



CITY OF
PORTLAND, OREGON

OFFICIAL
MINUTES

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 25TH DAY OF AUGUST, 1993 AT 9:30 A.M.

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

OFFICERS IN ATTENDANCE: Cay Kershner, Clerk of the Council; Ben Walters, Deputy City Attorney; and Mark. W. Murawski, Sergeant at Arms.

Agenda No. 1379 was pulled from Consent. On a Y-4 roll call, the balance of the Consent Agenda was adopted as follows:

CONSENT AGENDA - NO DISCUSSION

1353 Vacate the NE 159th, 161st, 163rd and 165th Avenues cul-de-sacs within the Columbia 205 Commercial Park subdivision, under certain conditions (Ordinance by Order of Council; C-9816)

Disposition: Passed to Second Reading September 1, 1993, at 9:30 a.m.

Mayor Vera Katz

1354 Adopt City of Portland investment policy (Resolution)

Disposition: Resolution No. 35179. (Y-4)

***1355** Designate the Director of Office of Finance and Administration or the Debt Manager to declare official intent to reimburse the City for prior expenditures with tax-exempt debt (Ordinance)

Disposition: Ordinance No. 166869. (Y-4)

AUGUST 25, 1993

- *1356** Authorize the Interim Personnel Director to sign an agreement between the City of Portland and the Portland Police Association, the Portland Fire Fighter's Association and the Portland Police Commanding Officers Association, relating to the continuation of city-paid health and welfare benefits to employees who are injured on the job or who have an occupational illness or injury (Ordinance)

Disposition: Ordinance No. 166870. (Y-4)

- *1357** Authorize agreement to indemnify against defects in the title (Ordinance)

Disposition: Ordinance No. 166871. (Y-4)

Commissioner Earl Blumenauer

- *1358** Amend an intergovernmental agreement with the Port of Portland to provide additional funding for the N Marine Drive Project (Ordinance; amend Agreement No. 25064)

Disposition: Ordinance No. 166872. (Y-4)

Commissioner Charlie Hales

- *1359** Contract with AG Crook Company for forestry inventory and professional consulting services at Forest Park and provide for payment (Ordinance)

Disposition: Ordinance No. 166873. (Y-4)

- *1360** Authorize Change Order No. 8, adding \$7,081 to contract with Rollins and Greene Builders for work on Phase II of the Matt Dishman Community Center remodel (Ordinance; amend Contract No. 28444)

Disposition: Ordinance No. 166874. (Y-4)

- *1361** Authorize Change Order No. 9, adding a sum not to exceed \$32,000 to contract with Rollins and Greene Builders for work on Phase II of the Matt Dishman Community Center remodel (Ordinance; amend Contract No. 28444)

Disposition: Ordinance No. 166875. (Y-4)

- *1362** Extend contract with the State of Oregon for regional hazardous materials emergency response team services for six months (Ordinance; amend Contract No. 28171)

Disposition: Ordinance No. 166876. (Y-4)

AUGUST 25, 1993

Commissioner Gretchen Kafoury

- *1363** Amend agreement with Oregon Outreach by increasing the amount of compensation by \$8,000 to provide expanded summer services for youth and provide for payment (Ordinance; amend Contract No. 28791)

Disposition: Ordinance No. 166877. (Y-4)

- *1364** Contract with Franciscan Enterprise, Inc., and House of Umoja, Inc., for \$35,500 for renovation of the property at 1626 NE Alberta Street, to be used as counseling facilities for the House of Umoja, and provide for payment (Ordinance)

Disposition: Ordinance No. 166878. (Y-4)

- *1365** Contract with Central City Concern for \$312,827 for the Hotel Maintenance Program and provide for payment (Ordinance)

Disposition: Ordinance No. 166879. (Y-4)

- *1366** Contract with Salvation Army for \$23,000 for emergency and transitional housing services and provide for payment (Ordinance)

Disposition: Ordinance No. 166880. (Y-4)

- *1367** Contract with Multnomah County for \$67,000 in Emergency Shelter Grant funds to administer homeless-related programs and provide for payment (Ordinance)

Disposition: Ordinance No. 166881. (Y-4)

- *1368** Contract with Multnomah County for \$354,645 in Community Development Block Grant funds to administer homeless-related programs and provide for payment (Ordinance)

Disposition: Ordinance No. 166882. (Y-4)

- *1369** Contract with Hoogs & Pradhan Architects & Planners for architectural services during construction of two buildings for police vehicle storage facility, waive consultant selection procedures and provide for payment (Ordinance)

Disposition: Ordinance No. 166883. (Y-4)

- *1370** Authorize contract with The Pringle Company for business process review, requirements definition and computer platform and software identification for the Bureau of Licenses (Ordinance)

AUGUST 25, 1993

Disposition: Ordinance No. 166884. (Y-4)

- *1371** Amend contract with Oregon Human Development Corporation to increase the amount of compensation by \$32,000 to provide increased Hispanic services and provide for payment (Ordinance; amend Contract No. 28850)

Disposition: Ordinance No. 166885. (Y-4)

Commissioner Mike Lindberg

- 1372** Accept completion of the NE 25th avenue from NE Fremont Street to NE Regents Drive reconstruction and make final payment to Robertson Utilities, Inc. (Report; Contract No. 28743)

Disposition: Accepted.

