



CITY OF

PORTLAND, OREGON

**OFFICIAL
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 19TH DAY OF MAY, 1993 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; Kathryn Imperati, Senior Deputy City Attorney; and Officer Sheridan Grippen, Sergeant at Arms.

On a Y-5 roll call, the Consent Agenda was adopted as follows:

CONSENT AGENDA - NO DISCUSSION

- 707** Cash Investment balances for April 8 through May 5, 1993 (Report; Treasurer)
- Disposition:** Accepted; prepare contract.
- 708** Accept bid of Seattle Crane and Equipment Company for furnishing one 48,500 GVW flatbed truck with hydraulic crane for \$93,486 (Purchasing Report - Bid 139)
- Disposition:** Accepted; prepare contract.
- 709** Accept bid of Walter E. Nelson Company for janitorial paper supplies for the period May 1, 1993 through April 30, 1994 for \$77,943 (Purchasing Report - Bid 149-A)
- Disposition:** Accepted; prepare contract.
- 710** Accept bid of Westinghouse Electric Supply Company for furnishing motor starters and transformers for Ankeny Pump Station for \$145,259 (Purchasing Report - Bid 153)
- Disposition:** Accepted; prepare contract.

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711 Accept bid of Dirt and Aggregate Interchange, Inc., for the NE Multnomah/Hassalo Connection Project for \$1,013,796 (Purchasing Report - Bid 156)

Disposition: Accepted; prepare contract.

712 Vacate NW 20th Place, north of NW York Street, under certain conditions (Ordinance by Order of Council; C-9811)

Disposition: Passed to Second Reading May 26, 1993 at 9:30 a.m.

Mayor Vera Katz

***713** Establish new rates of compensation for the Fiscal Year beginning July 1, 1993 for certain classifications, establish effective dates and provide for payment (Ordinance)

Disposition: Ordinance No. 166533. (Y-5)

***714** Agreement in the amount of \$471,130 to provide Multnomah County with fingerprinting and photographic services for arrested persons for FY 92/93 and 93/94 (Ordinance)

Disposition: Ordinance No. 166534. (Y-5)

***715** Amend ordinance for multi-cultural diversity workforce training to correct compensation (Ordinance; amend Ordinance No. 166480)

Disposition: Ordinance No. 166535. (Y-5)

***716** Amend intergovernmental agreement between the City of Portland, Multnomah County and Washington County in the matter of the Private Industry Council (Ordinance; amend Agreement No. 23460)

Disposition: Ordinance No. 166536. (Y-5)

Commissioner Earl Blumenauer

717 Accept completion of contract with All Concrete Specialties, Inc., for improvement of Transit Transfers - Unit 3, approve Change Order Nos. 2 through 4 and Extra Work Order No. 1, release retainage and make final payment (Report; Contract No. 27665)

Disposition: Accepted.

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718 Accept contract with Slayden Construction, Inc., for Holladay Street Improvements Project Phase III as complete, approve Change Orders, release retainage and make final payment (Report; C-9747)

Disposition: Accepted.

***719** Release retainage to the contractor for the Holladay Street Improvements Project, Phase III (Ordinance; C-9747)

Disposition: Ordinance No. 166537. (Y-5)

***720** Authorize Modification No. 2 to contract with Tri-Met for construction of Transit Transfers Site Improvements - Unit 3 Project (Ordinance; amend Contract No. 27251)

Disposition: Ordinance No. 166538. (Y-5)

***721** Amend contract with Shiels and Obletz for professional services to extend Phase III of the Central City Transportation Plan Study to September 30, 1993 (Ordinance; amend Contract No. 26808)

Disposition: Ordinance No. 166539. (Y-5)

Commissioner Charlie Hales

***722** Accept deed to real property bequeathed to the City for addition to Terwilliger Parkway (Ordinance)

Disposition: Ordinance No. 166540. (Y-5)

***723** Authorize Change Order No. 3, adding \$16,653 to contract with Dennis' 7 Dees Landscaping, for work done at Westmoreland Park (Ordinance; Contract No. 27896)

Disposition: Ordinance No. 166541. (Y-5)

724 Change City Code provisions relating to Historic Trees (Second Reading Agenda 699; amend Code Section 20.40.150)

Disposition: Ordinance No. 166542. (Y-5)

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Commissioner Gretchen Kafoury

***725** Increase contract with Coffman Excavation for Heron Lakes Golf Course maintenance yard relocation and parking lot upgrade by \$71,491 and authorize additional increase by an amount not to exceed \$125,400 (Ordinance; amend Contract No. 28472)

Disposition: Ordinance No. 166543. (Y-5)

***726** Authorize the Purchasing Agent to sign a purchase order as a contract with Eastman Kodak for one 2110 DA copier for the Bureau of General Services at the estimated amount of \$62,650, without advertising for bids (Ordinance)

Disposition: Ordinance No. 166544. (Y-5)

Commissioner Mike Lindberg

***727** Consent to the transfer of certain streets within six solid waste and recycling franchise territories to correct an error made in single-family residential value to Sunflower Recycling, Inc., at the time Ordinance No. 164701 was adopted in October, 1991 (Ordinance)

Disposition: Ordinance No. 166545. (Y-5)

***728** Contract with Don Merkt for the creation and installation of a public art project to be located at the Transportation Plaza, NW Fifth Avenue and Irving (Ordinance)

Disposition: Ordinance No. 166546. (Y-5)

***729** Authorize the Mayor to submit a proposal to the Urban Consortium Energy Task Force for a grant of \$50,000 to implement the "Business District Assistance Program" (Ordinance)

Disposition: Ordinance No. 166547. (Y-5)

***730** Authorize the Mayor to submit a proposal to the Urban Consortium Energy Task Force for a grant of \$50,000 to implement the "Resource Efficient Washing Machine Program" (Ordinance)

Disposition: Ordinance No. 166548. (Y-5)

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- 731** Amend the Intergovernmental Agreement for Phase 2 of the Regional Water Supply Plan, Ordinance No. 166426, to increase the City of Portland's base share of the project from \$528,055 to \$546,275 (Second Reading Agenda 689; amend Agreement No. 50045)

Disposition: Ordinance No. 166549. (Y-5)

City Auditor Barbara Clark

- *732** Increase maximum payment on contract with Phillip Grillo from \$11,102 to \$16,102 (Ordinance; amend Contract No. 26563)

Disposition: Ordinance No. 166550. (Y-5)

REGULAR AGENDA

- S-706** **TIME CERTAIN: 9:30 AM** - Amend Title 17 of the City Code to revise solid waste and recycling rates and charges in accordance with the first year solid waste and recycling rate review (Ordinance introduced by Commissioner Lindberg; amend Chapter 17.102)

Discussion: Commissioner Lindberg said this is the first hearing on the City's solid waste and recycling rates and presents a good chance to look at why things are done the way they are and at their accomplishments, particularly in the recycling area. He said in 1991 the State set a recycling goal of 50 per cent by the year 2000; subsequently the City set a recycling goal 60 per cent by 1997 as well as a goal of 10 per cent reduction in the amount of garbage reduced. Metro also has a regional solid waste plan with parameters for the diversion of yard debris from the waste stream.

He said the first big steps to implement these goals were taken in 1992 and results have been excellent, with participation in curbside recycling program up from 39 to 71 per cent, and customers moving to smaller levels of garbage service. Monthly yard debris participation is 22 per cent. More, however, needs to be done to meet regionwide goals. Staff is recommending that yard debris pickup be offered on a biweekly basis and that scrap paper be added as a curbside recyclable item. These services will raise the rate for the coming year only a small amount, or 30 cents per month for the average customer. Staff will also continue to monitor can weights to determine its assumptions and continue rate studies for an additional year.

