees and it would be better to place the sidewalk next to the curb.

Commissioner Blumenauer said future generations will appreciate the trees. He said City policy supports the planting of street trees and he

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believes that they are worth the extra money and care entailed. He said, however, the City does need to be aware of the extra expense, which may add to the cost of some Local Improvement District projects and raise issues related to affordable housing.

Mayor Katz said this is a case where Council respectfully disagrees with the view expressed by Mr. McDonald.

Disposition: Placed on File.

1432

Approve and adopt the City of Portland Telework Guidelines for non-represented employees (Resolution introduced by Mayor Katz and Commissioner Lindberg)

Discussion: Susan Anderson, Energy Office, said this will allow City employees and supervisors to look at some creative ways of working out of their homes. Employees involved in the pilot project found they were more productive and most are still doing telework. She said the guidelines are general, reflecting Council's wish that they not be overly restrictive. The Energy Office will conduct one-on-one training and also hold an all-day workshop so that people can see how it works. The Office will also track vehicle mile reduction. Funding from the Oregon Department of Energy will allow the Energy Office to offer assistance to other governmental and business employees in the downtown area.

Commissioner Blumenauer said this is a small but significant experiment.

Commissioner Lindberg said telecommuting is just one element in reducing vehicle miles travelled and lowering CO2 emissions. Even if only five to 10 percent of employees telecommute it will make a significant difference.

Mayor Katz urged Council members to encourage employees to try telecommuting several days a week as a way of increasing productivity. She said its growth could reduce the need for additional space because City employees will be working differently.

Commissioner Lindberg presented an award to David Tooze from the Environmental Protection Agency acknowledging the City's efforts in the Green Lights program, which encourages more energy efficient lighting in City facilities. To date the energy bill for lighting has been cut by \$250,000 per year.

Disposition: Resolution No. 35437. (Y-5)

*1433

Authorize the Livable City Housing Council to obtain City General Fund allocation from Livable City Housing Investment Fund and enter into a loan secured by a first deed of trust with Belmont Dairy Limited Liability Company not to exceed \$330,000 to finance acquisition of property for the redevelopment of the Carnation Dairy site at SE 32nd and Belmont (Ordinance introduced by Mayor Katz and Commissioners Hales and Kafoury)

Discussion: H. Carter McNichol, representing the Belmont Dairy Limited Liability Company, explained that this is a two-full-block development project for the now bankrupt Carnation Dairy site, which sat vacant for several years, becoming an eyesore in the heart of the Belmont District and attracting lots of nuisances. Their original idea to build row houses on this site has now become a mixed-use and mixed-income project with 85 apartment units and 24,000 feet of ground floor commercial space. Of the 85 units, 66 will be affordable units, financed through the State Low Income Housing Tax Credit program, while 19 will be market rate loft units. The financing has been especially challenging but a solid team is now on board, including the City, the Portland Development Commission, Bank of America and Fannie Mae.

Neyle Hunter, Livable Cities Housing Council, said the property is available from the bankruptcy trustee, who wants to close this out by September 1. However, not all the financial resources are in place. When Council approved formation of the Housing Council and set aside funds for the Investment fund, \$600,000 was set aside for the Belmont Dairy. The Housing Council believes it is important to take \$330,000 from the set aside and use it to finance acquisition of the site. If the financing does not come together by December, 1995, then the City will be the primary lending institution for a piece of redevelopable land in inner Southeast Portland. The Housing Council recommends that the City enter into a first lien position and purchase the property with a loan to the developer. The loan will not be signed until there is an agreement in place between the developer and the State Department of Environmental Quality (DEQ) which limits liability for the environmental hazards known to exist on the property. They will be the responsibility of DEQ and the former owner. The City Attorney states that the liability release from DEQ must be on file before the loan is closed.

Disposition: Ordinance No. 169246. (Y-5)

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Mayor Vera Katz

S-*1434 Add new Chapter 14.150 to Title 14 of the City Code that allows for the use of 90-day and one year exclusions in designated prostitution-free zones in the City, establishes procedures and lists initial prostitution-free zones (Ordinance; add Chapter 14.150)

Discussion: Mayor Katz said this is intended to meet growing concerns that on-street prostitution activity is damaging the livability of certain neighborhoods. She said two issues keep coming up: 1) displacement and 2) choices for both the women and the johns. More time needs to be spent on the displacement issue and there will be an increased need for the Police commanders to work together and take a more proactive role when displacement occurs. She said it is hoped that prostitutes and johns "on the circuit" will skip over Portland and move on to another city. Regarding choices, she said she was concerned that prostitutes or johns would not be given choices in the community to change their lives. Social agencies will have an opportunity to meet with the arrested prostitutes to give them choices about their lifestyle. Perhaps some lives will be turned around.

