



CITY OF
PORTLAND, OREGON

**OFFICIAL
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 4TH DAY OF MAY, 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; Ruth Spetter, Senior Deputy City Attorney; and Chuck Bolliger, Sergeant at Arms.

Mayor Katz proclaimed the month of May as Apprenticeship Month.

Agenda No. 677 was pulled from Consent. On a Y-5 roll call, the balance of the Consent Agenda was adopted as follows:

CONSENT AGENDA - NO DISCUSSION

- 647** Accept bid of Jim Miller Construction for Smith and Bybee observation platforms for Bureau of Parks and Recreation for a total amount of \$41,322 (Purchasing Report - Informal Bid)

Disposition: Accepted; prepare contract.

- 648** Accept bid of Potter Webster Co. for heavy truck and equipment brake and clutch parts and services for various bureaus for \$16,469 annually for three years (Purchasing Report - Bid 129-A)

Disposition: Accepted; prepare contract.

- 649** Reject bid of Arris Fueling Systems, Inc. for installation of integrated fuel management for \$59,500 (Purchasing Report - Bid 140)

Disposition: Accepted.

- 650** Accept bid of Copenhagen Utilities & Construction for Woodmere sanitary sewer system for \$6,263,662 (Purchasing Report - Bid 145)

Disposition: Accepted; prepare contract.

MAY 4, 1994

651 Accept bid of Russ Chevrolet for 28 compact 4-door sedans for \$303,772 (Purchasing Report - Bid 150)

Disposition: Accepted; prepare contract.

652 Accept bid of Asphalt Maintenance Associates, Inc. for Maintenance Bureau slurry seal project 1994 for \$74,506 (Purchasing Report - Bid 153)

Disposition: Accepted; prepare contract.

653 Accept bid of Hydro-Temp Mechanical, Inc. for City Archive HVAC for \$57,000 (Purchasing Report - Bid 156)

Disposition: Accepted; prepare contract.

654 Accept bid of Moore Excavation, Inc. for Fiske Basin CSO sump 2-3 for \$1,099,134 (Purchasing Report - Bid 157)

Disposition: Accepted; prepare contract.

Mayor Vera Katz

655 Confirm appointment of Elizabeth Yeats to the Healy Heights Radio Frequency Advisory Board (Report)

Disposition: Confirmed.

656 Confirm appointment of Bob Deveny and Peter Livingston to the Portland Historic Landmarks Commission (Report)

Disposition: Confirmed.

657 Accept completion of the equipment purchase contract with H. Fontaine Ltd. and make final payment (Report; Contract No. 27950)

Disposition: Accepted.

658 Accept completion of contract with Heil Electric, Inc. for effluent flow meter and pay retainage (Report; Contract No. 28564)

Disposition: Accepted.

659 Approve Change Order No. 14 on contract with Wildish Building Co. for the Columbia Boulevard Wastewater Treatment Plant aeration tank modifications project (Report; Contract No. 28068)

Disposition: Approved.

MAY 4, 1994

- *660** Amend a grant from the Oregon Department of Human Resources to increase the Refugee Crime and Victimization Grant in the amount of \$21,000 (Ordinance)

Disposition: Ordinance No. 167601. (Y-5)

- *661** Agreement with the Portland State University Campus Safety and Security Department to provide access to the Portland Police Data System (Ordinance)

Disposition: Ordinance No. 167602. (Y-5)

- *662** Agreement to provide photographic developing services to the Multnomah County Sheriff's Office (Ordinance)

Disposition: Ordinance No. 167603. (Y-5)

- *663** Increase purchase order for architectural services for remodel of temporary relocation facility for the Police Bureau's East Precinct (Ordinance; amend Purchase Order No. 1016786)

Disposition: Ordinance No. 167604. (Y-5)

- *664** Authorize contract with Hydro-Temp Mechanical, Inc. for furnishing and installation of a split system heat pump air conditioning system in the records storage room at the Stanley Parr Archives and Records Center in the amount of \$57,000 (Ordinance)

Disposition: Ordinance No. 167605. (Y-5)

- *665** Authorize Intergovernmental Disparity Study Trust Account No. M00906, established by memorandum from the Mayor on February 9, 1994, to earn interest (Ordinance)

Disposition: Ordinance No. 167606. (Y-5)

- *666** Amend contract with Beverly Jean McCall for Urban Services enumeration services (Ordinance; amend Contract No. 28807)

Disposition: Ordinance No. 167607. (Y-5)

- *667** Amend contract with Megann Ratzow for Urban Services enumeration services (Ordinance; amend Contract No. 28808)

Disposition: Ordinance No. 167608. (Y-5)

MAY 4, 1994

- *668** Amend contract with James Morgan Ross for Urban Services enumeration services (Ordinance; amend Contract No. 28809)
- Disposition:** Ordinance No. 167609. (Y-5)
- *669** Amend contract with Richard E. Spohn for Urban Services enumeration services (Ordinance; amend Contract No. 28810)
- Disposition:** Ordinance No. 167610. (Y-5)
- *670** Ratify a Letter of Agreement modifying the current labor agreement between the City of Portland and the Portland Fire Fighters' Association (Ordinance)
- Disposition:** Ordinance No. 167611. (Y-5)
- *671** Create one Assistant Program Specialist/Communications in the Bureau of Transportation; one Program Specialist in Parks and Recreation; one Building Inspector and one Plumbing Inspector in the Bureau of Buildings; one Electronic Technician Assistant; and one MIS Support Analyst in the Bureau of General Services in accordance with the Personnel Rules adopted by the City Council (Ordinance)
- Disposition:** Ordinance No. 167612. (Y-5)
- *672** Amend contract with Sheldon Fire & Rescue Equipment, Inc. for the purchase of two additional type III fire rescue ambulances for the Bureau of General Services for \$153,220 (Ordinance; amend Contract No. 29194)
- Disposition:** Ordinance No. 167613. (Y-5)
- *673** Agreement with Kurahashi & Associates, Inc. for professional services for the Multnomah Street lighting project (Ordinance)
- Disposition:** Ordinance No. 167614. (Y-5)
- *674** Amend contract with W & H Pacific to provide additional engineering services during construction of N. Marine Drive project, Rivergate to Interstate 5 (Ordinance; amend Contract No. 27781)
- Disposition:** Ordinance No. 167615. (Y-5)
- *675** Amend an Agreement with Wong's Forensic and Metallurgical Engineers, Inc. and waive Section 5.68.050 of the City Code (Ordinance; amend Agreement No. 28579)

MAY 4, 1994

Disposition: Ordinance No. 167616. (Y-5)

***676**

Authorize Agreements with several parties for the conveyance of property to the Bureau of Environmental Services, subject to certain conditions being fulfilled, and authorize acceptance of deeds and payments of expenses (Ordinance)

Disposition: Ordinance No. 167617. (Y-5)

REGULAR AGENDA

S-*677

Extend completion date to July 1, 1994 and increase the amount of contract with CH2M-Hill, Inc. from \$285,970 to \$289,970 for additional engineering services (Ordinance; amend Contract No. 26654)

Discussion: Cay Kershner, Clerk of the Council said a substitute adding an emergency clause had been submitted.

Commissioner Hales moved the Substitute; the motion was seconded and, hearing no objection, the Mayor so ordered.