Sue Keil, Bureau of Environmental Services, said over 70 per cent of households regularly recycle. She reviewed the management report which analyzes results and picks up weaknesses that need to be addressed in the

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next year. She noted a downward shift in the size of containers used -- to minicans and monthly service. This impacts the rate schedule because use of the minican, which was priced as a loss leader as an incentive to recycle, has exceeded projections. She said they are no longer able to subsidize the minican at the current level. Ms. Keil said they hope to divert an additional five per cent out of the residential can with the addition of biweekly yard debris service. She said Portland's monthly yard debris falls far under those of other jurisdictions, most of which offer weekly pickup. However, staff believes that, with proper promotion, the biweekly pickup program proposed will meet Metro goals.

Ms. Keil reviewed the rate increases, including a cut in the minican subsidy which would raise its rate from \$13.00 to \$14.60 per month, adding that this year the subsidy amounts to \$80,000 in franchise fees and next year it could cost between \$150,000 to \$180,000, which is more than the franchise fee can support. She explained how the garbage haulers are made whole for the subsidy portion if their minican use exceeds their disincentive premium from the large carts. Although there are variations in container size use among customers of the 60 haulers, legally there is no way for the City to spread use evenly, adding that an issue of taxing authority also comes into play here. She said BES also underprojected the cost of disposal for the minican customer by 70 cents last year and that is now being corrected.

Commissioner Kafoury said her biggest concern is the subsidy to encourage minican use. She asked if the only way to solve this was to renegotiate the contracts with the haulers.

Ms. Keil said the City has limited taxing authority by Charter and if the City tried to have the haulers pay it, any excess disincentive premium would be deemed a tax and the franchise agreement would call for further inflation of the rate.

Commissioner Lindberg asked if those with larger cans could subsidize the smaller cans.

Ms. Keil said the minican was originally set up to provide an incentive and because of its success it is creating a problem. The issue is that the price increase is a large one for that class of customer. With the new rates, the subsidy for the minican from franchise fees will still amount to between \$27,000 and \$41,000, close to the limit that could be supported without cutting other programs. Minican rates are still priced below cost of service.

Mayor Katz asked about the legal options if the City wanted to continue the minican subsidy at the higher level.

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Ben Walters, Deputy City Attorney, said options include a possible tax on larger services. Under the Charter, the City has limited taxing authority and the Bureau decided that would not be feasible, primarily because the taxes would just be passed straight through to consumers. There is also problem in getting a subsidy set up properly.

Mr. Walters said another option is to reexamine the rate structure and the charges for the larger cans. Again, the problem is that some haulers, because they have higher numbers of minican users, will continue to need to be subsidized in order to make them whole.

Mayor Katz said another option is to renegotiate the contract.

Ms. Keil said if a cost of service mode were in effect, you would not have this problem either. The rate would be higher but you would not have excess profit dropping in any company.

Commissioner Lindberg said the root of the problem is the success of the minican disincentive. He said the question is who pays for it.

Ms. Keil said the franchise fee pays for it. She said she was disappointed to find they could not pull that back and redistribute it but they do not have that authority.

Mr. Walters said another option is to ask the legislature to modify the solid waste statutes to allow a disincentive program at the local level.

Ms. Keil said Portland is only jurisdiction in the State to offer such a disincentive premium built into the carts themselves rather than into the cost of service. She described the other proposed increases in rates, including a decrease in the incentive discount for minicans from \$1.97 to \$1.32 and a decrease in the terrain differential for hilly areas from \$2.00 to \$1.70 as a result of reducing the base on which it was calculated.

Commissioner Hales asked how the area for inclusion in the hilly terrain area was determined.

Lee Barrett, Bureau of Environmental Services, described how the line was determined and the area it covers. He said their time and motion studies show there is a disincentive for haulers in hilly areas and that they are unable to make up the differential in their flat areas. On the Eastside, because so few customers are in hilly areas, the hauler can handle them because the great majority of lots are flat. The variable of lot size was factored in and did not seem to be a problem.

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Ms. Keil said other jurisdictions do not have a hilly terrain rate but may have a rate differential based on the size of lots and the distance between them.

Mr. Barrett said there are 60 haulers out there, not a single provider, and costs can not be spread equally among all the haulers.

Mayor Katz asked if haulers in hilly areas charged more before the franchise system went into effect.

Ms. Keil said they did. She said one proposal is that rates be raised across the City to cover hilly terrain and another is to differentiate more and narrow its application down to those in really hilly areas.

Pat Merkle, 3637 SW Canby, a member of the BES Budget Advisory Committee, said the majority of the committee strongly support weekly yard debris pickup. However, in the interim, they support the biweekly program.

Mayor Katz asked whether they considered weekly pickups during the summer and reducing the frequency in the winter.

Ms. Merkle said they believe there is a need to support the system year round. She said she believed Tualatin had tried reducing pickups in the winter but found it confusing to customers and caused staffing problems for haulers.

Mr. Barrett said they studied other jurisdictions regarding the differential collection. He said staff believed it would be a problem because of notification changes and because of staffing problems for the 60 haulers. He said they believe the savings would not justify the confusion, particularly as they found that the amount of debris did not seem to decrease significantly in the winter.

Ms. Merkle said she personally does not like continuing the minican subsidy although it was a great idea in the first place. She said figuring out a rate that includes both an incentive and a disincentive is a lot more challenging than figuring out one based on cost of service.

Commissioner Hales asked her about the hilly terrain differential as applied to those who do live in the flat areas.

Ms. Merkle said if you live in a hilly area and if it costs more to service that truck, that is a fact of life.

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Andy Toller, 5328 SW 49th Drive, Solid Waste Subcommittee of the Bureau Advisory Committee, said they came to agreement regarding the terrain differential even though this may discriminate against those in flat areas in the West Hills.

Commissioner Blumenauer asked for a one-page report on alternatives to biweekly yard debris pickup and the variables they have been analyzing in terms of differences from month to month.

Renee Kimball, 2224 SE Umatilla, 97202, called for recycling of scrap paper, emphasizing the increasing use of recycled paper by businesses. She urged incorporation of scrap paper recycling in the current program.

Jeanne Roy, Recycling Advocates, 2420 SW Boundary Street, 97201, said raising the rate on the minicans by a larger amount than for standard cans sends the wrong message to customers. She asked that staff be directed to find better rate incentives than are present in the current ordinance. Also, she argued, these rates are too high as the amount of garbage being put out is going down but the savings from that reduction are not adequately reflected in the rates. However, because Recycling Advocates supports increased yard debris pickup and the inclusion of scrap paper, they are supporting this ordinance even though they would eventually like to have weekly yard debris pickup.

Mayor Katz asked her about the difference in rate analysis done by BES and by Recycling Advocates.

Ms. Roy said the staff rates vary widely based on the their assumptions. Several days ago rates were closer to what she thought they should be but then they were raised. She said rates should be going down if services are.

Betty McArdle, 3740 SW Comus, 97219, supported expansion of yard debris pick up and the addition of scrap paper to curbside pick up. She said the City should also consider banning yard debris in the garbage can as has been done in other cities. Another problem is dumping yard debris on undeveloped land.

Jeff Burns, Weyerhaeuser Paper Company, urged adding scrap paper to the recycling program as a way to alleviate pressure on land fills, commenting that recycled scrap paper is becoming an economically feasible material for use in his company's products.

Pat Bozanich, 2406 NE 12th, 97212-4139, supported regular yard debris pickup service and the addition of mixed paper pickup.

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Sarah Grimm, 2514 NW Flanders, 97232, support biweekly yard debris pickup.

Dan Kearns, 111 SW 5th, Suite 3200, asked Council to consider putting more flexibility in the yard debris program. He cautioned that weekly pickup might act as a disincentive by encouraging people to use it more. He also asked for continuance of the subsidy for the minican and the penalty for use of the larger cans as this reflects important policies and sends appropriate messages to the public.

Mayor Katz said she will advise staff to review adding more flexibility about yard debris pickup.