Tom Cleary, Deputy District Attorney, Multnomah County, said this ordinance is similar to the successful drug-free zone ordinance and calls for a 90-day exclusion from these zones for anyone arrested for a prostitution-related offense. An additional year's exclusion will be imposed on those who are found guilty. Individuals who live or are employed or use a qualified social service agency in one of these zones will be given a variance.

Marianne Heisler, Police Commander, Southeast Precinct, said the zones are being placed on streets with the greatest number of problems -- 82nd Avenue, Sandy Blvd. down to Burnside, and Martin Luther King, Jr. Blvd. The exclusion areas are 500 feet, or approximately two City blocks, on either side. That should take care of at least some of the complaints about prostitution-related activities extending into the neighborhoods. She said once people have been arrested, the exclusion allows the Police to arrest them for trespassing into any of the three zones, saving officers from having to observe them actually engaged in prostitution. Putting together prostitution missions is a very time-consuming and expensive process.

Jan Abushakrah, Executive Director, Council for Prostitution Alternatives, discussed some of the concerns the Council has about the proposed ordinance. First, there is concern about the impact this will have on women in the sex business as the national experience with such ordinances has not been encouraging. If enacted, her organization pledges to work closely with the Police to develop written procedures

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that set up open lines of communication with the arrested women and provide for the education of Police officers and community outreach. She said an impact assessment determining whether this ordinance increases the options for the women arrested should also be included in the 90-day evaluation, which currently focuses on the impact on neighborhoods and displacement. Another major concern is the protection of civil rights of those women arrested. She proposed citizen forums which would allow such concerns to be addressed as well as educational programs for Police officers. She said johns and pimps outnumber prostitutes at least five to one and it will be interesting to see if the exclusions for them outnumber those for women by that amount. She said the people they see are local and this is not a question of just moving a few people out of town. Finally, resources are required if women are to get out of prostitution and, as more women seek services, a lot more resources will be needed.

Melissa Delaney, Crime Prevention Specialist, said certain neighborhoods are being degraded by the sexual activity that is occurring there. Both residents and businesses are affected, impacting livability, safety and property values.

Susan Marshall, attorney and Kerns Neighborhood Association Board member, said Kerns is a fragile neighborhood and this ordinance will help make it safer. She said Portland residents should view this as a Citywide problem, not just one for a particular neighborhood, adding that lots of the impounded cars bear Washington license plates. She noted also that she has received anonymous threats every time she has testified on this matter.

Alison Stoll, Crime Prevention Specialist, Central Northeast Neighborhood Coalition, said both Northeast and Southeast Coalitions have worked together on this ordinance in order to limit displacement on Sandy Boulevard, which cuts through both areas. She also described a diversionary program for arrested johns, the Sexual Exploitation Education Project (SEEP), which aims to educate them to look at prostitutes differently.

Kyle Ziegler, Executive Director, Parkrose Business Association, asked that the proposed boundary be extended out to 122nd to include Parkrose.

Terry Vanderkooy, 3725 N. Massachusetts, 97217, supported the ordinance. Regarding the displacement issue, he questioned whether it is appropriate to say that prostitution is illegal in the City but it is really illegal here and here and here. He added the ordinance should be amended to allow neighborhood associations to propose application of the prostitution free zone to a specific area if displacement does occur.

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Lois Achenbach, Hollywood resident, said she has been hassled a number of times by johns while waiting for the bus in Hollywood. Families with children are moving out of the neighborhood because of the traffic and late-night fights between pimps and prostitutes. She said the image of Portland suffers because of such activity and others suffer property devaluation. She asked that the boundary be extended to include all of Hollywood, not just 500 feet on either side of Sandy. She said the Housing Authority of Portland's facility, Hollywood East on NE Broadway, shelters several active prostitutes and at least one pimp. If they continue to be sheltered with impunity, Broadway and Halsey will become the main meeting place for prostitutes and johns, replacing Sandy Boulevard.