- 1373** Partially release retainage withheld on the Ankeny Pump Station revisions and modifications project (Report; Contract No. 27095)

Disposition: Accepted.

- 1374** Accept the Final Certificate of Completion, approve Change Orders for the Irvington sanitary sewer and provide for final payment to Alliance Corporation (Report; Contract No. 28043; C-9775)

Disposition: Accepted.

- *1375** Approve Change Order No. 5 on contract with Coffman Excavating, Inc., for the Royal Highlands Pump Station LID and authorize payment (Ordinance; Contract No. C-9715)

Disposition: Ordinance No. 166886. (Y-4)

- *1376** Contract with the USDA Soil Conservation Service for monitoring of snow cover and precipitation in Bull Run Watershed without advertising for bids (Ordinance)

Disposition: Ordinance No. 166887. (Y-4)

- *1377** Contract with Woodward-Clyde Consultants to provide professional multi-disciplinary services for Johnson Creek Early Action Projects (Ordinance)

Disposition: Ordinance No. 166888. (Y-4)

AUGUST 25, 1993

- *1378** Authorize an intergovernmental agreement with Multnomah County for monitoring and controlling of rats within and originating from the City's wastewater collection system; response to complaints and provision of advice to property owners regarding control (Ordinance)

Disposition: Ordinance No. 166889. (Y-4)

- *1380** Authorize a contract with Talbot, Korvola and Warwick for an audit of the Mid-County Sewer Project (Ordinance)

Disposition: Ordinance No. 166890. (Y-4)

- *1381** Amend contract with Network Computing Corporation to provide budget billing program (Ordinance; amend Contract No. 28169)

Disposition: Ordinance No. 166891. (Y-4)

City Auditor Barbara Clark

- *1382** Amend ordinance creating the Win Sivers Business Park Improvement District by correcting district description (Ordinance; amend Ordinance No. 166779; C-9846)

Disposition: Ordinance No. 166892. (Y-4)

REGULAR AGENDA

- 1352 TIME CERTAIN: 9:30 AM** - Accept Regulatory Review Report and forward to the Office of the Mayor for consideration by the Business Roundtable (Report introduced by Commissioners Blumenauer and Kafoury)

Discussion: Kevin Kohnstamm, Development Liaison, described the basis for reconvening a committee in 1991 to review the regulatory review process, particularly as the Planning Bureau moved to full cost recovery and sought substantial fee increases. That committee, composed of development practitioners and division level bureau managers, focused only on the land division process. The charge to the committee included finding potential cost savings for the City, faster turnaround times for the applicant, more constructive citizen participation and the elimination of unnecessary procedures. The committee subsequently identified 12 issues for attention and distributed a draft report in November, 1991 to interested parties, including neighborhoods and conservationists. At a hearing on the draft, neighborhoods and conservationists expressed outrage at what the committee had done. What most distressed them was not the recommendations but the composition of the committee which was weighted heavily with development practitioners. Consequently, in March

AUGUST 25, 1993

1993 a revised report was taken to the Planning Commission which requested the addition of a matrix to indicate the level of public review each recommendation would receive.

Thomasina Gabriel, Gabriel Development Services and Chair of the Regulatory Review Committee, reviewed 10 of the major issues involved, eight of which are procedural and do not change policy. While six of those went through the process relatively unchanged, two were of concern -- resource protection and erosion control. Two additional issues have policy implications -- citizen participation and zoning regulations. These two have caused the most discussion and the least resolution. As a result of initial testimony, the citizen participation component was completely rewritten. The zoning regulation was referred to the planning process to see if agreement could be reached in those places where growth could be increased. Ms. Gabriel recommended referral to the Mayor to have it become part of the deliberations of the Business Roundtable.

Commissioner Kafoury said she is comfortable with that recommendation but noted that some of the issues are being actively pursued elsewhere, such as Liveable Cities, Transportation, Environmental Services, Buildings, etc. She said people should not think that nothing is happening until the Business Roundtable completes its work.

Ms. Gabriel agreed and said they calculate that between a third and a half of the issues are being addressed by various bureaus.