Disposition: Substitute Ordinance No. 167618. (Y-5)

645

TIME CERTAIN: 9:30 AM - Submit to the voters a measure authorizing the issuance of general obligation bonds in the amount of \$58,800,000 to pay for capital construction and improvements for Parks and Recreation (Resolution)

Discussion: Commissioner Hales moved to amend the resolution by substituting a new ballot title page. Commissioner Lindberg seconded and the amendment was so ordered.

Commissioner Hales said the size of the unfunded major capital need for Parks is very large, adding that the Parks Future process completed in 1992 provided a blueprint for what needs to be done. Staff has since reviewed that report and will make updated recommendations this morning. This measure puts into action three themes that Council has emphasized again and again: 1) public safety; 2) children, family and seniors; and 3) livable neighborhoods.

Charles Jordan, Director, Parks and Recreation, said the Parks system is a tattered and torn "old soldier" in need of major reconstruction. To do nothing is not an option and it is time to go to the citizens to see if they agree.

David Judd, Deputy Director, Parks and Recreation, showed slides to illustrate current conditions in the City parks. Restrooms, playground

MAY 4, 1994

structures, playing fields and swimming pools, etc., are all dated and need upgrading. Other parks need further development, while community centers also need renovation. In addition to renovation, the Bureau also hopes to expand its ability to serve residents. He said staff narrowed down the projects to the most critical and cost effective and believes \$34 million in renovation is needed plus \$24 million in upgrades or services to areas currently unserved. Total cost of the package is \$58.8 million.

Mr. Jordan said the 1989 Parks levy raised several million dollars out of which the Bureau generated an additional \$4.7 million. He said their intention is to do the same this time.

Police Chief Charles Moose stressed the importance of parks in providing a safe community and helping support community policing goals.

Bob Ames, Chair of the Association for Portland Progress Committee, which studied Parks needs, said there is no question about the need. It is the kind of infrastructure people want and which the City must have to make the best use of its resources.

Marty Howard, Chair, Portland Public School Board, said the physical integrity of the Parks system must be preserved.

Tony Hopson, President, Self Enhancement, Inc., said the City should invest money now to provide kids with positive alternatives to gang membership.

Ernie Francisco, Outer Southeast resident and Leach Garden volunteer, said the Parks Bureau request is the lynch pin that can create community feeling. She said the Parks Bureau represents one entity that can serve lower income residents.

Vivian Grubb, Aging Services, said there is a lot of support among seniors for this ballot measure.

Ky Holland, 4106 SE Lincoln, 97214, said too many people who move to this area and work in the City choose to live outside it. Upgrading the Parks can help attract more people to live in City neighborhoods.

Kay Durtschi, Southwest Neighborhood Information, said the Southwest area is park deficient and this measure gives them more of what they have asked for over the past three decades. She also called on the City to urge the School District to share their saleable land and buildings.

Bill Naito, 55 W. Burnside, 97209, said Parks assets must be kept up-to-date and in compliance with City Code and American Disability Act

MAY 4, 1994

requirements. He asked that 500 street trees be added to the levy.

Leeanne MacColl, League of Women Voters of Portland, said they believe parks and community centers are of the utmost importance in enhancing neighborhood livability, particularly with the increase in the number of elderly and youth-at-risk.

Jacki Cottingim, Superintendent, Parkrose School, stressed the help the bond levy will provide in the Parkrose area, allowing the area to create sorely-needed community centers.

Ron Rhodes, Portland Youth Soccer Association, said safe game fields and an expanded number of facilities are badly needed.

Kim Manley, 7033 SE 34th, 97202, said this measure offers something to all ages, interests and abilities and the improvements are well distributed geographically. She said the initiative most importantly will expand the City's ability to serve youth and families.

Margaret Wolff, East Metro Community Center, 14120 SE Hawthorne Court, 97233, urged that a new community center be built in mid-County where it is badly needed.

John Brosy, Chair of the SWNI Parks Committee, said some of the Southwest parks have had no major renovation for 35 years. He also urged obtaining land for additional parks.

Carol Boutard, Friends of Community Gardens, 1640 SW Davenport, 97201, said park lands are terribly important for kids.

John Alland, Land-Use Chair, SWNI, said this measure does not go far enough in providing for green spaces and wildlife sanctuaries. Southwest and other areas are also deficient in activity parks and more land is desperately needed. He said he would like to add \$25 million for acquisitions.

Liz Callison, Vice Chair, Parks Committee, Southwest Neighborhood Coalition, stressed support for improved swimming facilities and the greater need for the Parks programs as school funds are cut.

Nancy Jerick, President, City Arts Advocates, 2926 NE 8th, 97212, said the arts programs provided by the City are very important to the learning process for children. This measure will provide renovations to several facilities that support the arts program.

Mr. Jordan recognized the contributions of Dorothea Lensch and Barbara Walker.

MAY 4, 1994

Mayor Katz noted that this is the first attempt of this particular Council to place a major bond measure on the ballot. She thanked Commissioner Hales and Parks staff and said she hoped Council would unanimously support it.

Ken Rust, Bond Manager, said this is a general obligation bond measure to be repaid over 20 years. The maximum expected tax rate would be .22 per \$1,000 in assessed property value. The maximum debt service figures are based on very conservative interest rate assumptions so that if market conditions change there will be no surprises when the bonds are actually sold. Some assumptions have also been made about what assessed value will be in FY95-96, the first year of the levy. By stating their assumptions on the record, they believe this program can go forward even if other tax-limiting measures are passed in November.

Commissioner Blumenauer said Council should be crystal-clear about its capital priorities, noting capital requirements for public safety facilities over the next two years. He said Council should get consensus about its approach in order to avoid ambiguity about the rest of the capital agenda. With the understanding that this will happen, he will vote aye.

Commissioner Hales said parks are an alternative to guns, gangs and graffiti. This levy will provide some exciting opportunities to leverage the dollars allotted with contributions from non-profits, schools, arts organizations and others.

Commissioner Kafoury said she believes education is the highest priority in the State and fears that any bond measure, however needed, may interfere with support for schools. She said she is concerned that the City currently has no mechanism to work with other entities such as the School District or Metro. Also, Council has not looked at other critical capital needs. However, despite the bad timing and these other concerns, she will vote aye because these improvements are much needed.

Commissioner Lindberg said the City cannot let the parks continue to deteriorate and, despite the fact that the timing might not be perfect, offering positive recreational alternatives is probably one of the best investments the City can make. He said it is shameful the way Portland has fallen behind in providing aquatic facilities and Council needs to squarely face the lack of quality facilities which becomes a livability and efficiency issue.

Mayor Katz said additional measures will be placed on the ballot, including one dealing with seismic problems in City facilities. A ballot measure may also be required to provide additional police facilities. She said she wanted to set the record straight that she is working closely

MAY 4, 1994

with Multnomah County and the School District regarding law enforcement needs to make sure these facilities are adequately financed.

