PORTLAND, OREGON

OFFICIAL MINUTES

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 13TH DAY OF APRIL, 1994 AT 9:30 A.M.

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

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

Agenda Nos. 562 and 563 were pulled from Consent. On a Y-5 roll call, the balance of the Consent Agenda was adopted as follows:

CONSENT AGENDA - NO DISCUSSION

Accept bid of Linnco Electric for two school crossing traffic signals for \$141,350 (Purchasing Report - Bid 127)

Disposition: Accepted; prepare contract.

Accept bid of Brattain International Trucks, Inc. for three 25,000-GVW cab and chassis with service body for \$203,313 (Purchasing Report - Bid 133)

Disposition: Accepted; prepare contract.

Accept bid of Werbin West Contracting, Inc. for 12", 6" and 4" water mains in SW Palatine Street, Westwood Drive, Court and View, Nevada Court and 35th Avenue for \$362,023 (Purchasing Report - Bid 135)

Disposition: Accepted; prepare contract.

Accept bid of S-2 Contractors, Inc. for Willamette basin test sump Unit 7 for \$314,796 (Purchasing Report - Bid 136)

Disposition: Accepted; prepare contract.

Accept bid of JASCO Construction for Portland Building 3rd and 7th floor remodel for \$86,877 (Purchasing Report - Bid 138)

Disposition: Accepted; prepare contract.

Accept bid of Northside Ford Trucks, Inc. for one 33,000-GVW flatbed truck with hydraulic crane for \$94,265 (Purchasing Report - Bid 139)

Disposition: Accepted; prepare contract.

Mayor Vera Katz

*558 Authorize Limited Tax Improvement Bonds, 1994 Series A (Ordinance)

Disposition: Ordinance No. 167548. (Y-5)

*559 Authorize Urban Renewal and Redevelopment Refunding Bonds (Airport Way) Series C (Ordinance)

Disposition: Ordinance No. 167549. (Y-5)

*560 Authorize and approve amendments to Intergovernmental Agreement with Oregon Department of Environmental Quality regarding purchase of City bonds to finance sewer improvements in Mid-Multnomah County (Ordinance; amend Ordinance No. 167444)

Disposition: Ordinance No. 167550. (Y-5)

*561 Ratify a letter of agreement modifying the current labor agreement between the City and the Portland Police Association (Ordinance)

Disposition: Ordinance No. 167551. (Y-5)

*564 Pay claim of Gilbert Nevers (Ordinance)

Disposition: Ordinance No. 167552. (Y-5)

Commissioner Earl Blumenauer

Set hearing date for 9:30 am, Wednesday, May 18, 1994, for the vacation of portions of SW Salmon Street, SW Main Street, SW 2nd and 3rd Avenues in connection with the General Services Administration federal courthouse to be constructed on the adjacent block (Resolution; C-9861)

Disposition: Resolution No. 35265. (Y-5)

*566 Authorize the City Treasurer to accept payments for the Westside Light Rail Contractor Reserve Account and establish a special account in the Trustee Fund in the Office of the Commissioner of Public Works (Ordinance)

Disposition: Ordinance No. 167553. (Y-5)

*567 Authorize the City Treasurer to accept payments for fees and services on Westside Light Rail WCO400 and establish a special account in the Trustee Fund for the Office of the Commissioner of Public Works (Ordinance)

Disposition: Ordinance No. 167554. (Y-5)

*568 Intergovernmental Agreement with Multnomah County to provide for construction and maintenance of a traffic signal at N. Marine Drive and N. Force Avenue (Ordinance)

Disposition: Ordinance No. 167555. (Y-5)

Commissioner Charlie Hales

Accept contract with Coffman Excavation for improvements to Heron Lakes golf course maintenance yard and parking lot as substantially complete, authorize final payment and release retainage (Report; Contract No. 28742)

Disposition: Accepted.