Commissioner Kafoury underscored that these issues are complex and difficult to solve to everyone's satisfaction.

Ms. Gabriel said one of the key issues is having people participate in the decision-making process early enough when there are conflicting concerns so that it can be a collaborative rather than adversarial process. While the applicant's priority is for clarity, timeliness and service, enough time needs to be allowed to discuss all the issues and not steamroll them through. A last set of issues focuses around how to achieve growth and still maintain liveability and resource protection. She said this is the area where the greatest leadership is needed and where it will be up to Council to provide it.

Don McClave, Business Roundtable Chair and President of the Chamber of Commerce, said they have been evaluating the Portland business climate relative to other cities in the Northwest. He said in the last 10 years, Portland, unlike the region, did not develop the number of jobs it needs to keep its citizens employed. The Roundtable heard repeatedly about the slowness of getting projects through the system and hopes to look at this process in the next two months to see if it can be expedited.

AUGUST 25, 1993

Commissioner Kafoury said the same issue will face the Business Roundtable that faced the Regulatory Review Committee -- that it does not include neighborhood representatives or environmentalists.

Mr. McClave said it is premature to hold hearings now as they are still far from knowing how the process should work.

Commissioner Kafoury said that is missing the point. People do not want to just come to a hearing and testify. They want to be part of the process from the beginning. She said she thinks Council should guarantee that other groups are involved.

Mr. McClave said at some point there has to be a better way of coordinating the bureaus. He said the simplest way to start is to take a nonpolitical look at the best way to simplify the process first.

Peter Fry, 733 SW 2nd, praised this report for the following reasons: 1) the process has been self-correcting; 2) it is formatted logically and clearly and; 3) the recommendations are sound. He said this report is too important for the Roundtable as it cuts across all lines of the City and suggested the Neighborhood Congress as an appropriate vehicle for dealing with these issues. He cautioned that if this sits too long with Roundtable it will create polarization.

Steve Rogers, Chair, Eliot Neighborhood, said they support the recommendation to form a citizen participation committee as it is important that all stakeholders be involved from the start. He said it is bizarre to have this recommendation passed on to another business group.

Bob Holmstrom, Vice President, North/NW Neighborhoods, said while they accept that the City will grow, it must be based on dialogue between all affected parties rather than planning to maximize developer profit. This report was produced by a committee that had no neighborhood representation and the development community did not bother to attend any of the public hearings. He noted the aim of the Liveable Cities project is to convince citizens that density is desirable and that compatibility with adjacent projects should not even be a permit issue. He expressed concern with Section 7.9 which requires the City to continue the policy of allowing construction to begin prior to final plat approval. This allows developers to operate without purchasing bonds that would protect the City in case of any fault. He questioned the City's acceptance of such risk, arguing that it is like asking the fox to design security for the henhouse. He said quality growth should be encouraged, not just a streamlined permit process.

John Rettig, 8646 NW Skyline Blvd., 97231, charged that the Regulatory Review Committee has only the financially able as members and, without a balance of neighborhood representation the report is heavily weighted in

AUGUST 25, 1993

favor of the development community. He said the report is an excellent example of how not to do business or involve citizens. Both the process and the content must be remedied to represent all interested parties and the Business Roundtable is not an appropriate forum to iron out all the technical issues.

Mayor Katz said the Business Roundtable will not be getting into those details.

Commissioner Hales said there seems to be two layers of issues: 1) those relating to the level of citizen participation and the committee's composition and; 2) technical issues, such as the installation of water meters, which he assumes would not be of particular interest to neighborhoods. He said he thought the neighborhoods would favor moving forward with the report's recommendation that a balanced committee be formed.

Mr. Rettig said many of the technical issues can be handled within the bureau but if development activities are proceeding without bonding it puts the City in jeopardy. He said he would trust the bureaus to take care of the technical issues.

Commissioner Hales said routing the entire report then might not be the best approach and it might be better to segregate out some of the issues.

Roger Verlakis, Northwest District Association (NWDA), said it is high time developers and interested neighbors got together to form a more efficient process to create and control development. Often, he said, developers and the City view citizens as only being in the way while citizens look at developers and government as self-serving feeders at the public trough. Neither view is productive and that is why periodic review of the planning process is long overdue. NWDA believes this report is a good but shaky beginning and that establishing a balanced committee of developers, staff and citizens, is a must.

Les Blaize, 9630 NW Skyline, 97231, objected to the lack of participation by citizens and environmental organizations. He expressed concern with having a Commissioner formerly employed by the Homebuilders Association. He called the report a dog and said he does not like the way this started or the way it was patched up. There has to be a better procedural way to do this.