Disposition: Resolution No. 35272 as amended. (Y-5)

646

TIME CERTAIN: 11:00 AM - 1994 Seasonal Water Supply Contingency Plan (Report)

Discussion: Mike Rosenberger, Water Bureau, said demand continues to be ten percent below average, adding that many business and industrial customers have made retrofits to reduce their demand, as have residential customers. From a supply standpoint, the reservoirs are full, although rainfall is slightly below average. All factors considered, the forecast is to begin drawdown on July 1, the historic average. The Bureau's prediction is for a normal summer but Council is being asked to adopt this plan in case problems do arise. When drawdown begins, the Bureau will begin making weekly reports to Council. He said what is being proposed for this summer is the same as last year except for banning access to Bull Run Lake. Mr. Rosenberger outlined the sources the Bureau would turn to in the event of a shortage. He reviewed the order of priority, noting that two levels of mandatory curtailment are at the bottom of the list.

Faith Ruffing, SW Hall, asked why voluntary curtailment is not moved ahead of turning on the wells. She said turning on the wells costs a lot of money and it would be better to get the public involved right away in voluntary curtailment efforts and add a surcharge if the wells still need to be used.

Mr. Rosenberger said the well fields are first because the City has spent money to put a backup water supply in place and it makes sense to use it. There is money budgeted to operate the well fields, which are already funded and paid for.

Commissioner Lindberg said if you look at voluntary curtailment as conservation, that is the Bureau's highest priority and the number one way of meeting future water needs.

Commissioner Blumenauer said public education and awareness are the most important factors and he is pleased at the way the public is using water more carefully and effectively.

Commissioner Kafoury said she would like voluntary curtailment to be a higher priority but is very pleased that Bull Run Lake is no longer being drawn on.

Commissioner Lindberg said the Bureau has listened to its customers

MAY 4, 1994

and found that people are willing to conserve voluntarily but really do not want a mandatory system.

Mayor Katz said at Council's direction, the Water Bureau now clearly embraces conservation as its goal and this is reflected in its plans, pricing and everything else it is doing. There have been major changes in the way the Water Bureau does its business and it needs to begin educating consumers about these changes, as well as low income rate relief.

Disposition: Adopted. (Y-5)

- 678** Adopt a code of ethics for all City officials and approve a pamphlet published by the Auditor containing explanations and examples of ethical principles (Second Reading Agenda 630)

Disposition: Ordinance No. 167619. (Y-5)

- 679** Appeal of Jo Hale Lyndon of Urban Forestry Commission decision of March 17, 1994 (Previous Agenda 631)

Discussion: Roll was called on the motion to overrule the Forestry Commission decision. The item was moved for reconsideration at the April 27, 1994 meeting because of the tie vote.

Commissioner Lindberg said since he returned from vacation, he has had more people ask him about his vote on this one tree than anything else going on in the City. He said even though it is one tree, it is a significant policy decision as there are thousands that could be in a similar situation. He said there is nothing particularly unique about this tree and if Council were to overrule the Commission it would send shock waves through their decision-making process.

Disposition: Appeal denied. (Y-2, Blumenauer and Hales; N-3)

Mayor Vera Katz

- 680** Accept The Private Industry Council's Program Year 1994 and 1995 Job Training Plan (Report)

Discussion: Greg White, Director of Grants and Regional Initiatives for the Private Industry Council, explained that because the Private Industry Council is a collaboration between Multnomah and Washington County and the City, it requires the signature of each of those political bodies.

Disposition: Accepted (Y-5)

681

Support Housing Authority of Portland's position on proposed federal Housing and Urban Development budget (Resolution)

Discussion: Commissioner Kafoury, while noting the lack of support for housing in other parts of the country, said she believes the federal proposals, as currently written, would be very damaging to the City and Housing Authority.

Denny West, Executive Director, Housing Authority of Portland, said the resolution makes clear some of the issues in the President's budget and its potential impact on Portland. He agreed there is a very serious image problem with public housing.

Commissioner Lindberg asked how much the City would lose if this passed.

Mr. West said between \$775,000-\$1,000,000 or eight to 11 percent of their operating budget for public housing. Between 20 to 30 employees would lose their jobs.

Disposition:

Resolution No. 35273. (Y-5)

*682

Authorize Agreement with Kids N' Tennis, Inc. to operate St. Johns Racquet Center (Ordinance)

Discussion: Fontaine Hagedorn, Parks and Recreation, said this is a three-year agreement with Kids N' Tennis to operate the St. Johns Racquet Center; Parks would continue to maintain the building and control fees and hours as well as the policies. The emphasis will continue to be on public tennis and increased use by youth, seniors and the disabled. Kids N' Tennis has worked with Parks Bureau for the last seven years and has tax exempt status. He said the Parks Bureau believes this is a good opportunity to contract out service.

Charles Jordan, Director, Parks and Recreation, said they took a very hard look to see if someone else could manage the Center better than the City and believe this group can. Parks will have control of the fees so there will be no obstacle to public participation. The Bureau would like to experiment with contracting out such an operation and believes there is no downside.

Mac McCormick, 1410 SW Harrison, said he represents a group of about 150 people. He asked why Parks would want to give away a million dollar facility for nothing, adding that opponents believe this is not a good deal for taxpayers and resent the process. In November, he contended, Kid's N' Tennis applied for a grant which stated they would take over the facility in July. The proposal was so tailored that no other

MAY 4, 1994

organization could bid on it.

Duane Lemley, 827 NE 90th, member of Senior Tennis Center, said they are pleased with the way the senior program is run and with the St. Johns facility. He asked for an evaluation of the program in the first year to determine if it is meeting the needs of groups not now involved in organized tennis.

Commissioner Kafoury asked if seniors would not be allowed to play here if this were put into effect.

Mr. Lemley said they would be allowed to play but he believes there would be better coordination if both tennis centers are under single management to meet the needs of the total organization. He said he does not know if that would be as easy to do under this contract or whether the cost would be the same.

Kim Albert, attorney with the accounting firm of Deloitte and Touche, said she has been involved in Kids N' Tennis for the past four years and has found them to be dedicated to involving at-risk children in tennis. She said this is a nationally-recognized program that has been used as a model in other cities. Their aims at the St. Johns Center include reaching more kids, greater involvement in the community and providing seniors with more available court time. She said the facility has been running at a loss and if Kids N' Tennis run it, the Bureau would no longer be losing money.

Dave Hake, 9281 SW 8th Dr., 97219, said Council should be aware that they are subsidizing this operation by offering a million dollar facility for no rent. One estimate was that it was worth at least \$5,000 a month. He questioned whether the City should donate that amount of money to an operation that might turn out to be a commercial tennis camp.

Dianne Johnson, 13508 NE 81st, Vancouver, WA 98682, said she has not seen anything that would eliminate time dedicated to seniors, adding that this offers a broadened program in a facility that is currently losing money and has no one to answer the phone before noon.

Donna Montee, US Tennis Association, supported Kids N' Tennis, based on its commitment to the growth of tennis and to including a diverse population in its programs.

Karen St. James, 3827 NE 19th Ave., 97212, said Kids N' Tennis is planning to increase the hours for seniors and women, noting that any fee increase must be approved by the Parks Bureau. She said because of its great diversity, St. Johns is the ideal location for this organization.

Mr. Jordan said the object of this agreement is not funds but services,

MAY 4, 1994

even though the Center is currently being subsidized by \$12,000 per year. He said he has been assured that the seniors will have time to play there, adding that the contract will be monitored on a regular basis.