*570 Authorize amendment to agreement with the Portland Rose Festival Association (Ordinance; amend Contract No. 21236)

Disposition: Ordinance No. 167556. (Y-5)

*571 Call for bids for construction of play equipment in Ventura Park, authorize a contract and provide for payment (Ordinance)

Disposition: Ordinance No. 167557. (Y-5)

*572 Authorize an agreement with the Community Music Center, Inc. to provide additional services and programs through the Community Music Center (Ordinance)

Disposition: Ordinance No. 167558. (Y-5)

*573 Authorize Change Order No. 6, adding \$36,429 to contract with Cedar Landscape for work at Laurelhurst Park and extending the date of completion to May 15, 1994 (Ordinance; amend Contract No. 29014)

Disposition: Ordinance No. 167559. (Y-5)

*574 Contract with Hydro-Temp for \$523,400 for the Fire Bureau's Station 1 HVAC upgrade project and provide for payment (Ordinance)

Disposition: Ordinance No. 167560. (Y-5)

Commissioner Gretchen Kafoury

Accept carpet installation on 12th floor of the Justice Center as complete and authorize final payment of \$49,999 to Carpet Resource Center (Report; Contract No. 29115)

Disposition: Accepted.

*576 Authorize a contract with Jasco Construction Services for remodel of the 3rd and 7th floors of the Portland Building for the Bureau of Traffic Management in the amount of \$86,877 (Ordinance)

Disposition: Ordinance No. 167561. (Y-5)

*577 Approve renewal of intergovernmental agreement with Multnomah County for administration of the County's Secondhand Dealer Program by the Bureau of Licenses (Ordinance)

Disposition: Ordinance No. 167562. (Y-5)

*578 Amend agreement with the Housing Authority of Portland regarding the HOME program and provide for payment (Ordinance; amend Contract No. 28381)

Disposition: Ordinance No. 167563. (Y-5)

Commissioner Mike Lindberg

*579 Authorize continuance of negotiations for the purchase of one permanent sewer easement required for the Gilbert sanitary sewer project, authorize the City Attorney to commence condemnation proceedings and to obtain early possession (Ordinance)

Disposition: Ordinance No. 167564. (Y-5)

*580 Authorize an amendment to agreement with Columbia Analytical Services to increase it by \$40,000 to cover additional services requested by the City (Ordinance; amend Contract No. 28583)

Disposition: Ordinance No. 167565. (Y-5)

City Auditor Barbara Clark

Approval of Council Minutes for June 2, 1993 through December 29, 1993 (Report)

Disposition: Approved.

Appoint Southeast Uplift representative Virginia Shea and Northeast Coalition of Neighborhoods representative Marina Antilla as Citizen Advisors to Police Internal Investigations Auditing Committee (Report)

Disposition: Confirmed.

REGULAR AGENDA

*562 Pay claim of Maegan Peterson (Ordinance)

Discussion: Commissioner Hales requested that this be held over for further review as to whether the City should pay or litigate.

Disposition: Continued to April 27, 1994 at 9:30 a.m.

*563 Pay claim of Rocky Balada (Ordinance)

Discussion: Paul Richmond, PO Box 454, 97207, said Mr. Balada is a police officer with a history of use of excessive force who is now apparently going to receive \$34,000 because elements within the Police decided to make him accountable. He said he also has a problem with the term discrimination being used here as it seems a complete corruption of the term. He urged Council to look into the validity of the complaints and asked that the item be left open for public comment.

Mayor Katz said since this is not a land-use proceeding there is no provision to leave this open unless the Council itself wants to set it aside.

Disposition: Ordinance No. 167566. (Y-5)

*551 TIME CERTAIN: 9:30 AM - Create a local improvement district to construct street, storm sewer and water system improvements in the SW 50th/Marigold District (Previous Agenda 464; C-9805)

Discussion: Vic Rhodes, City Engineer, said after the last hearing, two primary issues remained: 1) the cost of the base assessment for each property; and 2) connectivity, with the possibility of a compromise on Dolph Court between 50th north/south. A new issue raised yesterday is that some property in the district is in the Environmental Conservation (EC) overlay zone which could impact its development.

Teresa Culp, Office of Transportation, addressed the actions taken to reduce the cost. At the prior hearing, expansion of the LID to include properties on SW 48th south of Dolph Court was discussed. That would

reduce costs to others in the district by about \$370 for a 5,000 square foot lot. Another cost savings suggestion was the use of gravel paths as interim pedestrian facilities for vacant lots and construction of sidewalks on one side of the street only. Estimated maximum average savings is \$180.