Rob Phillips, 2010 NW Aspen, a builder and neighborhood activist, said every year it becomes more complicated to build in Portland because the sites are more difficult to build on and more regulations have been imposed. He said his experience with a recent 6-lot development involved a 5-leg bureaucratic process. He said there is a constant need for ongoing

AUGUST 25, 1993

regulatory review on the technical issues. He added that he would prefer to have a private contractor build water mains as it costs 45 per cent less than what the City charges.

Arnold Rochlin, Vice President, Forest Park Neighborhood Association, said this report is very divisive and Council should look very carefully before approving it or even referring it to another committee. He said the committee should have been called the Developers and Builders Committee. He said he is concerned with some of the details, such as allowing private contractors to build roads with a bond for only 20-years. Another concern is the proposal to allow extensions to water mains to cross private property.

Mr. Rochlin said one good proposal is that all bureaus be thoroughly prepared for pre-application conferences. He said time after time bureau employees come to pre-app meetings without doing their homework. Overall, however, this report should be sent back to an ongoing committee as the product does not work.

Kay Durtschi, Southwest Neighborhood Information Chair, said they realized that the neighborhoods had been left out of this process from the very beginning. She said her concern still is with the lack of representation by citizens. She disagreed with Commissioner Hales that citizens are not interested in the technical aspects. She said the committee came up with a reasonable solution but this report should not be forwarded to the Roundtable.

Mayor Katz said small businessmen, not just neighborhood representatives, are also citizens, adding that some pieces of this report will come back to Council.

Ms. Durtschi asked that their suggestions be incorporated also.

Linda Bauer, SE Uplift, said she believes all the City bureaus are extremely helpful and well prepared for the preapplication conferences. She said restricting discussion of certain issues to district planning process is not a good idea.

Dorothy Gage, Ashcreek Neighborhood Association, said citizens need to be coparticipants from the beginning, rather than taking an adversarial role after the fact. Failure to involve the community at the beginning results in costly delays. She disagreed with Commissioner Hales' statement that citizens do not wish to be involved with the technical issues but urged passage of the report in order to move ahead.

John Alland, Land Use Chair for Southwest Neighborhoods, said citizens should be involved at the front end and neighborhoods should be proactive

AUGUST 25, 1993

and not just reactive. He said one missing element is a definition of urban forestry and asked why it was necessary to wait until the review is completed before taking action on that. The connectivity of ecosystems is critical also and if that is worked out the process can be streamlined. He urged Council to get this to the Roundtable and then start trying to find solutions, adding that the whole concept of growth needs to be reexamined.

Commissioner Hales asked him if he thought Council should accept the report and move on.

Mr. Alland said yes, adding that citizens should be given opportunities to be proactive, which will lessen the NIMBY syndrome. He said developers need to come to the neighborhoods first, before going to the City.

Commissioner Hales said he was on the 1984 committee that dealt mainly with construction issues and still believes there are technical construction issues of little interest to most neighborhood activists, such as requiring separate plumbing licenses for both the City and State. Other issues, such as design, public involvement and land use are of wider concern. Regardless of whether Council accepts the report today or not, the issues still have to be unbundled as some are already underway, such as the Title 34 rewrite and reexamination of erosion control standards. He noted the inclusion of two separate recommendations (Items 1.2 and 2.1) for the creation of carefully balanced committees to look into the unresolved issues. He said it strikes him as irrelevant what Council does with the reports as the issues still have to be broken out and dealt with separately.

Mr. Kohnstamm said 1.2 suggests that future regulatory review committees be well balanced while 2.1 puts the issue of citizen participation on a separate track, with a well balanced committee as well. There would be two separate committees.

Mayor Katz said her idea is to send some of the issues on their way and identify the contentious issues that need to be reviewed by a larger committee. She committed to doing this as soon as possible.

Commissioner Blumenauer said he would vote to accept this. He noted that at the recent Council informal with the Business Roundtable an attempt was made to frame some of the issues about citizen participation. No one is satisfied with the current process and the City now needs to see if citizen frustration can be channelled into something productive. Some pieces going on right now, such as private streets, do not need to wait, however.

Commissioner Hales said he would like to see the anxiety channelled a bit more constructively in the future and stressed the need for collaborative development. He said he wants to pursue recommendations, 1.1 and 2.1,

AUGUST 25, 1993

even though he is not sure two committees are needed. He said he believes it is possible to get to "yes" on some of the contentious land use issues, noting the accord reached on the demolition delay issue. He pointed out that the Business Roundtable will look into issues regarding the cost and complexity of regulatory processes, whether or not Council takes this action. He said the Roundtable is not meant to be representative and any recommendations that it makes will be considered publicly. He said perhaps a committee made up solely of construction industry representatives is needed to provide technical feedback to City technicians without creating the perception of behind-the-scenes manipulation of the regulations.