Commissioner Hales said legitimate issues have been raised, particularly regarding evaluation but, through a good partnership with a non-profit, the City will be capable of providing more than just adequate service. He said he believes everyone will be very pleased with this arrangement six months from now.

Mayor Katz said the Parks Bureau has been asked to do business a little differently, including contracting out services when it makes sense.

Disposition: Ordinance No. 167620. (Y-5)

- *683** Contract with Jim Miller Construction to construct Smith and Bybee observation platforms located 1/2 mile west of North Portland Road on North Marine Drive for Portland Parks and Recreation (Ordinance)

Disposition: Ordinance No. 167621. (Y-5)

- *684** Authorize non-financial Agreement with the David Douglas School District for participation in the Bureau of Environmental Services Youth Environmental Action Team, youth employment and training program (Ordinance)

Disposition: Continued to May 11, 1994 at 9:30 a.m.

- *685** Authorize non-financial Agreement with the Parkrose School District for participation in the Bureau of Environmental Services Youth Environmental Action Team, youth employment and training program (Ordinance)

Disposition: Continued to May 11, 1994 at 9:30 a.m.

- *686** Authorize non-financial Agreement with the Portland School District No. 1 for participation in the Bureau of Environmental Services Youth Environmental Action Team, youth employment and training program (Ordinance)

Disposition: Continued to May 11, 1994 at 9:30 a.m.

- *687** Increase amount of contract with Northwest Geotech, Inc. for overflow materials testing services during the remainder of fiscal year 1993-94 and fiscal year 1994-95 (Ordinance; amend Contract No. 28770)

Disposition: Ordinance No. 167622. (Y-5)

MAY 4, 1994

- *688** Authorize a grant from the Oregon Department of Energy in the amount of \$5,000 for FY 1993-94 for the City Employee Telecommuting Pilot Project (Ordinance)

Disposition: Ordinance No. 167623. (Y-5)

City Auditor Barbara Clark

- 689** Assess property for sewer system development charges through March, 1994 (Hearing; Ordinance; Z0570 through Z0574)

Discussion: Dan Vizzini, Liens and Assessment Manager, said no written remonstrances were received although one woman contacted them about testifying today. He recommended that this go to Second Reading, adding that if they hear from her between now and next week she will be allowed to testify.

Disposition: Passed to second reading May 11, 1994 at 9:30 a.m.

- 690** Assess property for large lot deferral contracts through March, 1994 (Hearing; Ordinance; L0045)

Discussion: Mr. Vizzini said no written remonstrances were received on this item.

Disposition: Passed to second reading May 11, 1994 at 9:30 a.m.

At Noon Council recessed.

MAY 4, 1994

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 4TH 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 Chuck Bolliger, Sergeant at Arms.

***692** Amend the Comprehensive Plan map and change the zone of property at 1901-1917 NW 26th Avenue from RH, Residential, to CM, Commercial/Residential (Ordinance; 94-00034 CP ZC AD)

Discussion: Cay Kershner, Clerk of the Council, said this needed to be continued to allow proper notification.

Disposition: Continued to May 11, 1994, at 2:00 p.m.

691 **TIME CERTAIN: 2:00 PM** - Appeal of Arnold Creek Neighborhood Association against Hearings Officer's decision to approve the application of JMC Corporation for a Planned Unit Development, Major Subdivision, Environmental Review and amendments to overlay and existing conditions, in an R10 zone, located north of the Woodlee Heights Subdivision (Hearing; 93-00658 PU EN AD)

Discussion: Ruth Spetter, City Attorney, outlined the process for keeping the record open and the grounds for appeal.

Tom Bizeau, Planning staff, showed slides and described the site, noting the environmental overlays running down the drainage ways through the site. The Environmental Zone (E-zone) covers all of the site (Tract A) and a wetland has been delineated which would need to be filled and mitigated. More than half the site is in common open space and the original plan called for 33 town houses on the northern portion of the site which was approved by a zone change ordinance currently in effect. The applicant is asking for 23 detached houses and was approved for 25 by the Hearings Officer. The applicant has also asked for modification of the E-zone boundary but would have to provide a mitigation plan for that modification and for any development in the E-zone. How much mitigation was necessary was a difficult decision.

Mr. Bizeau said density is a major issue as under the existing zone change ordinance, 33 town houses would be required while the applicant wishes to have detached units. The Hearings Officer approved 25, which

MAY 4, 1994

would require some attached units, but which was the minimum amount that could be approved under current minimum density standards. Regarding modification of the E-zone boundary, the Hearings Officer did not put in a condition related to this although her findings point to the fact that such a modification would occur. He said he has proposed an additional condition to clarify this, adding that modifications can only occur if there is mitigation first. Another issue is the requirement for a tree performance bond. The Hearings Officer believed the bond in place for the landscaping and overall site mitigation would also cover the trees.

Mr. Bizeau suggested adding a tree preservation plan (Exhibit L) showing how enforcement would occur if trees were accidentally removed. Stormwater facilities are another major issue and there are off-site concerns about overflows on SW Palatine Street. There is a question as to whether the applicant needs to do off-site improvements. The applicant has presented calculations to show that he will meet existing on-site problems and deal with drainage coming through the site so that it does not add to the problems that already exist. Another issue is public versus private streets. An easement for an approved trail connecting to the school is needed and the developer has not said whether he wanted it to be public or private. If public, a sidewalk would continue the connection; if private, a public pedestrian easement would be needed to allow the public legal access from Lancaster to the school. Mr. Bizeau said he has added language that would be appropriate if it is determined to be a private street.

Another issue is whether Jerry McKinney has full ownership of the property. Woodlee Heights residents believe a drainage maintenance agreement on the final plat gives them certain ownership rights and they have some problems with the fact that the open space was never conditioned as part of the PUD and was allowed to slip into another ownership. The zone change ordinance, however, did state that this parcel was intended for future development. The developer is planning on making the designated open space available to Woodlee Heights residents as well as residents of his development. The title company has found no cloud on the ownership.

Commissioner Lindberg noted that the improvements would take care of the on-site drainage but asked if the Bureau of Environmental Services (BES) was asking that this proposal be adopted with conditions or if it is saying that there are serious problems even with those conditions.

Bill Baechler, BES, said they are recommending adoption with the conditions defined by the Hearings Officer.

MAY 4, 1994

Tim Crail, attorney representing Arnold Creek Neighborhood Association, outlined their five appeal issues, concentrating on density, E-zone removal and storm drainage. He emphasized the serious drainage problems that exist along SW Lancaster because of the development of Woodlee Heights. He said there is no evidence that this problem will be addressed and residents have been told that as long as the problem does not increase, that is sufficient. He said Code Section 33.269.270 states that facilities must be adequate to serve the PUD site and areas draining through it. That language requires more than the applicant has offered so far. He asked that Council remand this issue to the Hearings Officer with a corrected interpretation of the Code section so that the applicant can provide calculations which will indicate that the facilities will service both the site and the areas draining through it. If the facilities are not adequate, changes should be required to take care of water flowing through the site.