Ms. Culp said a lack of pedestrian connection to the school from SW Marigold was also pointed out at the last hearing. She said one block of Marigold between SW 51st and 52nd is an improved street but does not have sidewalk. Staff looked at the area and believes the sidewalk could be constructed on one or both sides of Marigold as part of the LID and the affected properties would share in the cost, thus requiring an expansion of the district boundary for sidewalk only in that area. She said the bidding climate does appear to be favorable to bidding out the contract prior to Council consideration on the LID formation. This could result in an additional five percent savings. The Bureau of Environmental Services (BES) has indicated it would provide additional funds for storm sewer work. The net effect of all the changes would reduce the cost from about \$10,000 to \$8,300 with the potential for a further decrease of about \$500 a lot if the contract is bid out now.

Dave Gooley, BES, said they reexamined the drainage improvement policy and while the current policy is not to buy down the cost of assessments, this LID predates adoption of that policy and the neighbors could have perceived that some assistance would be given. Based on the perceived commitment of the City and the downsizing of the original project, BES recommends that 74 percent, or \$111,000 of the original \$150,000 committed, be provided to support the storm portion of the LID cost.

Dan Vizzini, Auditor's Office, said he attended a meeting this morning between the neighborhood and the Balches, which resulted in a deadlock between the parties. The Balches feel that significant compromises have already been made and are not interested in a further disconnect of Dolph Court and will object to the disconnect of SW 50th, north/south. The neighborhood would like a greenway or pedestrian path along Dolph Court and that might also include some swap of Parks property. Another concern is further development of properties on SW 48th, north of the current district, since the boundaries of this LID are being expanded to assess properties along 48th to Dolph for drainage costs. The neighborhood committee expressed concern about the character of that development, given that there is an Environmental Conservation zone along the creek at the bottom of the hill. The Balches believe that is not pertinent to this project. Mr. Vizzini said the neighborhood would like to continue discussions but the Balches do not and the meeting ended inconclusively.

Pat Calligan, representing the neighborhood, said while they are glad to hear about the cost decreases, they were looking for at least a 50 percent reduction and would like to see if there are any further ways to reduce the cost. She said the neighbors want to connect but do not see connectivity as vehicles connecting but as people connecting, by biking, using buses, light rail, etc. She said they agreed to the compromise connecting 49th and 50th even though they did not want it but they do not want the 50th north/south connection. They are also willing to connect 51st to 52nd through Dolph Court but would prefer walkways and bikeways there rather than traffic. They also oppose the connection of the south side of 50th to Dolph Court. The neighbors ask that Council look at connectivity in a different way and look at the issues raised by the Robert Court people, who have never wanted to be in the LID and are not getting any compromise.

Gary Georgeff, attorney and owner of rental property in the LID, said the neighbors believe the bulk of the costs in this LID revolves around the Balch property which is totally unimproved. The neighbors have repeatedly asked staff to break out the costs to see who is getting most of the benefit from the LID. He said City staff has refused to do so.

Commissioner Blumenauer noted that information was available.

Mr. Georgeff said he assumes most of the costs can be attributed to the Balch properties and believes the people who get the benefit should bear most of the cost which could be accomplished by restructuring the costs. He said his biggest concern, however, has been the attitude of City staff that it knows best and does not need to listen to the neighborhood. He said there is a need to restore representative democracy.

Frank Warrens, 5112 SW Robert Court, said Robert Court property owners find no tangible value to paving Dolph Court for vehicular traffic but instead believe it will degrade property values along Robert Court. They are adamantly opposed to being included in the assessment process and are prepared to pursue litigation blocking the entire project. He said they have tried in vain to negotiate with the Balches. He said Robert Court property owners believed they would not be subject to future assessments as the developer, Bob Rolfe, dedicated 20 feet from the south side of each of those properties to the City in lieu of future assessments. He said there is a pathetic need for people in the LID to have some improvements to the roadways and he hopes to avoid having to block the project. However, currently the economic gain to be realized by the Balch family is significant and the assessment process ought to reflect that.

Dr. Bob Felton, math professor at Portland State University, urged Council to reassess its view of connectivity, noting the steepness of the

street where 50th meets Garden Home Road. He said a connection there would attract more traffic and become a major thoroughfare because it is a straight cut-through. He said the connection point at SW 50th is greater than 30 degrees and this will make stopping difficult at the top of the slope and make a hazardous intersection. He urged that 50th be disconnected north from south.