Commissioner Kafoury said she looks forward to the day when all parties can talk about the substance of these recommendations rather than constantly battling about process.

Disposition: Accepted. (Y-4)

- *1379** Authorize the appointment of two limited term positions in the Bureau of Environmental Services at a rate higher than entry level (Ordinance)

Discussion: Commissioner Kafoury said Council is bringing new people in at higher than entry rates but at the same time is not able to compensate current employees in a fair and equitable manner as determined by the bureau manager. She said she does not know what to do except pull these items off Consent and squawk about them. She said there are some ways to change some parts of the personnel system now and asked for a commitment from Council to rectify the problem, including giving more discretion to managers so that existing employees are not penalized.

Mayor Katz recommended that these issues be fully explored at a Council informal to determine the ripple effect if changes are made.

Commissioner Kafoury said this is the fourth request to pay a new employee at higher than entry rate in three weeks. She asked if it was all right to bring the issue regarding the personnel decisions in her portfolio to Council since it does have the authority to make exceptions to the rules, as it does when it approves the pay-above-entry ordinances.

Mayor Katz requested that not happen until after the Informal because of the ripple effect.

Commissioner Kafoury asked her to acknowledge that paying new people higher than entry also has a ripple effect.

AUGUST 25, 1993

Mayor Katz said the issue is changing from one system to another and the ripple effects that have resulted. She said she hoped the Informal could be held soon.

Disposition: Ordinance No. 166893. (Y-4)

Commissioner Charlie Hales

1383 Grant a ten-year property tax exemption to St. James Housing, Inc., for new multiple-unit housing at the northwest corner of the block between SW Jefferson, Columbia, Park, and 10th (Second Reading Agenda 1346)

Disposition: Ordinance No. 166894. (Y-4)

***1384** Accept grant from the Oregon State Marine Board in the amount of \$65,000 for FY 1993-94 for repairs to the Waterfront Park Ankeny Street dock and for engineering design help at the Willamette Park docks (Ordinance)

Disposition: Ordinance No. 166895. (Y-4)

***1385** Accept grant from the Oregon State Marine Board for FY 1993-94 of \$14,000 for maintenance of boating facilities assigned to the Bureau of Parks (Ordinance)

Disposition: Ordinance No. 166896. (Y-4)

Commissioner Mike Lindberg

***1386** Accept a \$43,660 grant from the Oregon Arts Commission to the Metropolitan Arts Commission (Ordinance)

Disposition: Ordinance No. 166897. (Y-4)

***1387** Accept a \$12,050 grant from the Oregon Arts Commission to the Metropolitan Arts Commission (Ordinance)

Disposition: Ordinance No. 166898. (Y-4)

City Auditor Barbara Clark

1388 Assess property for large lot deferral contracts through June, 1993 (Second Reading Agenda 1348; L0031)

Disposition: Ordinance No. 166899. (Y-4)

AUGUST 25, 1993

- 1389** Assess property for sewer system development charges through June, 1993
(Second Reading Agenda 1349; Z0458 through Z0489)

Discussion: Dan Vizzini, Auditor's Office, said questions about the loan program and the resulting liens have arisen in connection with the ability of property owners to refinance or sell their homes. He explained that when the City extends loans to citizens to finance sewer assessments, the loans are offered as a right to anyone in the project without qualification. In exchange, the City is given a primary lien on the property. Without that, it would be unable to issue municipal bonds or finance local sewer construction. The problem arises when property owners want to refinance or sell as the banks require that any assessment liens be paid off first.

Mayor Katz asked if that was State law.

Mr. Vizzini said two laws apply. State law prevents the City from subordinating a primary lien to a position behind the home mortgage. The City also commits to the bond holders that they will get a high quality bond based on the primary lien. He said one problem is that most mortgages are sold in the secondary mortgage market and require properties free and clear of liens. He said they are talking to Fannie Mae to see if the regulations can be relaxed to allow property owners to roll the mortgage or sell the property and leave the lien intact. He said if they can get Fannie Mae to agree it would provide relief to a significant number of property owners but right now those who want to refinance or sell do have to pay the City lien.

Mr. Vizzini said while processing the liens, the property owner has several opportunities to cancel. The problem right now is that people who have begun paying their loans are now caught in a legal Catch 22. He said they will continue to publicize their options and to work with Fannie Mae on the banking possibilities.

Disposition: Ordinance No. 166900. (Y-4)

- 1390** Assess property for sidewalk maintenance through April 30, 1993
(Second Reading Agenda 1350)

Disposition: Ordinance No. 166901. (Y-4)

Recessed at 11:25 a.m.

AUGUST 25, 1993

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 25TH DAY OF AUGUST, 1993 AT 2:00 P.M.