Robin Vesey, 15 SW Canby St., 97219, supported the proposed rates although she said the City at some point needs to look at restructuring the rates, perhaps charging by weight. She also noted that those on monthly service are paying half, not a quarter, of what others pay.

Barbara Wolfe, Wilson Neighborhood Association, asked Council to consider other rate structures regarding the hilly terrain charge. She said many of the streets in the Wilson neighborhood are flat and it is unfair to equate them with Council Crest and Lair Hill. It is also unfair that no hilly areas on the Eastside are assessed for this.

Peggy Lovell, 3925 NE 35th, 97212, said there is still a long way to go to reach the 60 per cent recycling goal, which cannot be reached without inclusion of yard debris and scrap paper. She said the City's current rate of 27.5 per cent is far exceeded by other jurisdictions, such as Seattle, and asked for consideration of banning certain materials, such as yard debris, from the garbage cans.

Glen Anderson, 3580 NE Alberta Court, 97211, said he is concerned about the mixed message Metro's promotion of home composting is sending since the City charges the same whether one uses composting or not. Otherwise, he supports the proposal.

Estle Harlan, 2202 Lake Road, Milwaukie, 97222, representing the Tri Council, said the rates offered today are the barest bones needed to make the haulers whole. The program assumes that no new trucks will be needed to go from monthly to biweekly yard debris pickup and there is also a lot of concern by haulers on the West side because of the hilly terrain rate decrease. Regarding a flexible yard debris pickup program, she said they found that even in the winter months, the amount of debris did not decrease significantly. The current assumption reflected in rates is that there will be

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less debris in the winter months and, if this is not true, they could be quite short. Finally, regarding the subsidy of the minican by the roller cart, she said each time money is added to the roller cart, its use goes down and there is less subsidy available for the minican.

Bill Chamberlain, 2126 SE Madison, 97214, stressed the importance of recycling scrap paper.

Sherry Lipton, 2216 NE 50th, supported the added services but said she has a problem with the rising costs. She said there is not enough rate differential between the minican and the 32 gallon can, which generates 40 additional pounds of garbage for only \$1.70 a can while the minican only has 16 pounds.

Sara Frewing, President, League of Women Voters, favored adding waste paper to the recycling program as well as biweekly yard debris collection. She said they feel comfortable with the gradual approach, moving from monthly to biweekly and perhaps to weekly in 1994.

Steve Apotheker, 1905 NE Going, representing Resource Recycling Magazine and the Columbia Willamette Greens, supported the expansion of services and said they expect that will increase the City's recycling rate to 35 per cent, still a long to go to reach the 60 per cent goal. He said his comparison of 17 other cities shows that Portland's rate is the third highest and all communities with higher recovery rates have lower costs per unit. He said another concern is whether rates have been tied to efficiencies, adding that he look forwards to further work on the numbers. He said it is also critical to have a yard debris program that puts the incentive in the right place to reach the 10 per cent source reduction goal.

Commissioner Blumenauer asked if the other communities used commercial rates to subsidize residential recycling rates.

Mr. Apotheker said no, these are full cost residential rates, not subsidized by commercial.

Mayor Katz asked that he share the rate information and explain why the rates are lower.

Pat Vernon, Department of Environmental Quality, supported the City's proposal as a means of meeting its diversion goals and stressed the importance of Portland's role in demonstrating environmental leadership.

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Edith Throckmorton, 1924 NE 46th Ave., complained about the effect of higher rates on people on fixed incomes. She called for less yard debris pickups in the winter time and for a study of garbage rates in other cities.

Paul Richmond, P.O. Box 454, asked for the city to provide more incentives for community based recyclers such as Sunrise Recycling.

John Drew, 2885 NW Bauer Woods, 97229, owner of Far West Fibers and Easy Recycling, agreed with the hauling community that increased availability of pickup will divert materials from the waste stream but that this service will cost more. He expressed concern about the arithmetic used regarding the market for mixed waste paper, stating that there needs to be a balance between the market that will guarantee acceptance of the material and the City which will generate the material.

Commissioner Lindberg asked staff to respond next week to some of the issues that were raised. He moved acceptance of the Substitute. Commissioner Kafoury seconded and the motion carried. (Y-5)

Commissioner Hales said the differential between the minican and the 32 gallon can is a concern as is the hilly terrain rate. He said he would like to hear any other options that might improve that.

Commissioner Lindberg said next week amendments could be proposed and direction for additional studies could be given.

Ms. Keil said staff could do a full rate review if directed to do so.

Mayor Katz reviewed some of the issues, including the differential on yard debris, hilly terrain, charging by weight, exemption from debris pickup for composters, incentives for community based recyclers and, finally, the whole issue of cost compared to other communities.

Ms. Keil said she would also respond to program cost issues raised by the haulers.

Disposition: Substitute passed to Second Reading May 26, 1993 at 9:30 a.m.

Mayor Katz asked that Council Agenda Item 734 be heard next.

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734

Adopt the report on Walnut Park/North Precinct Development Project attached as Exhibit "A" (Resolution)

Discussion: Douglas Butler, Portland Development Commission, said a broad based group was formed by PDC to review this project and make a specific recommendation to the Council. He said today they have come to Council with a resolution outlining the proposal strategy for the project and an ordinance that would authorize beginning the construction process for the North Precinct facility.

Mr. Butler said the Police precinct project has been treated as the critical path component and given top priority. The other elements, such as housing and adjacent commercial development, should be incorporated in the overall strategy but the precinct project should go forward immediately. He said the proposal that Council saw earlier is the one they recommend today, which calls for commercial development of the portion of the building not required for the precinct. They also recommend beginning a prelease effort on the commercial space rather than remodeling the facility based on assumptions about the unknown needs of commercial tenants. If preleasing efforts fail, they will make other recommendations as it would be unacceptable in the long term to leave an unimproved facade on the two major streets.

Mr. Butler said the total cost is substantially the same as stated in February, with about \$40,000 less for the first phase of work on the Police precinct and \$170,000 less for commercial space. Construction cost estimates have come down substantially but a number of contingencies have been added back such as asbestos abatement, general construction contingency, one per cent for arts, an inflation adjustment and others. He said they believe their numbers represents a very good estimate of what the actual cost will be and for a better project. Public costs have increased since February based on the increased cost for the land and because of the original assumption that a private developer would develop the commercial space and bring \$550,000 worth of equity to the table. They are now recommending that a private developer not be used to develop that space. This does not increase the final cost but does raise the cost to the public. The total cost is now projected at 8.1 million. He said they are recommending cash financing for the commercial space, which is more uncertain and not eligible for tax exempt financing. The Police precinct would be debt financed to allow use of tax exempt financing. Cost recovery would come from the Police Bureau for use of the facility, profits from commercial space leasing and General Fund support. Initially a subsidy of \$300,000 per year from the General Fund would be required, declining in future years. He said the income projections are very conservative and they hope that revenues will exceed them.

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Noting the importance of this project to the community, Mr. Butler said there has been strong support for moving ahead. Regarding minority contracting, he said the ordinance proposes a number of procedures that go beyond the City's normal bidding process. These include requiring: 1) two mandatory prebid conferences to allow minority contractors to increase their contacts with other companies; 2) mandatory six per cent minority participation; 3) documentation by contractors of their outreach to minority subcontractors and; 4) monitoring by the City of contractors to ensure a diverse work force. He said they view this as a minimum and have agreed to further meetings with the community.

Commissioner Kafoury said since the precinct will not open in November, she believes there should be more of a guarantee that this project will have more minority participation. She said a good First Source agreement is needed as well as a stringent program requiring contractors to use minority subcontractors, perhaps through bonding requirements. She said she is not willing to go ahead unless there is a way of guaranteeing such participation.