Mr. Crail said the issue of density becomes divisive when it is required in environmental overlay zones far from any public transportation. Environmental overlay zones were created to protect the few remaining large tracts with significant resources and that goal is in direct conflict with minimum density requirements for PUDs. The Code requires that development in environmental zones have as few detrimental impacts as practical and it is impossible to avoid significant impacts while requiring minimum density. He said minimum density is required due to the topography, tree preservation requirements and other constraints. He cited LUR 94-00072, a request for a minor land partition, which removed minimum density requirements because of steep slopes and substantial vegetation. This site needs the same protection. The current plan approved by the Hearings Officer has 23 lots with 25 units; 10 lots have building envelopes within a few feet of the Environmental Protection (EP) zone rather than the 25-foot transition zone that is required. He urged a reconfiguration of the plan with fewer units and no houses built within 25 feet of the EP zone.

Regarding the performance guarantee bond, Mr. Crail said the language proposed by staff provides greater protection but it is hard to imagine replacing a mature tree with one of the same caliper. He said he cannot imagine doing that with a 20-inch diameter tree. He requested a performance guarantee bond to ensure that those trees will not be damaged or removed.

Doug New, 11219 SW Lancaster Rd., 97219, said he is representing property owners who live north of Woodlee Heights and north of Tract A. He said the most critical issue for them is density and buffering, adding that the mediation committee on which he served was unable to reach agreement about density.

MAY 4, 1994

Mayor Katz asked what the difference was between the developers and the residents.

Mr. New said two units.

Mr. New said residents to the north believe the setbacks along the northern boundary are too small and would like to see density decreased by the two units or, if approved, place a few attached homes in the general mix of the proposed development and allow the density to be decreased by those units. He recommended adoption of the plan that Mr. Bizeau had put together which replaced two of the four homes along the northern property boundary with mixed units.

Jill Inahara, 11952 SW 34th, addressed the tree preservation plan. She called for an increase in the surety bond above the present 25 percent level during the second and third years and suggested that it be 75 percent. Replacement of removed or damaged trees with two-inch diameter trees is unacceptable. She requested a condition that any replacement trees be at least 10 inches. She cited a similar case where a \$1200 bond per tree was required and said something like that would be preferable here.

Terry Scannell, 11442 SW Woodlee Heights, said he represents a group of Woodlee Heights residents who are planning to sue the developer over the ownership issue and whether the title issued by Stewart Title was approved by the State Insurance Commissioner. He said it appears that Mr. McKinney is self-insured on Tract A. Another issue concerns Tract A, where many representations were made to Woodlee Heights owners that it was to be open space. He said at a minimum the City should require that the cloud on the title be cleared. Regarding density, when the Woodlee Heights development was put together there was a requirement that there be 40 percent open space and Tract A was to be part of the open space for the 63 owners at Woodlee Heights. By developing Tract A it appears that a double dip is going on here.

Don McMurtry, 2109 SW Palatine St., said he is very angry about drainage to the north side of the site, noting that water is coming down the street over the top of the sewer onto his and his neighbors' property. He said the City tells him he needs curbs but they will not help in this situation, which is a flash flood condition. He suggested ways that the situation could be remedied, including replacement of drainage tubes and diversion into Arnold Creek.

John Alland, Land Use Chair, Southwest Neighborhood Information (SWNI), said the proposed plan is only a beginning for what needs to be done at this site to meet the needs of the environment and the community. His recommendations included: no removal of the E-zone

MAY 4, 1994

from individual lots; a 50 percent reduction in density with emphasis on moving away from the E-zone boundaries; mitigation bonding for three years after completion and performance bonding during construction; a tree bond of \$1,200 per tree; and a transportation waiver for future bikeways and improvements to Lancaster and Stephenson Road.

Kay Durtschi, SWNI, said the E-zones must not be removed from this site. She said the Arnold Creek area has already been extremely impacted by this project as it does not have adequate drainage and the City should stop and take a look at what is happening here. She also called for reducing the density and stressed the need to develop neighborhood plans in the Southwest area.

Commissioner Lindberg, asked Ms. Durtschi what her position on density was, noting that Mr. Alland asked for a 50 percent reduction while the Arnold Creek Neighborhood Association requested a reduction from 25 to 23 units.

Ms. Durtschi said she supports the 50 percent reduction.

Mr. Alland said SWNI believes density should be concentrated along major transit corridors, not on streets such as Lancaster where it will create a major problem.

Commissioner Lindberg said he was trying to figure out why the recommendations for density were so far apart.

Mr. Crail said the statement in the appeal that there was an agreement between the developer and the Arnold Creek neighborhood on the number of units is incorrect. During mediation the discussion to reduce it to 15 units went round and round and City staff then told both parties that the City would never accept that. The neighborhood would like to go below 23.

Commissioner Hales asked if the neighborhood's position was to eliminate two lots.

Mr. Crail said they recommend that it be reconfigured to move the units away from the EP zone and that would probably require fewer than 23 units.

Mr. Alland said there was no agreement on density in the mitigation report.

Mr. Crail said the staff report recommended 20 lots with 8 attached units for a 25 unit total but the Hearings Officer came back with the 23 lots as proposed originally by the applicant but with two attached units.

MAY 4, 1994

P. J. Collins, 1835 SW Palatine Street, opposed the project because of the stormwater runoff problems. He said there is already an existing problem and to add 23 new units plus Woodlee Heights into the same storm drain system is a mistake.

Jack Orchard, attorney representing the applicant, said they are confused by the density issue as the appeal before Council today calls for a reduction in units from 25 to 23. He said the project has been designed to accommodate either 25 or 23 units and he does not know where the 15 unit recommendation comes from. The appeal does reflect exactly where the mediation process ended, adding that 23 units was satisfactory to the parties who brought this appeal and is a significant reduction from the original staff recommendation. The density represents a compromise by the City, the developer and the neighborhood.

Regarding the EC zone modification, Mr. Orchard said the idea was to do a comprehensive mitigation plan rather than doing it on a lot-by-lot basis. The plan was modified substantially during the hearings process to address the issues of tree preservation and wetland mitigation, and a design building envelope for each buildable lot (Exhibit C-8) was also established. Both staff and the Hearings Officer supported dealing with the issue comprehensively rather than through a lot-by-lot environmental review. However, the developer must commit to the mitigation plan that starts one year after the plat is reported, a three-year bonding requirement, a height limitation, buffering, etc.

Mr. Orchard said the applicant has no problem with the two modifications to conditions proposed by Mr. Bizeau and also agrees to the revision to condition "o" regarding public access to the pathway. The developer has gone through an extensive mediation process and the Hearings Officer approved this with many conditions which have achieved a balance between density and environmental protection.

Jerry Palmer, Alpha Engineering, reported on the storm drainage issue. The plan calls for stormwater detention facilities and for water quality treatment facilities which are beyond the standards required in this particular storm basin. He said even though it is a Willamette River tributary they are using the higher Tualatin River standards to show that there will be adequate capacity through the site and ensure that this project will not increase discharge to properties downstream. He said they were able to identify the problem presented by Palatine Street residents, adding that Tract A itself is downstream from Woodlee Heights and they found there were deficiencies on Tract A which they have corrected.

Mr. Crail said there is no discussion of 23 units in the mediation

MAY 4, 1994

agreement. That was a mistake in the appeal and the staff memo is correct in that there was no agreement on density. He asked if the Neighborhood Association is bound by the request for a reduction to 23 units which was the language in the appeal.

Mayor Katz asked if Council should base its decision on the mediation report or on the appeal.