Gile Downes, attorney for Don and Tony Balch, said staff has worked hard in trying to put together a workable project which must be done because of the existing development. He rejected the argument that the cost of developing streets next to the Balch's property is more than the cost of other streets. His clients are also concerned with the cost issues and appreciate staff work to reduce them. Regarding connectivity, the only argument against it is that there will be traffic from outside the neighborhood flowing through on 50th to Garden Home Road. Those issues have been addressed by narrowing the streets from the original wider design to 20 feet with parking on one side and it is doubtful that people outside the neighborhood will be using 50th to access Garden Home Road. He said his clients believe Dolph Court should be open, not because it benefits them but because it keeps neighborhood traffic away from Smith School.

John Alland, Land-use Chair, Southwest Neighborhood Coalition, showed photos and maps to indicate the steepness of the area. He said this property screams for a Planned Unit Development (PUD) to meet density, environmental protection and water quality goals as well as to provide a different route on this plat from Mars. He said this LID is just the beginning, the tip of the iceberg for LIDs that will occur in Southwest. He said the Fanno Creek Conservation Plan and Southwest Hills Plan need to be merged to come up with good connectivity and provide environmental protection. Mr. Alland said 48th Avenue, because of its steepness, should not be included in the LID now unless it is absolutely necessary for drainage. There is room for compromise even though people seem to be deadlocked. If the Balches were to consider a PUD here it would change how both 48th and 49th would be addressed. He said the City needs a project that is good for everyone and really works, adding that there will be individual environmental reviews for all the Balch properties coming up so a PUD would be cheaper.

Anthony Balch, SW Dolph Court, said the material on the overlay is incorrect because the Fanno Creek maps are incorrect. He said a final design of the sewer layout completed in 1981 shows that the creek bed itself goes along 47th Street.

Mr. Alland disagreed with Mr. Balch.

Commissioner Hales asked Susan Feldman, Planning Bureau staff, about the feasibility of forming a PUD or subdivision if the area along 48th were added to the district boundary in order to complete the storm sewer system and most of the lots are under one ownership.

Ms. Feldman said that could be done. She said the owner could sell the lots individually and if there is an environmental overlay the purchasers would be responsible for environmental review in order to build single family homes there. The other alternative is to apply for a PUD with the idea of leaving a lot of the area as open space and having the houses built closer together. At this point it is the prerogative of the property owner.

Commissioner Hales said, depending on when development occured, it could be done either by today's standards or by those in the revised PUD Code coming to Council later this year. The property owner could decide whether a replat was advisable to deal with the environmental zoning and cost of compliance versus sticking with the plat they have and imposing the cost of environmental review on each lot.

Ms. Feldman said the City has no mechanism to force a PUD or replatting, as it is up to the property owner.

Mayor Katz asked what the impact would be on the cost of the improvements if a PUD was formed.

Ms. Culp said if a PUD was done and the right-of-way was vacated it would change the amount of private property available but she is uncertain whether it would change the amount of area there. However, there would still be a need for some type of street to serve those homes.

Commissioner Hales said the lots in the additional section would only be assessed for storm drainage costs, not streets, and the storm drainage costs per unit would be the same regardless of how the units were configured.

Mr. Vizzini said today Council could decide to kill the project as it stands or go ahead with it as designed. He noted that Council had already made some decisions about changing the design, including the addition of SW 48th and expansion of the district to include properties on SW Marigold between 51st and 52nd for sidewalk assessments. If Council wants to proceed, but with the design changes, it needs to make that decision today. Council also needs to decide if the Bureau should go to bid on the agreed-upon design. Mr. Vizzini said his office plans to renotify property owners of the new assessment estimates that have grown out of the design changes Council approves and hold a hearing

after that. By that time, design and bid information should be available and Council could then decide to form the district and proceed with construction.

Commissioner Lindberg asked if the Balches have enough property to stop the project if they do not approve of the design changes made by Council.

Mr. Vizzini said yes, if a majority of the property owners with the right to remonstrance disagree, the project could be taken out of Council's hands.