Madelyn Wessel, Deputy City Attorney, agreed that the City ought to be able to set higher mandatory goals in its private contracting but that can not be done unless a disparity study is done giving evidence to support higher goals. She said the six per cent requirement is a significant step forward, adding that litigation has been threatened by contractor organizations who believe any mandatory goal is illegal. She said efforts to mentor and communicate will bring participation to far greater levels.

Commissioner Kafoury said if setting any goal is legally risky, how was the six per cent derived.

Ms. Wessel said the City is able to set goals consistent with proven availability in the community. Setting any higher goals would be part of a disparity study.

Commissioner Kafoury said she worries about getting hung up on legal requirements and stressed the need to push their efforts in this area.

Mayor Katz said despite the legal bind, the City has moved dramatically on the Blazers arena project. She said they are working on bonding requirements and other measures to help increase minority participation.

David Kish, Bureau of General Services, said there is a greater distinction between employment law and contracting law. All the employment components such as First Source are in place and they expect large percentages of women and minorities to be working as employees. The City

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met with the National Association of Minority Contractors of Oregon (NAMCO) and others to study different options and reached agreement on this from those involved, given the legal constraints. They believe actual participation will end up substantially higher than six per cent.

Mr. Kish said Purchasing has also agreed to drop the bonding requirements from \$4 to \$2 million, which will increase the number of general contractors who will be able to bid on this. He said between now and the time they can go out to bid they can review these programs again with the Commissioners' offices.

Commissioner Hales asked why the project was not broken down into more subcontracts.

Mr. Kish said the same legal constraints apply and they also did not get assurances that minority participation would be higher. At the same time, breaking the project down further would create a huge management problem.

Commissioner Hales said the theory behind subcontracting was to allow access to contractors who would have difficulty bidding on larger jobs.

Mr. Kish said they decided to keep pressure on the general contractors and make sure a lot of networking goes on.

Ms. Wessel said if the City acted as the general contractor it would be required to accept the lowest responsible bid while a private general contractor would have more latitude to select minority subcontractors. NAMCO agreed.

Deputy Chief Moose, Police Bureau, said the Bureau is very sympathetic to the issues of minority contracting but face both internal and external pressures for space. He encouraged Council to act now.

Commissioner Blumenauer asked Deputy Chief Moose to describe how the rank and file have been involved with the design.

Deputy Chief Moose said an ad hoc committee was formed to work on design and security issues. They are very anxious to move forward and are happy with the existing plans.

Commissioner Blumenauer said the \$1.8 million being used to cash out the commercial portion of the project will have a dramatic impact on the Police Bureau. He said it appears that debt service will be about \$450,000 a year for the next 15 years.

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Mr. Butler said \$161,000 is shown for the Police Bureau for the 15 years and the balance would be a General Fund liability. This could be reduced by the offset from any commercial income or from increasing the cost to Police Budget.

Deputy Chief Moose said they anticipate being able to pay their portion without too much detriment to other missions.

Commissioner Blumenauer asked to have that verified in terms of its effect on the Police Bureau's financial plan.

Mr. Butler said they are also talking about donating lease of part of the site to the Boys and Girls Club for \$1 a year.

Butch Holden, Boys and Girls Club of Metropolitan Portland, said they have raised \$1.4 million for a facility in Northeast Portland and would like to lease property from the City, at \$1.00 a year, next to the precinct in order to build the new facility.

Linda White, Director, Columbia Boys and Girls Club, described their program.

Mr. Holden said they try to maximize their money by putting it into the facility, rather than the land.

Commissioner Hales asked if the portion of the property they want to lease would change based on the result of legislation being sought.

Mr. Holden said they may have to go to a two-story rather than a one-story even though they prefer the one-story.

Mr. Butler said there are number of variables here and the exact footprint is not identified here.

Commissioner Blumenauer said everyone agrees this is an exciting addition but the City's relationship is not clarified in these items.

Mr. Butler said the critical path items have been identified and they will return with specifics later.

Commissioner Blumenauer said he is concerned that if this is not nailed down it will result in frustration later because of the vagueness now. He asked if they had cost implications for either party.

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Mr. Holden said they will be back to Council as soon as they resolve some of the items they do not control.

Mr. Butler said there would be no cost implications for the City and hopefully they can reduce costs for the Boys and Girls Clubs.

Disposition: Continued to May 19, 1993 at 2:00 p.m.

The remaining items on the Agenda (Items 735, 736 and 737) were also continued to the afternoon session.

At 12:25 p.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 19TH DAY OF MAY, 1993 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 Sheridan Grippen, Sergeant at Arms.

Items continued from the morning session were heard prior to the Time Certain.

REGULAR AGENDA

Mayor Vera Katz

734 Adopt the report on Walnut Park/North Precinct Development Project attached as Exhibit "A" (Resolution)

Discussion: Commissioner Blumenauer asked whether the prelease triggering mechanism was 40 or 50 percent, both of which are cited in the report.

Mr. Butler said the range depends on whether there is an anchor or not and other elements that are just guesswork right now. He said he would like to report back periodically with updates. He suggested changing it to "40 to 50" per cent.

Commissioner Blumenauer noted that the cost had gone from \$7.3 to \$8.2 million, adding that in the last two weeks it had increased \$200,000 and asked what that was for.

Mr. Butler said there have been no changes in the \$6.7 million in hard costs but the overall number might not be accurate. He said it might be court costs related to acquisition.

Commissioner Blumenauer asked about the consequences if the City makes commitments for substantial investments in East Precinct.

Mr. Butler said that was dealt with as a separate issue as much of the information, including seismic and other concerns, has only recently become available.

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Commissioner Blumenauer said he believed market rent in most of the area is below \$3.00 a square foot and asked how the rental income was projected.

Mr. Butler said they have used a \$6.00 a foot lease rate, escalating after four years to \$7.00 for the remainder of the 15 years. He said there is a substantial improvement allowance as well as lease incentives in the first several years. In addition, they have presumed very conservative occupancy rates and project no commercial income until 1996.

Commissioner Blumenauer said he is voting no because he believes this is more than the City can invest in this site as there is too much uncertainty about where this goes in the Police or General Fund budgets.

Commissioner Hales said he would vote yes but is concerned about the timing of the commercial space and about finding a way to accommodate the Boys and Girls Club. He said he sees this as a catalyst for improved prospects for that intersection and the neighborhoods around it. He said he is concerned that there be a facility that appears to be ready for commercial occupancy and not just a facade.

Commissioner Kafoury said she is still concerned about minority contracting on this project, noting that so far there has been no demonstrated project where First Source and other programs have worked. She said Council needs time to discuss these issues.

Commissioner Lindberg said this project is extremely important in terms of the future of Northeast Portland and Martin Luther King Boulevard. To make a dramatic change, the City needs to make a considerable investment.

Mayor Katz said this is clearly the anchor in implementing the Albina Community Plan and bringing some economic vitality to Northeast Portland. She said the project is risky but is a commitment to Northeast Portland that is long overdue. She thanked PDC for its quick review of this project and Northeast residents for their patience.

Disposition: Resolution No. 35140. (Y-4; N-1, Blumenauer)

***735**

Call for bids for asbestos abatement and general construction of the North Precinct building at Martin Luther King, Jr. Boulevard and Killingsworth Street, authorize contracts and provide for payment (Ordinance)

Disposition: Ordinance No. 166551. (Y-5)

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733 Request from the Mayor to allow Paul Richmond to address the Council on Ordinance No. 166526 (Communication)

Discussion: Mayor Katz said she brought this back because there was some confusion about public testimony when this came up for Second Reading. She said she does not want to preclude anyone from making a statement and is therefore requesting that this be brought back to Council to allow Paul Richmond to address Council on Ordinance No. 166526.

Paul Richmond asked if the Charter allowed an ordinance to be passed without allowing for public discussion.

Ruth Spetter, Senior Deputy City Attorney, said she would like to check the Charter and respond later.

Mayor Katz noted Section 2.120 which states there is no requirement for public testimony.

Mayor Katz indicated that this would be taken up later.