Mr. Bizeau said the neighborhood can bring in any information they want at this point. The mediated agreement is not a legally binding document.

Mr. Crail asked that the project be reconfigured to take into account the effect of building right up to the E-zone but he did not know exactly how many units that would be.

Regarding the double dip issue, Mr. Scannell said when Woodlee Heights was approved, Tract A was considered to be part of its open space in order to allow smaller lot sizes, in keeping with the Code requirement that 40 percent of a PUD be devoted to open space. What is happening here is that the open space in Tract A leveraged the PUD in Woodlee Heights and that open space is now being counted again for this development.

Mr. Crail said regarding storm drainage, if the facilities are adequate to treat the water running through it, that evidence is not shown in the Hearings Officer's decision, citing page 13 which states that the mitigation is only for that development, not water running through the site as required by City Code.

Mr. Scannell said the map now being proposed should be compared with the original map in the ordinance. He said people in Woodlee Heights had a right to rely on most, if not all, of Tract A remaining as open space.

Commissioner Hales said more information is needed about whether this tract was dedicated as open space in the approval of Woodlee Heights.

Mr. Bizeau said his research found that the approved plat stated that Tract A would remain in the ownership of the original owners and there was no dedication of any open space area to Woodlee Heights. He said when open space is delineated on a plat there would also be agreements to own and maintain it as well as a homeowners association to oversee it.

Commissioner Blumenauer asked if the density originally allowed on Woodlee Heights was predicated on a larger amount of open space,

MAY 4, 1994

whether or not the dedication was made. Was the overall density calculated assuming the Tract would be open space.

Mr. Bizeau said it was dedicated assuming there would be 33 town houses and open space. The Code at that time called for 40 percent open space but in the approval there was an indication that there would be 36 percent common open space in the entire Woodlee Heights. The open space was to be a part of the 33 town houses.

Commissioner Blumenauer questioned whether what is being proposed here with 25 units is at variance with the original plan which contemplated 33.

Mr. Bizeau said there was a 1.5 acre difference between the aggregation of the entire parcel and what was being proposed. The Hearings Officer evaluated strictly on Tract A and found it met the current Code requirements for open space. She did not add the parcels together.

Commissioner Blumenauer asked if this was a case where density was increased because of the split parcel.

Mr. Bizeau said no.

Commissioner Hales said he is assuming that if 23 units were built, instead of 25, the number of lots would not change but four attached units would become detached.

Mr. Bizeau said yes.

Commissioner Hales asked why no LID waivers for future improvements on Lancaster are required.

Glen Pierce, Office of Transportation, said he believes the waivers of remonstrance are already on file for this property, adding that they would be required for plat approval.

Commissioner Hales suggested adding a condition making that explicit. He asked if a developer is required only to handle drainage produced at the site so that there is no net increase in runoff or if the City can require more than that.

Bill Baechler, Bureau of Environmental Services, said in the past the developer would design a drainage system that would not increase runoff and water entering the site would pass through. This developer has chosen to detain the water and limit the runoff to the predeveloped condition. He said the upstream water that enters is already calculated in.

MAY 4, 1994

Commissioner Hales asked how the developer will decide whether to build private or public streets.

Mr. Pierce said at the time of the application, the developer was proposing public streets. He said the Office of Transportation did not have a preference for either public or private streets since no public street connection can be made through this site because of the environmental zones at the back end. He said he does not know what criteria the applicant would use to decide between the two, but in either case the intent is to have a pedestrian connection all the way through the site. If it is a private road, the plat will have to show the public pedestrian easement for the walkway.

Mr. Palmer said the project shows private streets and the only issue is whether the main road coming in should be private or public. Since they will need to form a homeowners association to maintain the private streets the issue is why not make all of them private. They also feel there is more flexibility in the private standards regarding specificity.

Commissioner Lindberg asked if this proposal meets the 40 percent open space requirement for PUDs.

Mr. Bizeau said yes.

Commissioner Lindberg asked about legal implications regarding the responsibility of the developer to take care of drainage on site and the drainage running through.

Mr. Bizeau said Council can further interpret the meaning of the Code language "through the site".

Ruth Spetter, Senior Deputy City Attorney, said the staff report states that the applicant will have to deal with the water going through the site as well from the project itself.

Mr. Baechler said State water law would limit what a property owner can or cannot do with water flowing through a site. He said the volume of water coming into the site must pass through and leave at the same rate.

Commissioner Lindberg said that is a different interpretation. He said you could interpret this to mean that you have to take care of the water coming through.

Ms. Spetter said the Code states that "facilities must be adequate to serve the PUD site and areas draining through the site". She said if water was draining through the site previously then the development

MAY 4, 1994

will deal with whatever drainage problems are caused by the development as well as what was draining through the site.

Commissioner Lindberg asked if staff thought an already bad situation will be made worse, as the neighbors contend.

Mr. Baechler said it would not be made worse and there is a possibility it could be made better.

Commissioner Lindberg asked about the request from the neighborhood association asking that areas outside the building envelopes or streets not be removed from the E-zone. He asked how this would impact the development.

Mr. Bizeau said the intent of that statement was to have Council indicate that a modification of the zone boundary can occur.

Commissioner Hales said if an applicant is going through the PUD process, the theory is that they are doing a better job of protecting the resource than you would with a straight subdivision. It is then reasonable to lift the E zone designation on the buildable portions of the lots because the remaining undeveloped portions are fully protected. Mr. Alland is contending that even though that exchange has occurred, individual E zone review should still be required for the houses. That is a policy question.

Mr. Bizeau said the environmental section of the Code allows for a modification to occur.

Commissioner Lindberg noted that because there is no requirement for replacement of a lost tree with one of a similar size there does not seem to be much of a penalty.

Mr. Bizeau said if they remove a 30-inch tree they have to replace that many calipers. If they used the minimum tree size, 2-inches, they would have to plant 15 trees.

Commissioner Blumenauer said Council has been told there is a good relationship between the developer and the neighborhood. Also, careless tree removal does decrease property values and replacement is costly, giving a developer good reasons not to be reckless.

Commissioner Lindberg said unfortunately experience does not always jibe with that.

Mayor Katz asked why the standard could not be raised to require more than a 2-inch standard.

MAY 4, 1994

Commissioner Blumenauer asked who controls replanting.

Mr. Bizeau said the Planning Bureau would have to approve replanting and the developer would have to supply a plan that would meet the intent of the preservation plan. He said it would be fine to raise the standard.

Mr. Bizeau stated the applicable Code criteria for the record.

Mayor Katz asked about the ownership issue.

Ms. Spetter said it will take litigation to determine who owns the property and Council would be unable to make such a determination.

Mayor Katz noted the Hearings Officer's reference to inadequate drainage on SW Lancaster and Palatine and noted the need for additional work by the City with the neighborhood. She asked Mr. Baechler what the plans are.

Mr. Baechler said because Palatine between 16th and Lancaster is an unimproved street, it is not maintained by the City. The drainage problems are very complex and because the collection system is non-existent, there are no easy or quick fixes. He suggested having the neighborhood form a local improvement district which would correct the problems once and for all and then the City would be responsible to maintain both the street and the drainage system. There are other problems with the open water courses that are conveying water to Palatine that fall to private property owners to take care of. One portion of the Creek, for instance, is currently being used as a pasture which causes a big maintenance problem. He said it is not a problem the City can solve without cooperation from the property owners.