Norman Stoll, 3830 NE Hancock, said this is a step in the right direction. He said businesses in his area are being tremendously impacted and may be forced to move if something is not done to curtail commercial sexual activity.

Helen Stoll, 3830 NE Hancock, supported the ordinance. She said prostitution is slavery and she is grateful for the inclusion of educational programs.

Rosanne Lee, 1814 SE 59th, said this is a valuable tool that will allow neighbors to stand together with the Police and service agencies.

Bob Euland, 4411 NE Sandy, Chair, Hollywood Development Corporation, said his group, which is working to encourage transit-oriented development, supports this as the disadvantages of prostitution on development is obvious. Despite his belief in less government, there is a compelling argument for government to do this.

Tom Cropper, PO Box 18025, said he is also concerned about the impact on neighborhoods of nude dancing establishments and adult bookstores. Because of his fears about Police misconduct and misuse he asked that Council retain strict oversight of this action.

John Thomas, Portland Police Officer, said the boundaries were based on the number of arrests for prostitution in each area. If displacement occurs, the ordinance can be amended to include other areas as part of the zones.

Commissioner Hales asked the ending date of the arrest records.

Officer Thomas said they started in May, 1994 and did arrest rates for a period of one year.

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Commissioner Hales said he heard there had recently been an upswing in prostitution-related arrests at hotels along 122nd. Is that correct and, if so, how long would the City have to wait to add that area.

Officer Thomas said he was not aware of that.

Commander Heisler said the arrests on Sandy Boulevard were made closer in, not out at 122nd Avenue.

Commissioner Hales said he had heard there was an upswing in the last few months, on Sandy between 82nd and 122nd.

Commander Heisler said the numbers elsewhere are much less than those in the zone. If this is enacted and displacement occurs, the Police can return to Council with the documentation and ask for an amendment to include the affected areas.

Commissioner Blumenauer said the City has always been sensitive to displacement and not simply moving a problem from one area to another. He said there are two types of displacement: 1) the casual diffusion that does not come down with a vengeance on any particular area; and 2) linear displacement, i.e. further up Sandy. He said when there is a pattern, such as in Parkrose, the City ought to anticipate and take in a little extra territory and let people know the aim is not just to disrupt this activity but to stop it. He said he thinks there is enough data about the problem on Sandy to allow Council to be a little more generous at the margins.

Commissioner Hales said the methodology is fine but the point of community policing is not to be just reactive. It should be possible to state that because of other indicators in a particular area, such as the number of adult businesses, the City should not have to wait until there are a lot of arrests before expanding into these other areas.

Officer Thomas agreed but said the Bureau wanted to have the arrest numbers to back up the boundaries it was proposing. That is why the zones were drafted the way they are. However, the Police are not against going further out on Sandy.

Commander Heisler said the question is whether these boundaries can be defended in court.

Commissioner Blumenauer said he is talking about something that would extend the zone somewhat east on Sandy and somewhat north on 82nd because that is an activity center that shares the same characteristics as the area included in proposed zones.

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Mayor Katz said she received a lot of calls asking why other streets were not included.

Mr. Cleary said when they first drew up these maps, they proposed to go along 82nd to I-205. However, if this ordinance is challenged in court, it will receive a high level of scrutiny and in drafting it staff wanted to be sure they had the hard data to withstand such scrutiny. He said based on their defense of the drug-free zones, he would be less comfortable in defending an area where displacement is anticipated. Anytime anyone is excluded from public property a very high burden of scrutiny must be met. He said he would like to make the entire City a prostitution free zone but would be concerned if he had to litigate it. He said they tried to address that in the expansion part of the ordinance if the number of arrests begin shooting up. When this goes into effect, each precinct will be carefully watching for displacement in areas where they anticipate increased activity.

Mayor Katz asked how the drug-free zones were legally defended.

Mr. Cleary said those areas were well supported by data to justify the exclusions block-by-block.

Commissioner Lindberg asked about the time frame for extending the zone and if there was a centralized way to gather the information.

Commander Heisler said Police Commander Parisi, for instance, will be running some missions and will know in a very short time if there is an increase in the number of girls working on the streets or in the number of citizen complaints about prostitution activity. She said the five Police Commanders meet weekly to discuss such matters.

Mayor Katz said Council's concern is that the Commanders move quickly when they observe displacement.