Returning to Item 733 following the disposition of Item 740, Ms. Spetter said the Charter is silent regarding the requirement for public testimony and the Code says public testimony is allowed but not required.

Mayor Katz said she will make a request to bring this ordinance back and will file an objection in writing. She asked that the item be continued to tomorrow.

Disposition: Continued to May 20, 1993 at 2:00 p.m.

Commissioner Charlie Hales

***736** Appoint Lynn C. Davis to the position of Acting Fire Chief (Ordinance)

Discussion: Commissioner Hales said Chief Monogue is retiring and this appoints an acting Fire Chief for the period that a national search is conducted for the new chief.

Disposition: Ordinance No. 166552. (Y-5)

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Commissioner Gretchen Kafoury

***737**

Authorize the purchase of furniture and accessories through an Oregon State Price Agreement and provide for payment (Ordinance)

Discussion: Commissioner Kafoury expressed concern about some of the purchases which seemed to relate more to aesthetics. She referenced her joint memo with Commissioner Blumenauer asking for clarification.

Lyla Gable, Bureau of Emergency Communications Manager, said their primary purpose is the health of bureau employees. The recommendations reflect those of an employee committee which worked with a consultant from OSHA to determine what was needed. She said they are attempting to be proactive in reducing as many workers compensation claims as possible, adding that the majority of the furniture predates the purchase of computers.

Commissioner Hales said he too had questions about some of the items but the Bureau has done a fairly exhaustive job of detailing the costs. The \$400,000 for furniture looks like a lot of money but presumably not all of it needs to be spent. There is also \$20,000 for the Fire Information System (FIS) but, if the Emergency Operations Center is located there, they will relocate the FIS and will not need to spend that sum.

Dale Bushnell, Bureau of General Services, said there is no element of luxury aside from the Board Room which has a somewhat higher level of luxury.

Disposition: Ordinance No. 166553. (Y-5)

739

Adopt the Washington County Segment of Portland's Urban Services Boundary and amend Ordinance No. 150580 which adopted a Comprehensive Plan for the City of Portland by amending the Comprehensive Plan Map to replace the Urban Planning Area Boundary in Washington County with the Urban Services Boundary (Previous Agenda 603)

Discussion: Commissioner Hales said in light of continued negotiations would like this referred back to his office.

Disposition: Referred to Commissioner of Public Safety.

740

Adopt Natural Resource Inventory, ESEE Analysis and East Buttes, Terraces and Wetlands Conservation Plan; amend Comprehensive Plan and Title 33 of the City Code; amend Official Zoning Maps of the City of Portland (Second Reading Agenda 658)

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Discussion: Tim Brooks, Planning Bureau staff, noted that the Planning Commission record is included as part of the official record on East Buttes and also addressed two issues raised in written testimony filed in the week following the Council hearing. The first is a proposal from the Rocky Butte Preservation Society for a map amendment. Staff recommends some change to EP from EC2.1 at this particular site but not to the extent proposed by the Society. The second issue was raised by the Audubon Society regarding reinstating existing Code sections concerning native plants and erosion control which were inadvertently dropped as part of the Fanno Creek plan and which provide clarity and guidance. Staff supports adoption of the Plan amendments as recommended in the Planning Bureau's May 14 memo.

Commissioner Kafoury moved the amendments, which were adopted by voice vote. (Y-5)

Commissioner Hales noted that staff still had the Transfer of Development of Rights issue to negotiate as part of the outer Southeast process.

Mr. Brooks said they will also be studying the environmental streamlining process.

Ms. Spetter said since the amendments amend the Code they would be classified as substantive and an additional Second Reading is needed.

Disposition: Passed to Second Reading as amended May 26, 1993 at 2:00 p.m.

738 **TIME CERTAIN: 2:00 PM** - Declare as City policy the goal of reclaiming and redeveloping the east bank of the Willamette River, including the reconfiguration of the Eastbank Freeway, reaffirm the City Council's commitment to completing the East Marquam Project and clarify the City's commitment to continue major capital investments including regional rail, CSO reconstruction and inner-city housing while pursuing development of the longer term Eastbank vision (Previous Agenda 444)

Discussion: Cay Kershner, Clerk of the Council, noted that a Substitute had been filed. (Because the titles vary significantly, both are included here to illustrate the difference.)

S-738 Reaffirm as City policy the goal of reclaiming and redeveloping the Willamette River Eastbank and direct the Commission of Public Safety to update comprehensive options to address Eastbank land-use, economic development and transportation issues, with consideration of expediting the I-5 Greeley-N Banfield project and meeting regional development and

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transportation goals. (Resolution)

Commissioner Blumenauer said he can not support the Substitute as it calls for more studies and there have already been many studies of the transportation options. He said Eastside businesses are relying on the planned improvements regarding the Water Avenue ramp and McLoughlin Boulevard. He distributed a map identifying five other areas, four in the Central City, where additional acres of riverfront could become available for public development for much less money. He said to put \$200 million in one project focuses too much money on this one priority. Finally, the City has benefitted considerably from the regional transportation planning process which leverages a large amount of additional money. He said these projects take a very long time and it is important to stay focused and not reverse the prior decision. He urged sticking with what we have and trying to accelerate it rather than vote for another delay. He said he would rather kill the ramps right now rather than give them a lingering death.

Commissioner Hales voted in favor of the Substitute. He said he would hate to spend money to study Eastbank park use and then find out that the design of the ramp would have a major impact on the viability of the park.

Commissioner Kafoury said she would like to make a decision one way or another this month about the Water Avenue ramp. She asked Commissioner Hales to try to get a decision quickly so that the City can send a clear signal to the State.

The motion to accept the Substitute passed. (Y-4, N-1; Blumenauer)

Mayor Katz said she is not convinced the proposed Eastside improvements meet common goals or represent the best use of taxpayers money. She does not believe money should be spent simply because it was previously approved, noting ODOT has indicated that the Phase 3 and 4 improvements would not be built until the year 2000 or beyond with total costs estimated at \$90 million and the I-5 Greeley improvements are not yet programmed in ODOT's six-year plan although this segment has the highest accident rate of any segment of I-5 from California to Canada. She said many factors have changed since the 1989 resolution, including the building of OMSI, the arena project and the real possibility of high speed rail. She said the Central Eastside continues to enjoy economic growth and while improved access to I-5 south continues to be a concern, the Water Avenue ramps, at \$20 million, may not be the best solution. The Substitute will provide for a holistic

reexamination of the eastbank area through a collaborative approach and

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give Council a fresh updated analysis which recognizes the tremendous changes in the last four years. She said if the improvements will not be built by the year 2000, taking four to six months for review seems reasonable.

Commissioner Blumenauer asked for clarification from Mr. Warner about the starting time for the Water Avenue ramps. He said he thought they were scheduled for FY 1997, with the other project scheduled later.

Bruce Warner, Regional Manager for the Oregon Department of Transportation, said East Marquam Phase 3 and 4 are both scheduled to start construction the summer of 1998. The improvements would then be operational by the year 2000. He said they are working on the environmental assessment for Marquam Phase 3 right now, which is to come to the public in June. He said he would like to get direction from Council as to whether to hold public hearings on the assessment by the end of this month. If ODOT does not get this direction, it will defer any work on Phase 3 until the City's analysis is complete. He said he assumes that Council will make its decision by November, which would mean a six month delay.

George Van Bergen, Chair, JPACT, supported the current recommended improvements to the Eastbank freeway, arguing that removal of the I-5 link would affect the accessibility of all the radial routes accessing the City. This segment is a critical element and JPACT opposes elimination of this route. The current connection from the Central Eastside to I-5 south is unworkable and alleviating truck traffic on Grand and King and the bridges is critical. He said it is time to implement Phases 3 and 4 and it is critical to maintain strong regional consensus.

Mr. Van Bergen ended by citing the great economic need for these adjustments which were found by the City to be needed 20 years ago and again three years ago.