Ms. Spetter said in terms of ownership, it is important that the owner be the applicant and the documents presented indicate that this applicant is the owner. She said if some subsequent court proceeding found the applicant was not the land owner, Council's action could be invalid but it may not be an issue of title so much as what the drainage agreement gave the Woodlee Heights people the right to use Tract A for.

Mayor Katz said Commissioner Lindberg is willing to work with the Bureau of Environmental Services to pursue ways to deal with the overall drainage issue as it is being raised over and over again.

Mr. Alland, SWNI, said it is very important that the E-zone overlay remain over the entire property but since it is a PUD it could be lifted in the building envelope itself. When construction is finished it is important that the owners maintain their backyards as E-zones.

MAY 4, 1994

Mayor Katz noted that the applicant indicated that would not be a problem.

Commissioner Hales moved to tentatively deny the appeal and uphold the Hearings Officer's decision but adopt the modified findings and conditions contained in Tom Bizeau's May 3 memo and also add a condition requiring that LID waivers be filed for each lot for future improvements on Lancaster.

Mayor Katz asked about a larger tree standard for replacement.

Commissioner Blumenauer amended the motion to add a condition giving discretion to the Planning staff to impose a requirement for a larger tree size than two or three inches. He then seconded Commissioner Hales' motion.

Commissioner Blumenauer noted this would add condition "d-d", modify condition "u", and address the public access issue in condition "o".

Commissioner Hales said he assumes LID waivers would still be needed from the individual lots.

Mr. Pierce said one of the conditions already requires waivers which are generic and cover any unimproved right-of-way adjacent to the site.

Commissioner Blumenauer said he hopes tree replacement language can be drafted that could be added to the Code. Regarding drainage, he suggested looking at language that would actually require new developments to make the situation better. He said he would like to establish a standard that is more stringent, give the neighbors some peace of mind and help reduce overall costs.

Commissioner Hales said this hearing highlights the need to develop sites like this with great sensitivity. He said while there are still places where the Code can be clearer and more effective, the standards as they now exist have more than been met in this case.

Commissioner Kafoury said she would like to see the drainage issue addressed and not fall through the cracks because it is an inter-bureau issue.

Commissioner Lindberg said he was quite impressed at the process between this developer and the neighborhood which comes close to a model he would like to see used in other developments. Regarding drainage, he said he likes the idea of changing the Code to require improvement and deal with the larger problem. He committed to working with Environmental Services and reporting back to Council on

MAY 4, 1994

the options. He said it is also important to look sensitively at open space and drainage while striving to meet density goals.

The Clerk noted that the record would be kept open for one week, until May 11 at 5:00 p.m.

Disposition: Appeal tentatively denied and Hearings Officer's decision upheld as amended; applicant prepare findings for May 18, 1994 at 2:00 p.m.

REGULAR AGENDA

COMMISSIONER CHARLIE HALES

693

Tentatively grant, with added conditions, portions of appeals of Woodstock Neighborhood Association and Joe Van Haverbeke, applicant, against Hearings Officer's decision regarding the five-lot subdivision at SE 48th Avenue at SE Mitchell Street (Findings; 93-00549; Previous Agenda 498)

Discussion: Duncan Brown, Planning Bureau staff, said revised findings reflecting Council's tentative action were distributed. They were modified slightly to more accurately reflect the approved plan and those changes, on pages 2 and 6 of Attachment No. 2, are underlined. There is also a change in condition 3 to more accurately reflect the use of the pedestrian easement on SE 48th Avenue.

Mr. Brown said the Woodstock Neighborhood Association has requested a modification to Condition 4 which prohibits access to SE Mitchell to require a one-foot reserve strip as a means to prevent access from Lot 5 onto Mitchell. Instead, however, the applicant has suggested placing a note on the plat prohibiting access. The Bureau believes either alternative would provide protection and recommends that Council resolve that issue. Second, Council should adopt the amended findings and conclusions in the memorandum (Attachment B) and, third, approve the proposed subdivision site plan subject to the conditions cited in the memorandum.

Commissioner Blumenauer asked what the disadvantage of adding the note to the plat would be, as it seems the easier alternative.

Mr. Brown said the disadvantage would probably be enforcement as with a reserve strip, any violation could be viewed as trespassing on City property. He said there was still adequate enforcement either way.

Commissioner Hales said he assumes the plat diagram is for informational purposes only since the conditions say that the front yard

MAY 4, 1994

setback is 15 feet from the front lot line and the garage entrance for Lot 2 is 23 feet from the front lot line, even though all three lots show the garage out in front.

Mr. Brown said on Lot 2 the setback is at least 23 feet back. On the final plat the applicant will have to show potential buildable area in conformance with cluster subdivision regulations.

Commissioner Hales said he hoped there would be not be three more "snout" houses here.

Mayor Katz asked whether Council could hear testimony about the Woodstock Neighborhood Association issue, the modification to Condition 4.

Moshe Lenske, 4314 SE Crystal Spring Blvd., said the Neighborhood Association made this recommendation because of the problem the City often has with enforcement. He said they believe having the reserve strip is important, adding that it would be unnecessary if the owner of the property would sign the Mitchell Street vacation, automatically giving the property back to the original owner.

Jeff Bachrach, attorney representing the applicant, said the issue is that you need to take 30 square feet from already small lots for enforcement purposes. He said this is a punitive way to enforce as there is no street on Mitchell and nothing for the property owner to access. Before a street could be built, someone would have to get a permit and would find there was no access for this lot. It is a gratuitous taking and creates a lot more problems in siting a house. The only benefit is using it as leverage for the street vacation, which has nothing to do with this application.

Glen Pierce, Office of Transportation, said they view the reserve strip as unnecessary because there are adequate controls to prevent access across SE Mitchell. Any building permit for the lot that would access Mitchell would require signoffs from both Planning and Transportation and neither would approve it because of the controls already in place.

Commissioner Hales suggested going with the alternative that does not require the reserve strip and amend Condition 4 to require that the condition (prohibiting access onto SE Mitchell Street) be noted on the final plat. He moved that the findings and conditions be adopted with that amendment.

Disposition: Findings adopted as amended. (Y-5)

S-694

Adopt Community and Neighborhood Planning as the primary vehicle for the update of the Comprehensive Plan Map and Plan District Review (Amend Title 33; Second Reading Agenda 547)

Discussion: The Clerk noted that a Substitute ordinance had been filed.

Michael Harrison, Planning Bureau staff, noted the substitute reflects changes Council had asked staff to investigate at the hearing a month ago, including considering ways to accelerate the community planning program, which the Council subsequently funded. The substitute also deals with the suggestion by Southeast Uplift and attorney Ed Sullivan relating to possible loss of content with the deletion of current policy 10.1 in the Comprehensive Plan. Staff now proposes to indicate that a periodic review process would continue and add a new policy to indicate that the community and neighborhood planning program is the means for updating the Comprehensive Plan map. He said he believes there is consensus.

Commissioner Hales moved the substitute. Commissioner Kafoury seconded and the motion carried (Y-5).

Commissioner Blumenauer said he would like to discuss cost recovery for the Planning Bureau to give it more resources, noting that the City is facing a light rail decision and other major issues this calendar year that will impact Inner Southeast.