Commissioner Blumenauer suggested placing a sunset clause on the ordinance to require a mandatory review. He said he is very concerned that this work as intended as a lot of fragile neighborhoods are involved. He said he would like periodic review done in an orderly way.

Mayor Katz said all the exclusionary and chronic nuisances ordinances should be reviewed by Council and she will set up a schedule to do this.

Commissioner Blumenauer said if this ordinance results in more prostitutes being arrested than their customers or johns, then this will not be working right.

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Commissioner Lindberg moved the Substitute. Commissioner Hales seconded and, hearing no objection, the Mayor so ordered.

Commissioner Hales said there need to be ways out for women caught in prostitution and he would also like to see SEEP extended somehow to customers who have not yet been caught. He said an effective tool for regulating adult businesses is needed as well.

Commissioner Lindberg said prostitution is not harmless because of the incredibly negative impact on neighborhoods and businesses.

Mayor Katz said this ordinance deals not only with prostitutes but with customers and pimps as well. She said she hopes the Police run missions aimed at customers as well as prostitutes.

Disposition: Substitute Ordinance No. 169247. (Y-5)

Commissioner Gretchen Kafoury

1435

Appeal of Gainer Towing against denial by Towing Board of Review of application for inclusion in District 7 rotation of the 1995-96 City towing contract (Hearing on Appeal)

Discussion: Dennis Nelson, Chair, Towing Board of Review, said the Towing Board upgraded its contract requirements this year and is now in the midst of a review of the entire contract process.

Marion Gaylord, Towing Coordinator, said this year the Bureau prequalified towers to ensure that they met contract standards and requirements. Packets of information with instructions were sent to each applicant. After she presented a list of applicants for approval, the Board told towers that they would qualify only if all deficiencies were met by June 30 at 5:00 p.m. She detailed problems Gainer Towing had in meeting the standards which, while fairly insignificant one by one, did raise questions about its overall reliability. She described the failure to file by the deadline a faxed photograph of a repaired fence. This resulted in the Bureau's decision not to include Gainer Towing in the District 7 rotation for the coming year.

Mr. Nelson said at its July meeting the Towing Board considered Gainer Towing's appeal of that decision but voted unanimously to uphold it.

Daniel Lorenz, attorney for Gainer Towing, said the hole in the fence was minor and occurred immediately prior to the June 30 inspection.

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Harlan Zeek, owner, Gainer-Economy Towing, said he repaired the hole immediately and faxed photographs documenting the repair to Ms. Gaylord. For some reason, they did not go through. He said the company does not deserve removal from the towing contract rotation because of this. He estimated that a one-year exclusion from the rotation will cost him \$100,000 in revenues. He asked for reinstatement because he had fixed the fence by 5:00 p.m. Ms. Gaylord just did not get notified by then.

Mr. Lorenz said the hole in the fence was the only deficiency cited and had not existed at earlier inspections. He described Mr. Zeek's efforts to fax the material requested by Ms. Gaylord, adding that overall he attempted to comply with Ms. Gaylord's request and thought he had.

Robert Handy, 1101 SE 184th, Gainer Towing employee said the fence was fixed and the company did comply with what was asked.

Commissioner Kafoury asked why the Towing Board unanimously rejected the appeal.

Mr. Nelson said the Board had taken extraordinary steps to impress towers with the seriousness of meeting all the requirements.

Commissioner Blumenauer asked why, if Gainer Towing did not meet the April 10 deadline, its application was even considered.

Mr. Nelson said Gainer was not the only tardy tower. The Board "gave" on that one, feeling that this was a trial period. However, it made it totally clear to towers at that time that there would be no more giving. It also stressed that towers should not wait until June 30 to satisfy the requirements.

Ms. Gaylord said she believes the Bureau was quite enabling with Mr. Zeek and that he should have verified that the photograph showing the repaired fence had been received and was acceptable.

Commissioner Hales said if the Bureau has a strict policy and people do not comply then it must be consistent in its application. That has not occurred here. Gainer Towing's application reflects more a communications problem than a pattern of deficiency. He moved to overturn the Towing Board decision and grant the appeal.

Commissioner Lindberg seconded.

Commissioner Blumenauer said the requirements must be enforced consistently and not be a moving target.

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Commissioner Lindberg said the penalty proposed here does not fit the crime and the benefit of the doubt should be given to the appellant because the consequences are too great for something that is in dispute. To have total equity, the same penalties should have been imposed on everyone who did not meet every requirement during the entire process, not just the last day.