Mayor Katz said she hoped for the cooperation of JPACT to see how this fits in with the 2040 plan.

Commissioner Lindberg noted that one of his points is that if the City went ahead with the E. Marquam improvement nothing would be changed for 25-50 years.

Mr. Van Bergen said that would be about the time 2040 would be making recommendations for change.

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Commissioner Hales asked if he included the north/south light rail in his projections and asked about the effect of the McLoughlin connection on light rail corridor.

Mr. Van Bergen said it depends on where the light rail alignment is. He said he cannot see traffic on McLoughlin as being any less than now; only future increases would be reduced by the presence of the light rail.

Earl Bolliger, 511 SE Belmont, 97214, supported building the on-ramp south which is desperately needed at once. He called the resolution "satire" and praised Commissioner Blumenauer's resolution.

Gary Coe, President Eastside Industrial Council, said they cannot support any further delay on these improvements, noting that the project was carefully reexamined in 1989. He said the Substitute Resolution undermines the integrity of the public process and requested denial.

Commissioner Hales said he is convinced that this is a healthy industrial area and noted that, even with approval, the improvements will not be in place until the year 2000 when it gets access.

Mr. Coe said they were not aware until last week that Phase 3 had been bumped from a 1995 start date to 1998 and would like to see the project accelerated. He said congestion continues to grow downtown and on the Ross Island bridge because of lack of access to I-5 South from the Central Eastside.

Commissioner Hales asked if Phase 4, the McLoughlin connection, would be the best choice for spending the funds given the possibility for projects that increase capacity on the Ross Island bridge.

Mr. Coe said Phase 4 would replace existing ramps and also make the connection to I-5. He said he believes the connection is worth the \$32 million cost and, while important to the Eastside, is even more important to Clackamas County.

Brian McCarl, Riverfront for People, said they strongly support the Substitute Resolution because it recognizes the historic opportunity it presents to link regional freeway and light rail planning along the Eastbank with Portland's goal to reclaim the Eastbank waterfront. It also focuses urgent attention on freeway safety and access problems in the vicinity of the Convention Center and allows for creation of a regional partnership to evaluate transportation, transit, land-use and economic development issues together in the most cost-effective manner.

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Arthur Grande, 4243 SW Admiral St., 907221, spoke against removal of the Eastbank freeway because of its spectacular view and said it would be a mistake to spend money to move the freeway.

Pamela Reamer-Williams, 5940 N. Basin, 97217, Oregon Trucking Associations, supported going ahead with the Water Avenue ramp and McLoughlin Boulevard projects in the interests of economic development and the vitality of the metro area's business community. She said Phase 3 and 4 represent the solutions and now, after patiently enduring this transportation nightmare for far too long, it should not be delayed any further.

Ray Polani, supported the Mayor's substitute. He said both improvements were planned in the 1980's and new circumstances demand a change of direction with the emphasis on conservation and liveability, not just moving more trucks faster. Transportation should not be dominated by the automobile.

John Bradshaw, 1016 SE Hawthorne, opposed the Substitute. He said the entire eastbank is designated in the Comprehensive Plan as industrial sanctuary, which precludes commercial and residential uses. He said the Plan is specifically designed to prevent actions inconsistent with it. He said passage of the Substitute refutes four years of good work and is a disincentive to investment in the area.

George Crandall, AIA Urban Design Committee, supported the Substitute as way to send the City in a new direction and as the first step in establishing Central City transportation and land use goals.

Austin Brown, 9846 N. Syracuse, 97203, a resident of the St. Johns area asked for a new bridge to alleviate truck traffic on the St. John's bridge.

Alex Pierce, 650 NW St. Helens Ave., supported the Substitute, noting that in 1964 he had argued that the freeway be moved back from the river to allow for development of a park. The use of such a narrow strip was doomed from the start. There is still a chance to recapture its potential before additional money is spent on improvements.

Evan Kennedy, 2309 SW 1st, 97201, said access must be provided to areas of the City that are important to its economic vitality.

Moshe Lenske, 4314 SE Crystal Springs Blvd., 97206, supported the Substitute in order to examine the vision for the Eastbank and make an important decision about the future of the City.

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Ernie Bonner, 2836 SE Main, urged the City to seek investment from the citizens who will be responsible.

Bob Naborl, 2102 SE 7th, said after 20 years of planning and approval of the funding, Council should go ahead with the improvements.

David Lohman, 7528 SE 29th, Port of Portland, said the Port does not want the improvements calling for southbound access to I-5 to be jeopardized as the Port depends on the ability of businesses to efficiently move their goods. He said light rail will not resolve existing freight movement problems and if the City holds back on Phases 3 and 4, the State may find other uses for the money. Finally, the Port is concerned that money spent moving the freeway would make other freight improvement projects unlikely.

Howard Glazer, 2378 SW Madison, said this is an opportunity to prove that past mistakes can be corrected. He said the 1989 decision was an understandable mistake but now, with OMSI, the Convention Center and the Arena, the necessity for rebuilding the waterfront as a civic center should be recognized.

Peter Fry, 733 SW 2nd, an independent planner, said the call in the Substitute resolution for enhanced commercial housing on the Eastbank conflicts with the industrial sanctuary designation in the Comprehensive Plan and could result in the loss thousands of jobs in the City.

Wesley Risher, 1627 SW Troy, said the Bureau of Environmental Services should look at the opportunities that could be gained by combining CSO treatment solutions with reclamation of the Eastbank freeway acreage. He described the multi-objective benefits of such a project and asked that language regarding CSO treatment opportunities be included in the Substitute.

Bruce Warner, Oregon Department of Transportation, suggested that the Resolution to amended to add the Port of Portland to the interdepartmental team. He said it would also help if Council could get a public commitment from the proponents of moving the freeway that they will live with the Council decision and not file lawsuits which could delay the time lines.

Commissioner Blumenauer asked if construction could be accelerated if the project was not challenged.

Mr. Warner said if the process was clean and unhindered by law suits, ODOT could get the project going sooner.

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Mayor Katz said at the Council Informal members were surprised to hear about the design change. She asked if the beginning construction date in 1997 anticipated court challenges.

Mr. Warner said yes, he believes that with a clean process the projects could be speeded up.

Commissioner Hales asked about the effect on the timeline if a recommendation to proceed is made in November.

Mr. Warner said if they can hit the ground running in six months they may very well be able to meet their current time line but will have to compress six months of work to make up the time.

Commissioner Hales noted that ODOT had factored into its timeline the possibility of either a protracted environmental analysis or litigation or both and that was at least as lengthy as the six-months proposed in the Resolution.

Commissioner Blumenauer asked ODOT could move its timeline forward if the City gave the go ahead for the project.

Mr. Warner said yes, the job is very simple and just a matter of when it can be fitted into their process and what hurdles they need to go through first.

Mayor Katz told Mr. Warner to stop shifting the sand, noting that at the Informal, Council was told the project would not be completed until the year 2000. Then he said it would be the third quarter of 1998. She said Council cannot promise no one will file a lawsuit. She asked whether the redesign element he had talked about would take more time.

Mr. Warner said the redesign comment was based on whether Council wanted to modify the project from what ODOT currently envisions as the preferred alternative. He said they try to get projects through the system as quickly as possible, noting the possibility of getting more federal dollars. He repeated his hope that Council could get others to live with the decision it makes.

Mayor Katz said Council will hold ODOT accountable for a much faster time line if Council agrees that the Water Avenue ramps are to built.

Commissioner Lindberg said he thought a total redesign was needed, which would take two years.

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Mr. Warner said the project is simple from a design standpoint but the question is where it fits into the work plan of the design section.

Commissioner Lindberg said he did not think it was that easy to expedite projects under the 6-year plan without deferring something else.

Mr. Warner said if the public is behind the projects it is much easier to go through the process and get decisions to build.