Disposition: Substitute Passed to Second Reading May 11, 1993 at 2:00 p.m.

S- 695

Approve the Community and Neighborhood Planning Program (Previous Agenda 548)

Discussion: Commissioner Hales moved the Substitute and, hearing no objections, the Mayor so ordered.

Ky Holland, President, SE Uplift, said the Board strongly believes that the Inner Southeast plan should begin sometime within the next 12 months, with completion within 48 months. He said they are committed to making the inner part of the City a desirable place for people to live and work. If, however, some of the upcoming issues are not dealt with now, they will become planning emergencies.

Kay Durtschi, Southwest Neighborhood Information, said they are counting on their community plan beginning July 1, 1994, not 1995, and they also support the proposed changes. She said getting these plans in place now is the only way to give the neighbors confidence in the

MAY 4, 1994

planning process.

Commissioner Lindberg asked whether there were other options regarding the sequencing and funding of Inner Southeast.

Mr. Harrison said, as they begin sequencing, the details of these individual projects will require adjustments based on Council budget deliberations. The Planning Commission Chair, Ric Michaelson, supports making Southwest next but did not feel strongly about the rest of the sequence.

Commissioner Hales said there are two ways to deal with this, either put Inner Southeast ahead in the sequence or put it next in line after Southwest and before Peninsula, Northwest and Northeast. He proposed to adopt this order but select one of those two options later on. He noted several warning signs, including the capacity of the Planning Bureau and Commission to manage multiple community plans as well as Code revisions. Also, the approach to citizen involvement needs to be customized differently in each community plan. For these reasons he would rather not have Council decide today to add Inner Southeast as of July 1 or move it ahead in the queue. He said he would rather revisit how to meet the needs of Inner Southeast through discussion with the Planning Commission and neighborhood coalitions.

Commissioner Kafoury said this raises concern about other neighborhoods and Council needs to quickly address the special issues in Southeast because of all the other projects going on there. She said it may be time to take a creative look at the whole neighborhood planning program.

Commissioner Blumenauer said if Council had adopted the cost recovery program last year, Southeast could have been started then. To slip Southeast from next in line to last is unacceptable.

Commissioner Hales said he did not understand how the Planning Commission decision about sequencing was affected by the budgetary decision made by Council.

Commissioner Blumenauer said the City had been prepared to start a community plan there last year and he understood that, because of light rail and the CSO project, it would be Inner Southeast. He said Southwest should not be penalized either because their plan should have started this year. He said no places in the City are under more stress than Southwest or Inner Southeast and theirs is a reasonable request. He proposed that Council commit to this, noting that there are already four or five neighborhood plans in Southeast. He said they will not need a full blown plan as was needed in Albina because of what already exists

MAY 4, 1994

there. He said he cannot vote for something that does not respond to the SE Uplift request as he believes they deserve it.

Commissioner Lindberg asked why Southeast went from first to last in line.

Mr. Harrison said that was a Bureau administrative decision as the start of the fourth community plan was tied to the fact that the fees were delayed. In putting together the 94-95 budget, it became evident that they could not put together an area not eligible for block grant funds, such as Albina and Outer Southeast. They were able to put together a financial package for Outer Southeast but could not put together one for Southwest. Then the decision to postpone the fourth community plan was made and the Bureau of Community Development indicated it is unsure it wants to support an Inner Southeast plan because there are already so many neighborhood plans there.

Commissioner Lindberg said he wonders what the Planning Commission criteria for putting Inner Southeast at the end was.

Mr. Harrison said their decision on sequencing was made in 1992 and again reflected the fact that a number of neighborhood plans had already been done. The development and transportation issues were not as clear then as they are now.

Commissioner Kafoury said perhaps it would be best to have the cost-of-service study first before approaching this.

Commissioner Hales agreed, adding that the Planning Commission did not have the advantage of hearing the points made by Mr. Holland in developing the sequence.

Commissioner Blumenauer asked if there was any objection to routing this back to the Commission for a full discussion.

Mr. Harrison said staff asked the Commission about reconsideration last fall and it indicated that, since this was coming to Council by resolution and therefore would be subject to change, it did not want to see it again. He suggested moving Inner Southeast to the fifth priority and then consider, on the basis of the cost-of-service study, when to start that program.

Commissioner Hales moved that Inner Southeast be moved to the fifth priority and determine the starting date within the next two months. Commissioner Kafoury seconded.

Mr. Harrison said there is no reason to delay action on the resolution

MAY 4, 1994

until that discussion as they would like to file it with the Land Conservation and Development Commission to satisfy concerns about periodic review.

Hearing no objection, Commissioner Blumenauer, as presiding officer, so ordered.

The Clerk noted that this should be continued to next week so that the ordinance and resolution could be voted on at the same time.

Disposition: Substitute Continued to Second Reading May 11, 1994 at 2:00 p.m. as amended.

696

Liquor license application for Joseph Byung Song and Myung Hee Song, dba Hoyt Street Market, 1830 NW Hoyt St., package store liquor license (renewal); Favorable recommendation, with restrictions (Previous Agenda 549)

Discussion: Mike Sanderson, Bureau of Licenses, noted that the Bureau had recommended a favorable endorsement with restrictions, including a prohibition on the sale of single cans of beers. In response to Council's request to review this for consistency with past practice, the Bureau now proposes a favorable recommendation with restrictions on the sale of fortified wines, beer in containers larger than 16 ounces, and no sales to street drinkers. Because this store has been positively identified as a contributor to street drinking problems, staff believe mandatory restrictions are appropriate. This is consistent with prior recommendations and also consistent with the Police Bureau's community policing partnership agreement.

Commissioner Kafoury said there have not been any citations issued to this store, as was the case with Elias Grocery.

Mr. Sanderson said no, there was a citation issued at this store.

Commissioner Kafoury asked why there was a favorable recommendation with restrictions in this case rather than an unfavorable, such as Elias received.

Gary McGrew, License Bureau, said with Elias there was considerable negative testimony from nearby residents and Elias had been in front of Council previously with this issue. This is the first time Hoyt Street Market has been before Council and that is why they are recommending a progressive disciplinary process with minimal restrictions at this time.

Commissioner Kafoury moved approval of the recommendation with the amended restrictions.

MAY 4, 1994

Joseph Song, owner of Hoyt Street Market, said they will take steps to address the problems. He said he does not understand why the City has singled them out as they have not sold a single can of beer to a homeless person and do not carry fortified wines. However, if the sale of 16-ounce and over containers is banned, their business will be severely impacted. He said if all 40 stores in the area sign, then they will sign, too.

Commissioner Kafoury told Mr. Song that Council will look carefully at every license that comes forward. She said she does not believe the City is singling him out, noting the terrible problem in this area because of the actions taken in Old Town which have displaced street drinkers.


Mr. Song recommended that all the stores in the area get together and deal with the problem. He noted cases where his employees refused to sell to intoxicated persons who then purchase it elsewhere and return to the park.

Commissioner Kafoury moved approval of the favorable recommendation with restrictions as amended.

Disposition: Favorably recommended with restrictions as amended.
(Y-4)

At 5:00 p.m., Council adjourned.

BARBARA CLARK
Auditor of the City of Portland


By Cay Kershner
Clerk of the Council