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

OFFICERS IN ATTENDANCE: Cay Kershner, Clerk of the Council; Ruth Spetter, Senior Deputy City Attorney; and Mark W., Murawski, Sergeant at Arms.

Mayor Vera Katz

1393 Adopt the Fourth Amendment to the Airport Way Urban Renewal Plan (Second Reading Agenda 1351)

Discussion: Commissioner Hales said he believes this amendment should be passed to lift the cloud of condemnation from the district but there is still an obligation to the people that owned property in that district who have seen their expectations frustrated by the loss of tax increment financing and failure of Ballot Measure 1. He suggested that Council instruct the Portland Development Commission (PDC) to work with Holman property owners to determine the feasibility of forming a local improvement district to finance the cost of street and intersection improvements at NE Holman and Airport Way. If sufficient property owners agreed to the LID, then PDC could commit some of its limited, undedicated funds to that project in order to make it more financially feasible.

Paul Shirey, Portland Development Commission, said that sounds like an excellent idea.

Richard Forester, representing Holman property owners, said in principal it sounds okay but the devil is in the details. It depends on the amount of money reserved and how the money works out. He said he still wants Council to be involved before the last batch of money goes away.

Mayor Katz said she needs to get a very detailed briefing on the resources before any commitment is made.

Conceptually, Mr. Forester said, the LID sounds good and they will see how the numbers work out. If they can use the Nationwide right-of-way in lieu of a cash contribution, it may work out.

Mr. Shirey suggested that PDC make a progress report in two months.

AUGUST 25, 1993

Commissioner Hales said this is an idea that came up just yesterday. He said he does not want to have a specific dollar amount right now and he believes it would be inappropriate for Council to supersede PDC and say "x" dollars are set aside. He is not trying to move away from the commitment even though the resources are much more limited.

Mr. Forester said he does not have the authority to make a commitment for the neighborhood but is very happy to engage in a dialogue and maybe something concrete will come out of it.

Commissioner Kafoury asked if Council ever got an accounting of how all the resources had been spent.

Mayor Katz said she will circulate that information later.

Mr. Forester asked about their request for rezoning.

Commissioner Hales said the zoning now in place on the site, given the current street system, needs to stand. But if the streets are reconfigured, then the zoning boundaries should be changed. It would be premature, however, to adjust the zoning now.

Mr. Forester asked that the homeowners be kept in the loop as many of the old assumptions regarding density, on which the zoning was based, are no longer valid.

Commissioner Hales said he would see to that and would consider legislatively rezoning a portion of the area if an LID gets underway.

Disposition: Ordinance No. 166902. (Y-4)

1391 TIME CERTAIN: 2:00 PM - Amend Title 33, Planning and Zoning, to clarify and update Radio and Television Broadcast Facility Regulations (Ordinance introduced by Commissioner Hales)

Discussion: Steve Gerber, Planning Bureau staff, said this report and ordinance review current Code regulations to see which require updating or correcting. The most important review was of the current literature on health standards, but no evidence was found that any change was needed. The Planning Commission, therefore, is recommending no change to its health standards, which have been increasingly adopted by other jurisdictions around the country.

Mr. Gerber said the second major issue is exemptions, noting that the Code has allowed an exemption for radio broadcast facilities in industrial zones, but with the qualification that they be less than 50 feet high. Since industrial zones generally do not have a height limitation, the Planning

AUGUST 25, 1993

Commission recommends that the Code be changed to allow towers up to the height allowed in the zone. Also, the Commission recommended changing the Code so there is no conflict between industrial zoning and radio facility regulations.

Finally, to encourage tower sharing, the Commission recommends that the requirement to look into tower sharing be applied to all zones. Mr. Gerber described that a current case where a cellular phone tower located in an industrial zone is causing concern because of its visibility to the surrounding residential area. Noting that the recommendation does not require tower sharing, Mr. Gerber said he is prepared to offer alternative Code language adding such a requirement, if Council so decides. Also, the Planning Commission wants to reestablish a trigger mechanism changed during the 1991 Code rewrite which states that any facility with less than 1,000 watts of effective radiated power could go through a Type II rather than Type III procedure. The Commission recommends automatic review of the regulations in 10 years, in large part because they have found that the health standards are very stable. However, a new subsection has been added allowing any significant new information to trigger a review of the health standard.

Randy Walter, GTE Mobilnet, said these revisions are too restrictive and leave out a lot of important information. He said the 1000 watts ERP is a calculation that does not apply and the previous application of power density is a better way to go. The other issue regarding tower sharing is that it would require taking an existing facility out of service, noting that currently there is no uniform foundation or tower being used by cellular companies. Each site is built on a case by case basis.