Andy Cotugna, METRO, explained how the McLoughlin Boulevard improvements could be coordinated with light rail. He said Metro is asking the federal government to let it start an environmental impact statement for the south/north light rail connection that will allow for the design work to be done at the same time as the freeway improvements. He said the time period for the ramp redesign is virtually identical to the light rail design and impact statement.

Commissioner Hales said he asked staff to prepare some amendments to the Substitute to accommodate Mr. Fry's issue regarding a conflict with the State Comprehensive Plan. The proposed amendment would change the word "reaffirms" to "reexamines" in the resolved statement. It also moves the language in subsection A up into the text of that resolved section and renumbers the remaining subsections.

Commissioner Hales also suggested amending the Resolution to add the Bureau of Environmental Services to the list of bureaus that would be on the inhouse team.

Mayor Katz asked if his intent was also to include representatives from the Port and Tri-Met as resources.

Commissioner Hales said yes.

Commissioner Blumenauer asked why ODOT and TriMet are mentioned in the Resolution, but not the Port.

Commissioner Hales said the Port is not in the transportation facility construction business.

Commissioner Blumenauer said they do in fact have an ambitious transportation program and the Port is the one group involved with the efficient movement of goods and services.

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Commissioner Hales said he is open to including the Port as one of the partners with ODOT.

Commissioner Katz reviewed the two amendments proposed orally to add BES to the interdepartmental team and add the Port as one of the partners (after Tri-Met).

Commissioner Blumenauer asked if Council wants to clarify what it means by the terms revitalization, redevelopment and reclamation and whether this means moving the freeway or not.

Commissioner Hales said he did not think it was necessary to move the freeway to accomplish those objectives. He said he would term some of the concepts in the Eastbank Master Plan process as reclamation. Redevelopment may include mixed-use development along the Eastbank.

Commissioner Blumenauer said it does speak to mixed use but that is not how it is zoned in the Central City Plan. He said he has heard two things, that the freeway will be moved and that it will not. He said Council should send clear signals as to whether a move is on the table or not. That would help the citizen process so that everyone does not talk past each other.

Mayor Katz noted that his resolution also talks about reclaiming and redeveloping the Eastbank.

Commissioner Blumenauer said yes but his is a long term process that does not have a short term impact but would be initiated through the 2040 plan. He said he is personally confused about whether the discussion will include talk about moving the freeway or not.

Mayor Katz said all options are on the table for review. The recommendation which comes back will be clear about how to proceed. She said there is nothing in this language that says the freeway will be moved. She said a lot of statements were made in 1989 about the use of the money and she wants to be very clear about that too. She said the whole idea is to review this with fresh eyes to see if what was decided in 1989 still makes sense or needs modification.

Commissioner Blumenauer asked if this allows the study of moving the freeway.

Mayor Katz said the resolution will allow the review of all the options available to the City. She said it is very likely that the group will say that moving the freeway is not feasible in the near future.

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On the roll call for the proposed amendments, the Council voted Y-5.

Commissioner Blumenauer said he will not support this based on his concern that the Council will paint itself into the corner since no additional money is being spent on the study. A better approach would be to expedite this project and then look at the broader concept since it is going to take 20-50 years anyway. At some point he hopes Council will talk about its priorities for revitalization Citywide, not just for this area alone. He said he will make sure Transportation provides whatever information is needed and assist with regional support. He voted no.

Commissioner Hales said he believes the City is painting itself out of a corner, spending \$200 million on improvements on a section of the freeway many wish was not there in the first place. He said decades of planning dominated by the automobile have despoiled much of the character of neighborhoods. He said he does not regard this decision as a "go" or "no go" decision on a transportation project but as an effort to find a new balance between mobility and liveability.

Commissioner Lindberg said this is a tremendous opportunity which could allow the City to make a dramatic change for future redevelopment. He said he does not think the downside, a six month delay, is that great. He stressed the need to look at the Willamette as the heart of the City, stating that Council should look at what it can become with vision and the political will to move forward. He said the City should start with a vision and not be stopped just because it does not have the money now. Nor it is a matter of selecting just one priority, but of moving dozens of projects forward.

Mayor Katz said she heard the same arguments about not changing the rules of the game midway or not having the money regarding both Waterfront Park and light rail. She said she has the responsibility to bring this issue to closure, noting that Council did not support the original resolution so the choice was either to vote it down or think about an alternative that would allow Council to look at this with a new perspective. She said this action buys six months to review decisions which people have agonized over for the last 15 years. She committed to no further delay after November.

Disposition: Substitute Resolution No. 35141 as amended. (Y-4; N-1, Blumenauer).

At 4:50 p.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 20TH DAY OF MAY, 1993 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; Linda Meng, Senior Deputy City Attorney; and Officer Sheridan Grippen, Sergeant at Arms.

741 **TIME CERTAIN: 2:00 PM** - Prescribe the rates and charges for water and water-related services by the City of Portland during the fiscal year July 1, 1993 to June 30, 1994, and fix an effective date (Ordinance introduced by Commissioner Lindberg)

Discussion: Commissioner Lindberg said common ground between the Water Bureau and Bureau of Environmental Services will be sought since both bureaus serve the same customers and a common approach to rates represents equability, accountability, service to the customer and conservation. When both water and sewer rates are put together, because of metered sewer billing, 50 per cent of the customers will receive a small rate decrease.

Mike Rosenberger, Water Bureau, moved to amend the ordinance by replacing the current page 22 (Section 9). Commissioner Lindberg moved the amendment. Commissioner Hales seconded and the motion carried. (Y-4)

Mr. Rosenberger said the proposed six per cent increase will fund next year's budget and is not meant to make up for revenue lost because of the drought. Components of the increase related to debt service, reduced interest earnings and rate of return, inflation and a small technical adjustment between retail and wholesale customers. Rates are predicated on current demand levels and may need adjustment if demand levels change. The Bureau expects to put peak season pricing into effect in the Spring of 1994 and is also considering a tiered rate beginning in 1995. Curtailment pricing could be implemented late in the summer if water supplies dwindle.

Commissioner Lindberg said no massive capital improvements are included in this Plan.

Terry Thatcher, Deputy City Attorney, reviewed the extent of contamination in the well field as it is currently known. He said the contamination makes it problematic that the City can use these wells because of the danger of

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broadening the contamination. Once the contamination was identified in 1989 the City identified two goals: to get as much of well field operational as possible while limiting liability and protecting the environment; and 2) recover the economic loss caused by the contamination. He noted that Council approved the filing of law suits again the responsible parties, Boeing Co. and Cascade Corp., if necessary.

Mr. Thatcher said the City decided to focus first on getting the five wells in the Blue Lake Aquifer back on line, noting that recent test results show that those wells are disconnected from the contaminated area.

Regarding litigation efforts, he said the City believes seeking solutions outside the courtroom is preferable, but litigation remains an option. He said they have made considerable progress in the last two months and expect to know more within the next two months.

Commissioner Lindberg said spending years in the courts does not bring more water on line.

Commissioner Hales asked about the relation between the unavailability of the well field and its effect on rates if the City were to win and collect money.

Mr. Rosenberger said if they get new money they could use it to mitigate the new rates.

Commissioner Lindberg noted that because the City did not have the well fields, it had to pay \$5 million to others for water.

Mr. Thatcher said the strategy is viewed as a cost minimalization effort. He said with litigation, you cannot guarantee that if you win, you will get the money right away, especially when you cannot fully estimate the damages. Long term, the City hopes to get as much money as it can to replace the money spent to buy additional water.

Mr. Rosenberger said there is no assumption in the financial plan to recover the money spent last year during the drought. If any money was recouped it could either be used for rate rebatement or put towards capital improvements. He said all of the proposed rate increase would be required regardless of the outcome of the well field litigation.