Mayor Katz asked if the hearing could be held open while the project was redesigned if Council decided it was not happy with current design.

Mr. Vizzini said staff feels that if the project cannot be built during this construction season, they will have to renotify and rebid the project as the costs may change.

Mayor Katz asked if the summary of costs is accurate.

Mr. Vizzini said yes, based on the extension of 48th for drainage, the extension of SW Marigold for sidewalks, the \$100,000 subsidy from BES and the proposed redesign of sidewalks for only one side of the street.

Harry Auerbach, Deputy City Attorney, noted there is both a street and a sewer component to this project. While Council has the authority to overrule <u>all</u> remonstrances for a sewer project, for streets Council has the authority to act unless the owners of 60 percent of the property have remonstrated.

Commissioner Hales asked how the question of whether to put a sidewalk on one or both sides resolved.

Mr. Rhodes said they intended to bid the project in two different ways -with sidewalk on one side and with sidewalk on both sides -- and bring that back to Council and make the decision then.

Commissioner Hales said the question of whether to extend the sidewalk on one or both sides of Marigold to the School would be affected by whether there was sidewalk on both sides of the rest of Marigold.

Mr. Rhodes said the sidewalk on Marigold also aligns with the existing school crossing up 52nd.

With regard to remonstrances on a changed design, Mr. Vizzini explained that there may never be sufficient remonstrance strength to take the project out of Council's hands because of the number of waivered properties.

Commissioner Blumenauer said he is ready to vote today to move forward with the project and he knows the participants have been listened to even if they have not gotten all they wanted. He said the time spent on this project has been worthwhile because there will be more coming along and Council needs to make sure what it is doing is the best it can do. He said these improvements are necessary to protect property and school children. If delayed too long, it will only mean that everyone pays more. He said the options in the bidding will give Council choices when it comes back. He said he believes the cost should be lower and he appreciates what BES has done to restore a portion of the \$150,000 subsidy and to review its overall policy. He believes the connectivity issue has been adequately addressed - this is not a freeway and does not look anything like it would have looked five to ten years ago. Instead, it is a single lane, skinny street that will not be used for flow-through traffic.

Commissioner Lindberg asked which compromise design he favored.

Commissioner Blumenauer said he favors making the connection as more connectivity is likely to diffuse the traffic and have less impact on Smith School.

Mayor Katz said she thought that was resolved last week and that the amended connectivity points proposed last week were accepted.

Mr. Rhodes said he thought Council was intrigued by the idea of discontinuity between 50th/50th and believes that would be an adequate compromise.

Commissioner Blumenauer said he thought there was not a compromise on that.

Mayor Katz said the other party did not agree. She said it is hard to deal with compromise when the other party refuses to come to the table.

Commissioner Hales said he appreciates staff efforts to find common ground but he is not persuaded that leaving out that portion of Dolph Court is good transportation engineering. He said unless he is told it is, or that it is the result of an accepted compromise, he does not think Council needs to make that modification and leave out 100 feet of street in this network. He said, however, he is prepared to support the other

amendments, such as the addition of SW 48th for stormwater and addition of the sidewalks by the school.

Commissioner Lindberg said he is prepared to support the proposal Commissioner Blumenauer made.

Mr. Auerbach said Council needs to amend the ordinance so that Section B, which directs the City Engineer to advertise for bids be amended to incorporate the proposed design changes.

Mr. Vizzini said he does not think Council should act on this ordinance until it is ready to form the district. Mr. Rhodes, however, may need a separate direction to go to bid on whatever plans Council directs. He said staff will come back with a new amended ordinance that will deal with all the changes.

Commissioner Hales said he thought Council would act today on proposed amendments to the ordinance, those that deal with drainage and streets and then either vote to overrule the remonstrances and approve the LID or deny it. If Council votes to override and proceed, then it goes to bid and Council will still be able to select which version of the sidewalk is to be constructed. That would be the only remaining decision for the Council to make and it would not have to revisit the whole package.

Mr. Vizzini said because the district is being changed so much, they need to go through a whole new time and manner process.

Commissioner Hales said that could be authorized today and the ordinance would be a formality except for action on the sidewalks.