Tim Ramis, attorney representing Cellular One, said the provisions calling for mandatory spacing and mandatory tower colocation were not seen by the Planning Commission and did not have industry input or neighborhood review. He recommended remanding this issue back to the Planning Commission for more work. He added that Cellular One and GTE are mandated by the FCC to maintain two separate systems by the federal government both for competition and in the event of a major disaster. Their position is to be strongly supportive of any policy decision that is reasonable and does not put them in jeopardy legally. Cellular One's position regarding siting is to be as unobtrusive as possible, which means locating on existing structures whenever possible rather than building towers. He said only four of their sites within the City are on towers, and the remaining 21 are on existing structures. He said the company has spent \$8 million to go to a digital technology which triples the capacity of existing sites and reduces the need for additional ones. Ultimately, they hope to locate these on existing utility poles by creating microcells. The problem with the regulation is that it will change their ability to do some of these things.

AUGUST 25, 1993

Spencer Vail, 4505 NE 24th, land use consultant for Cellular One, said only four towers in the City have separate towers demonstrating that a mandatory tower sharing policy should not be imposed at this time. He said they have some problems with the alternative language proposed by Mr. Gerber, arguing that the point at which tower sharing becomes an issue is not spelled out. He said Cellular One leases most of its sites, usually the minimal amount of space necessary, and this policy does not address how this would be handled. He said they try to be very conscientious in selecting tower locations that have the least impact possible and urged that this issue be referred back to the Planning Commission for further discussion of the technical issues.

Commissioner Hales said the only point of disagreement seems to be the proposed amendment that tower sharing be required within a half mile radius. He asked how often this would come into play.

Mr. Vail said it depends on where they find they have to have additional cell sites, the customer load and existing conditions in the area. All systems operate at 100 watts or less per cell site.

Commissioner Hales said he assumes these provisions would be used only occasionally.

Mr. Ramis said the language would come into play in every case because it states that there cannot be a tower except at half mile intervals. The City is designing the network.

Mr. Gerber said the provision would apply only if two companies were to have cells within a half a mile of each other, adding that the extent to which these cells may overlap is unknown.

Mr. Ramis insisted that the language currently states that the minimum separation between towers is one-half mile. (Page 3, 8/22/93 Gerber memo)

Mr. Walter said the current standard is 500 feet in residential neighborhoods. He said it is easier to go outside that 500 foot limit than to be within it when distance becomes the issue.

Mr. Vail said none of this language was discussed in detail before the Planning Commission and they would like an opportunity to do so before the Council decides.

Mr. Ramis said the policy was not discussed either.

William Moss, 1500 SE Duke St. representing Neighbors of Westmoreland, said they have grave concerns about the perceived risk from radio emissions and believe they should be addressed in these standards. He

AUGUST 25, 1993

objected to use of the Type II process in a case involving Cellular One in his neighborhood and asked for a better review process to reflect their concerns. He said the exemption of point to point microwave should be addressed. Mr. Moss disagreed with the Planning Commission recommendation that the maximum height allowed by each zone should be the determining factor for radio towers as well. He said facilities in industrial zones can have significant visual impact on nearby residential areas and an unnecessary proliferation of such towers can create an adverse impact for residents. He urged that the height requirement remain as currently stated and handle cases where special circumstances apply on a case-by-case basis.

Mr. Moss proposed that facilities in commercial or industrial zones which are within one-quarter mile of a residential area be discouraged where technically possible. To give residents more protection, they ask that requests for a new tower within commercial and industrial zones be accompanied by evidence that application was first made to locate at a site with less visual, aesthetic and psychological impact on residents. He said he knew this was not the place to address the health issue even though they have serious concerns.

Charles Swindells, 455 NW Greenleaf Rd., 97201, said he lives in a neighborhood with a cluster of broadcast facilities in Multnomah County and asked that the proposed amendment and radio emissions Code for the City be coordinated to the greatest extent possible with the County's.

John Kelly, Co-Chair, Brooklyn Action Corps, 3414 SE 16th, objected to the Planning Commission recommendations which would exempt all tower sites in industrially zoned land from regulation even if they are clearly visible to residential neighbors. He said Brooklyn is concerned with the aesthetics, not the health affects of the cellular towers. He strongly supported the amendments proposed in Mr. Gerber's memo, particularly the tower sharing provision, and noted that the amendment holds the first provider harmless for additional cost and gives providers a built-in incentive to encourage site sharing.

Mr. Gerber said he agrees with Mr. Ramis that the specific language was not discussed by the Planning Commission but the policy issue of tower sharing was and he did not know that he would agree that the language needs to go back to the Commission.

Mayor Katz asked if he had reviewed the Westmoreland Neighbors' recommendations.