Mary Nolan, Bureau of Environmental Services, said this ordinance represents the third step of implementing the Bureau's financial plan and determines in what proportion the money needed will be collected. A

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significant change proposed for next year is the change to metered billing, which they believe will be more equitable, reflecting a customer's actual use. She said while it is estimated that half the users will receive a decrease in their rates, other users will no longer be subsidized and will pay higher rates.

Ms. Nolan said this ordinance is based on current state law, allowing the City to collect stormwater fees although the Roseburg case now before the Supreme Court may necessitate a change later, depending on the outcome. The cost of operations is flat and all of the rate increase is attributable to increased capital costs and rate stabilization.

Paul Richmond, no address given, called for improving water quality on a community basis. He voiced concern about Joe Glicker and the Douglas Larson case and the fact that all the perpetrators are still in their positions.

Tom O'Keefe, United Community Action Network, objected to lumping water and sewer rates together. He said he is concerned about raising rates without notifying people about the availability of the stormwater discount program. He claimed the City is currently overcharging thousands of customers and asked for a moratorium on any increases until the public has a better understanding of what is involved.

Mayor Katz asked the bureau to address the discount. A review mechanism for rates is being considered.

Mr. O'Keefe said they had pointed out to BES that their discount application was flawed and incorrect. They believe it is wrong to say the well field does not affect rate increases. As examples, he cited such items as payments for well testing, use of a consultant to help with negotiations and the development of Bull Run Lake.

Commissioner Lindberg said there are direct financial impacts because of the inoperative well fields, noting that money has to be spent to get additional water as well as to get the wells back on line.

Joe Keating, United Community Action Network, called for a moratorium on any rate increase until the City's negotiations with Boeing and Cascade are open to the public. He noted that the City spent \$40 million to get the well fields on line and took serious exception to saying there is no distinct connection.

Mr. Keating said after two years of negotiations, there has not been any

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resolution about the well fields. He said citizens do not have any confidence in these secret negotiations and should not be asked to support a rate increase because the polluted wells are not available. He said he is not saying the rate increase is not justified but only that the public is not being adequately represented in these secret negotiations with Boeing and Cascade. He said Mr. Thatcher's claim that the DEQ recommended that the meetings remain secret is absurd and claimed that if the Bureau had followed Mr. Thatcher's advice about the Little Sandy River, it would not be available for water usage.

Commissioner Lindberg said these are serious allegations and he would like to allow the City Attorney's office a chance to respond.

Commissioner Blumenauer defended Mr. Thatcher and the City Attorney's office, stating that they have been professional, aggressive and farsighted in their efforts. He said he rejects any charges about their integrity in protecting the interests of the City. He said it is the job of the Council to defend them.

Jeffrey Liddicoat, 5403 SE Gladstone, said the average citizen is getting nicked and dined to death with fee increases. He blamed the rate increasers on the City's growth policy and called for slashes in the bureaucracy and a scaling down.

Patrick Conley, 11219 SW 16th, 97219, said he thinks this is part of a program to destroy the City's water source so that a half a billion water filtration plant will have to be built.

Re the stormwater drainage discount, Ms. Nolan said the issue of how the rates are set for stormwater charges depends on how the costs are allocated for performing the services that the program includes. She added that if one customer's cost is reduced, even for legitimate reasons, it does not reduce the amount of service that needs to happen. The only time providing a discount reduces demand is for customers who install improved facilities and reduce runoff. She said they are nevertheless actively pursuing a discount program because they believe it is equitable.

Jane Burke, Customer Services, BES, explained the current charges and discounts offered to those who mitigate their stormwater runoff on site. Currently a single family home is charged an impervious area fee based on 1500 square feet of hard surface area and those who feel they have less than 1500 square feet may apply for remeasurement. A new survey, however, shows that the average single family home area is closer to 2400 square feet and with this new measure they intend to do a public information process

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that will allow people to get their home remeasured if their area is less than that. She said they plan to do a bill stuffer on July 1 to explain metered billing and the new 2400 square foot measurement.

Ms. Nolan said they are still debating whether to do a separate mailer or an insert. She said studies show that the readership results from each method are quite comparable.

Mayor Katz suggested that this information also be included with the bills in the following months as well.

Ms. Burke said the current 1500 square foot charge for impervious area is \$4.02 and, even with the increase in measurement, the new rate is \$4.06, not significantly higher.

Mr. Thatcher said the DEQ rationale for keeping the meetings with Boeing and Cascade Corp. secret was because they are negotiation-type meetings that involve parties that are potentially liable. He said there are already DEQ orders in place against both these companies and so in essence the City is negotiating the form of an enforcement order. Each step taken has to be approved by the DEQ. He said their experience is that these meetings are most productive when there is both legal and technical candor.

Commissioner Lindberg said he is very concerned about allegations that the City Attorney's office is not looking out for the public interest. He said his experience is entirely different and irresponsible charges bother him.

Mayor Katz asked the Bureau to share their plans to advertise the discounts.

Disposition: Passed to Second Reading as amended May 27, 1993 at 2:00 p.m.

742

Amend Title 17, Chapter 17.36 of the City Code to revise sewer user rates and charges in accordance with the Biennial sewer user rate study. (Ordinance introduced by Commissioner Lindberg)

Disposition: Passed to Second Reading May 27, 1993 at 2:00 p.m.

Mayor Katz noted that under the Code any Council member Code may file an objection to an ordinance and ask for its repeal. She asked that Council repeal Ordinance No. 166526 passed earlier by the Council and that the item then be resubmitted under Suspension of the Rules to allow time for public testimony. Council agreed.

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Suspension of the Rules

743 Authorize the Commissioner-in-Charge of the Police Bureau and the Chief of Police to enter into Memorandum of Understanding with the State, Federal and/or local law enforcement agencies to coordinate the planning and deployment of resources needed for joint investigation of specified criminal activity (Ordinance No. 166526)

Disposition: Ordinance No. 166526 repealed. (Y-5)

744 Authorize the Commissioner-in-Charge of the Police Bureau and the Chief of Police to enter into Memorandum of Understanding with the State, Federal and/or local law enforcement agencies to coordinate the planning and deployment of resources needed for joint investigation of specified criminal activity (Ordinance)

Discussion: Pat Conley, 112919 SW 16th, 97214, objected to this ordinance because the federal government, unlike the State and City, is not accountable. He said he is afraid he will be targeted for harassment by federal agents

Paul Richmond, PO Box 454, 97207 said the City is in denial about the fact that its Police force is out of control. He said the ordinance is too vague and scary, allowing officers to make arrests without warrants.

Kristopher Barrett, 3605 SE 73rd, 97206, said in the wake of the Waco incident, he is concerned about the City subordinating its operations to a federal agency. He said the issue of responsibility and liability for arrests should also be addressed.

Mary Overgaard, Deputy City Attorney, said from time to time the Police Bureau is asked to participate in joint task forces with other governmental entities, sometimes for an emergency situation. To enter into any intergovernmental agreement there must be Council approval. This would delegate Council approval to the Commissioner-in-Charge so that when time is of the essence, joint efforts can be expedited.

Other individuals speaking in opposition included:

Doris Olson, NE Couch
Charles Stewart, Ridge Street, Sandy
Tom O'Connor, no address given
Jeff Pavey, 11293 SE Linwood
Noel Gilchrist, 603 SE Alder

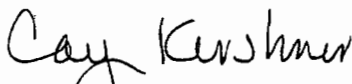
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Mayor Katz said this ordinance has been before Council year after year and is not something new. She said organized crime activity on auto theft could not have been halted without help from the State and the FBI and the same applies to organized criminal drug activity. This permits these jurisdictions to work together in a normal businesslike fashion and it will be her decision about when such joint efforts are needed.

Disposition: Passed to Second Reading May 26, 1993 at 9:30 a.m.

At 3:50 p.m., Council adjourned.

BARBARA CLARK
Auditor of the City of Portland


By Cay Kershner
Clerk of the Council