Mr. Auerbach said the unusual thing that Council is doing is that the project is being bid before the district is formed and the plans are approved. Transportation needs specific authorization directing the City Engineer to advertise for bids.

Mayor Katz clarified that Mr. Vizzini was recommending that Council leave this ordinance alone because staff has to renotify property owners. She asked what Council needs to do technically this morning.

Mr. Vizzini said Council needs to determine what it wants to build and amend it by taking out some directives and adding those which specify the design changes. Council does not need to deal with the remonstrances as a new hearing will be held.

Mr. Auerbach suggested deleting directives a, c and d, amending b regarding the bidding and adding one that directs the Auditor's Office to prepare a new time and manner hearing based on the changes to the district. The three deleted directives would be restored when Council ultimately determines what is in the district.

Commissioner Hales moved to modify the LID to add the section along 48th Avenue for purposes of storm drainage and to include the properties along SW Marigold necessary to extend the sidewalk to 52nd Avenue and to bid it with both one-sided and two-sided options on the sidewalk.

Commissioner Kafoury seconded. The motion carried. (Y-4; N-1, Katz)

Mayor Katz said she is dissenting because this is not a satisfactory solution, although she agrees something does need to be done. She said it was very difficult for the community to compromise with someone who refused to come to the table. She said she does not think the savings are that big a deal and she hopes the cost will be lower when this goes out to bid. She said she does not think this is a satisfactory solution for that geographic area and believes if everyone had been more flexible, including the Balches who basically control the decision on this LID, there may have been a better design.

Mr. Auerbach noted that because the ordinance is an emergency ordinance, a unanimous vote is required to pass.

Mayor Katz said she would not delay the ordinance.

Commissioner Hales said there was a long pattern of error in developing this part of the City, based on a fuzzy notion that this was not an urban neighborhood and that the matter of urban infrastructure could be dealt with later. Now there is a lot of catch up to do because of the continuous urbanization. Connectivity is a sound policy and having a network rather than "lollipops on a stick" (cul-de-sacs) makes for better places to live. The infill policy is sound although it has to be weighed against environmental protections which were not around when these plats were created. The assessment method is also sound and the work done by Transportation and BES to reduce the costs is commendable. He said the City needs to proceed and the approved amendments will make this a better LID, particularly with the connection to the school.

Disposition: Ordinance No. 167567 as amended. (Y-5)

Identification of regional issues that Portland asks Metro to consider for Region 2040 (Resolution introduced by the City Council)

Discussion: Steve Dotterer, Office of Transportation, said changes have been made in the original document as a result of the Council Informal.

Commissioner Blumenauer thanked Mr. Dotterer for his extra efforts in coordinating all the bureaus on this project.

Commissioner Hales said he appreciates the clear language used to state the policies.

Disposition: Resolution No. 35266. (Y-5)

Mayor Vera Katz

*584 Authorize agreement with Portland Development Commission in the amount of \$60,000 to implement the Old Town Building Lighting Enhancement Program (Ordinance)

Disposition: Ordinance No. 167568. (Y-5)

Commissioner Mike Lindberg

*585 Accept and appropriate funds from the Oak Ridge Institute for Science and Education for the Energy Office to participate at the White House Conference on Climate Action (Ordinance)

Disposition: Ordinance No. 167569. (Y-5)

*586 Call for bids for the Burnside Central sanitary sewer system, authorize a contract and provide for payment (Ordinance)

Disposition: Ordinance No. 167570. (Y-5)

*587 Authorize a contract and provide for payment for the Ankeny Pump Station electrical modifications project (Ordinance)

Disposition: Ordinance No. 167571. (Y-5)

*588 Call for bids for the Clifgate sanitary sewer system, authorize a contract and provide for payment (Ordinance)

Disposition: Ordinance No. 167572. (Y-5)

*589 Accept bid of Morton International for annual supply furnishing traffic paint for \$171,500 (Purchasing Report - Bid 134-A)

Disposition: Accepted; prepare contract.

At 11:00 a.m., Council adjourned.

BARBARA CLARK Auditor of the City of Portland

By Cay Kershner Clerk of the Council

WEDNESDAY, 2 PM, APRIL 13, 1994

DUE TO THE LACK OF AN AGENDA
THE PORTLAND CITY COUNCIL
DID NOT MEET