Mr. Gerber said he had only just now seen them.

Commissioner Hales said he would review all the recommendations

AUGUST 25, 1993

between now and next week, including those of Mr. Swindells for coordination with the County. He said the language about tower sharing proposed by Mr. Gerber is for Council to decide rather than referring it back to the Planning Commission.

Commissioner Blumenauer said the City has had a preference for tower sharing since Multnomah County set the national standard about 10 years ago, when the primary concern was health. He said there are a lot fewer towers as a result and no health hazard, adding that people are getting a lot more electromagnetic emissions from household appliances than they are from cellular devices. He said these telecommunication devices are a part of the City's economic and public safety future and while he supports tower sharing he does not want to adopt something that does not provide a reasonable framework. He said there is also a double standard with people objecting to these towers but not to those who have high TV or ham radio antennae in their back yards. He argued that there should be a level playing field for everyone. He said it does not bother him to return to the Planning Commission to deal with the spacing issue and allow the neighborhoods to have their day in court. He said his bias is for tower sharing but he wants to make sure what is adopted will not have to be changed again.

Mayor Katz said this goes to another reading and there is a week to review the amendments and discuss the issue of whether the tower sharing piece needs to be returned to the Planning Commission. She expressed disappointment that the health hazard issues are still unresolved.

Commissioner Blumenauer said the 50 microwatt standard is the tightest in the country and reflects current research. He noted there is a trigger mechanism to establish a new standard if Council is presented with new evidence.

Mayor Katz said if major revisions are made, more testimony will be taken.

Disposition: Passed to Second Reading September 1, 1993 at 2:00 p.m.

1392 Amend Title 33, Planning and Zoning, to include a new Chapter, 33.533, Healy Heights Plan District, and a new section in Chapter 33.710, Review Bodies, to add a new advisory board (Ordinance)

Discussion: Steve Gerber, Planning Bureau, noted the long time desire of Healy Heights residents, concerned about the presence of a tower farm in their midst, to have a long range plan. This proposal is for a planned district and an advisory board. The Plan district deals with three issues; 1) aesthetics; 2) radio frequency interference with electronic goods and; 3) radio frequency exposure (safety). With regard to radio frequency

AUGUST 25, 1993

exposure, he said Healy Heights is a much cleaner environment than it was five years ago and there has been a marvelous improvement. However, the health issue still remains, even though they believe they have a handle on it.

Mr. Gerber noted that Healy Heights is a unique situation and it is unlikely that the same set of regulations would be applied anywhere else in City. The area of application was kept intentionally small, encompassing the tower farm only. The intent of the Plan District is to also be responsive to citizen concerns. The major focus for residents has been to establish a maximum number of towers. The Plan states that no more than the current seven towers can be built there and, if one is removed, it can not be replaced by another tower. Existing towers may remain and reconstruction is allowed in case they are destroyed by natural disaster. New towers are prohibited unless they are a result of consolidation and reduction of existing facilities. The Plan recognizes existing conditions in Healy Heights, which are smaller than the sites required in residential zones, and extends to setbacks on the inside of the tower farm.

Mr. Gerber said the emissions monitoring requirements call for all monitoring to be compatible with the study done by consultant Richard Tell. This will provide a standard of comparison rather than getting bogged down in questions of interpretation. The Plan District also sets up procedures to deal with radio frequency interference which, while not completely satisfactory, do provide a good start. In addition, it calls for establishment of an advisory board which will be responsive to day-to-day actions and provide a point of communication for the industry, the City and the neighborhood. The Advisory Board would consist of five members with two participants from the industry, two from the neighborhood and a fifth to be chosen by both groups. It could recommend monitoring activities and would be required to meet four times a year, and one of those meetings would require the presence of the Multnomah County Health Officer.

Scott Wills, 2643 SW Boundary St., asked who would get assessed for the Advisory Board fees and whether they would be split between the industry and the City.

Mr. Gerber said the industry would be assessed because they are receiving commercial gain from these activities.

Commissioner Blumenauer said this pattern has worked smoothly in other instances.

Mr. Wills said he was concerned that every group would want a study, which are very expensive.

AUGUST 25, 1993

Commissioner Blumenauer said the advisory group can serve as both a safety valve and a clearing house to initiate activities.

Commissioner Hales said the work already done is impressive and has produced tangible results.

Mr. Gerber said radio tower remissions have been reduced by approximately 15 times.

Commissioner Hales said people's toasters are no longer playing the morning news.

Disposition: Passed to Second Reading September 1, 1993 at 2:00 p.m.

At 4:00 p.m., Council adjourned.

BARBARA CLARK
Auditor of the City of Portland

Cay Kershner

By Cay Kershner
Clerk of the Council