Mayor Katz said the fence was fixed.

Disposition: Appeal granted. (Y-5)

Commissioner Mike Lindberg

- *1436** Authorize the continuance of negotiations for the purchase of a sewer easement required for construction of the St. Johns "A" CSO project, authorize the City Attorney to commence condemnation proceedings and authorize the City Attorney to obtain early possession (Ordinance)

Disposition: Ordinance No. 169248. (Y-5)

City Auditor Barbara Clark

- 1437** Assess property for sewer connection contracts processed through the Private Plumbing Loan Program for the period ending August 15, 1995 (Second Reading Agenda 1405; P0012)

Disposition: Ordinance No. 169249. (Y-5)

- 1438** Assess property for sewer system development contracts of the Mid-County Sewer Project for the period ending July 27, 1995 and non Mid-County for the period ending July 27, 1995 (Second Reading Agenda 1406; Z0612 through Z0614)

Disposition: Ordinance No. 169250. (Y-5)

At 11:52 a.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 30TH DAY OF AUGUST, 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; Michael Holstun, Deputy City Attorney; and Officer Chuck Bolliger, Sergeant at Arms.

REGULAR AGENDA

Commissioner Charlie Hales

- *1439** Amend the Comprehensive Plan Map and change the zone of property at 2604 SE Division Street from R2 and R2.5, Residential, to CM, Commercial/Residential (Ordinance; LUR 95-00368 CP ZC)

Discussion: Michael Holstun, Senior Deputy City Attorney, noted the guidelines to be followed in a quasi-judicial hearing.

Nan Stark, Planning Bureau staff, said this is a request for a zone change to CM, not an appeal. She noted the approval criteria and described the mix of commercial and residential zones in the area, including several nearby non-conforming commercial uses on Division Street and on 26th and Clinton. She said the CM zone allows increased development on busier streets without fostering a strip commercial appearance. This zone supports transit because no off-street parking is required and provides a buffer between busy streets and residential neighborhoods. It also creates new housing opportunities in the City. Non-residential uses are primarily locally-oriented retail services and offices, with housing on upper stories. Two neighboring property owners support the proposal, as does the Division Street Merchants Association. The Hosford Abernethy Neighborhood District had not taken a position but the Chair of the Land Use Committee stated concern that commercial zoning could increase pressure on other residentially-zoned sites and other large houses may also seek rezoning to CM, resulting in a loss of housing potential. However, the CM zone will actually increase the housing potential on this site as the maximum units under the current zoning is seven. Up to 45,000 square feet of housing could be developed on the site with CM zoning, with only 15,000 square feet of commercial space allowed. The CM zone requires that the residential area equal or exceed the area devoted to commercial use.

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Ms. Stark said staff and the Hearings Officer support this zone change, with the condition that the applicants apply for a building permit to ensure that the amount of square footage for residential use equals or exceeds the commercial use. She showed slides of the site, which is being used as a residence and art studio, and of the adjoining area to illustrate the kinds of nearby uses.

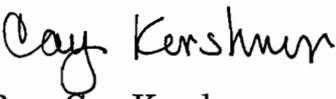
Deborah Dean, co-applicant, said she owns the Clay Rabbit, which for 10 years was located on 26th Avenue, 200 feet from her present location. The previous owner of the property at 2605 SE Division offered them a chance to purchase his property before he put it on the market as he was worried that it would lose its integrity, due to the continued commercial intrusion in the area. Financing has been difficult, however, because initially lenders told them the best use of the land was to tear down the existing buildings and build apartments. She said a lender was finally found and they purchased the property. The prior owner had a woodworking studio, under a home occupancy permit and, while not allowed to have any employees or retail sales on the premises, he did have a few customers each day. She said her pottery business is very similar except that she has a need for more retail customers, between eight and 10 a day. No change in the appearance of the property is planned and they will continue the tradition of having a craftsperson/artist live and work here. This will save a neighborhood landmark rather than having it deteriorate, as is happening nearby. The CM zone change will give them many more positive uses for the property than under the current R2.

Jay Siebert, co-applicant, described his inability to obtain traditional financing because of the zoning.

Disposition: Ordinance No. 169251. (Y-5)

At 2:15 p.m., Council adjourned.

BARBARA CLARK
Auditor of the City of Portland


By Cay Kershner
Clerk of the Council