



CITY OF

PORTLAND, OREGON

**OFFICIAL
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 1ST DAY OF JUNE, 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; Kathryn Imperati, Senior Deputy City Attorney; and Officer John Hodges, Sergeant at Arms.

CONSENT AGENDA - NO DISCUSSION

Agenda Nos. 825, 835 and 867 were pulled from Consent. On a Y-5 roll call, the balance of the Consent Agenda was adopted as follows:

- 826** Accept bid of Boyington Construction Company for Portal Oaks pump station modifications for the Bureau of Environmental Services for \$68,000 (Purchasing Report - Bid 85)

Disposition: Accepted; prepare contract.

- 827** Accept bid of Berning Construction Company for Eastmoreland parking lot landscape improvements for \$57,025 (Purchasing Report - Bid 166)

Disposition: Accepted; prepare contract.

- 828** Accept bid of Copenhagen Utilities and Construction for improvement of SE Harold neighborhood traffic management project for \$116,983 (Purchasing Report - Bid 170)

Disposition: Accepted; prepare contract.

- 829** Accept bid of Cedar Landscape, Inc. for Peninsula Park irrigation system for \$190,746 (Purchasing Report - Bid 171)

Disposition: Accepted; prepare contract.

- 830** Accept bid of Casper and Magera, Inc. for 12", 8" and 6" water mains in SW Garden Home Rd. for \$209,728 (Purchasing Report - Bid 173)

Disposition: Accepted; prepare contract.

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831 Accept bid of G. R. Morgan Construction for Ventura Park playground for \$64,032 (Purchasing Report - Bid 174)

Disposition: Accepted; prepare contract.

832 Accept bid of Sheldon Fire & Rescue Equipment for furnishing a four-stage breathing air compressor station for \$58,290 (Purchasing Report - Bid 178)

Disposition: Accepted; prepare contract.

833 Accept bid of American Business Machines for annual copier maintenance for Canon Copiers for \$89,600 (Purchasing Report - Bid 180-A)

Disposition: Accepted; prepare contract.

834 Accept bid of Benge Construction for Gabriel Park paths for \$91,100 (Purchasing Report - Bid 183)

Disposition: Accepted; prepare contract.

Mayor Vera Katz

***836** Establish the nonelective contribution (Employee Benefit Allowance) for the Cafeteria Fringe Benefit Plan know as "Beneflex" for the plan year July 1, 1994 through June 30, 1995 (Ordinance)

Disposition: Ordinance No. 167694. (Y-5)

***837** Create one Sectretarial Clerk I position in the Bureau of Buildings in accordance with the Personnel Rules adopted by the City Council (Ordinance)

Disposition: Ordinance No. 167695. (Y-5)

***838** Pay claim of Carl Ausbie (Ordinance)

Disposition: Ordinance No. 167696. (Y-5)

***839** Agreement to provide access to Portland Police Data System to the City of Tigard Police Department (Ordinance)

Disposition: Ordinance No. 167697. (Y-5)

Commissioner Earl Blumenauer

***840** Authorize a contract with Interface Engineering, Inc. for lighting design, product specification and bid document preparation services for various bureaus through the Bureau of Purchases (Ordinance)

Disposition: Ordinance No. 167698. (Y-5)

***841** Agreement with the Portland Development Commission to provide for the NE Airport Way wetland mitigation facility (Ordinance)

Disposition: Ordinance No. 167699. (Y-5)

***842** Amend contract with Si-Lloyd Associates to increase the amount by \$54,751 (Ordinance; amend Contract No. 50207)

Disposition: Ordinance No. 167700. (Y-5)

Commissioner Charlie Hales

843 Accept contract with S & L Landscaping, Inc. for Bloomington Park site improvements as complete, authorize final payment and release retainage for a total of \$4,882 (Report)

Disposition: Accepted.

***844** Close the Economic Development Trust Fund and transfer the remaining balance (Ordinance)

Disposition: Ordinance No. 167701. (Y-5)

***845** Authorize an Agreement with Jeff Sanders Golf Promotions for the purpose of hosting the 1994, 1995 and 1996 G.I. Joe's/Thriftway Portland Invitational at Heron Lakes golf course (Ordinance)

Disposition: Ordinance No. 167702. (Y-5)

***846** Authorize Agreement between the City and Multnomah County providing City funds for Aging Services Division's district senior centers and County funds for Portland/Multnomah Commissions on Aging and the medicaid program (Ordinance)

Disposition: Ordinance No. 167703. (Y-5)

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- *847** Authorize an Agreement with Bengé Construction for \$91,100 to construct new paths at Gabriel Park (Ordinance)

Disposition: Ordinance No. 167704. (Y-5)

- *848** Authorize an Agreement with Cedar Landscape, Inc. for \$190,746 to construct a new irrigation system at Peninsula Park (Ordinance)

Disposition: Ordinance No. 167705. (Y-5)

- *849** Authorize an Agreement with Berning Construction Co. for \$57,025 to construct parking lot landscape improvements at Eastmoreland Golf Course (Ordinance)

Disposition: Ordinance No. 167706. (Y-5)

- *850** Contract with Sheldon Fire & Rescue Equipment, Inc. for \$58,290 for purchase of an air compressor system (Ordinance)

Disposition: Ordinance No. 167707. (Y-5)

- *851** Contract with Burlington Water District for fire prevention and suppression services (Ordinance)

Disposition: Ordinance No. 167708. (Y-5)

Commissioner Gretchen Kafoury

- 852** Accept contract with Russell Construction, Inc. for the third floor shower repair project in the Portland Building as complete and authorize release of retainage (Report; Contract No. 29069)

Disposition: Accepted.

- *853** Increase Purchase Order for consulting services with Snell Environmental Consulting for three projects (Ordinance; amend Purchase Order No. 1015312)

Disposition: Ordinance No. 167709. (Y-5)

- *854** Authorize application to the U.S. Department of Housing and Urban Development for a grant under Title I of the Housing and Community Development Act of 1974, as amended, in the amount of \$11,623,000 for fiscal year 1994-95 and authorize a contract (Ordinance)

Disposition: Ordinance No. 167710. (Y-5)

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***855** Contract with Portland Development Commission for \$65,000 for development activities at Kennedy School and provide for payment (Ordinance)

Disposition: Ordinance No. 167711. (Y-5)

***856** Contract with Portland Habitat for Humanity, Inc. for \$25,000 to carry out site preparation work on 3-4 vacant lots in the Woodlawn neighborhood and provide for payment (Ordinance)

Disposition: Ordinance No. 167712. (Y-5)

***857** Contract with the Community Action Agency of Yamhill County, acting as fiscal agent for the Oregon Housing NOW Coalition, to coordinate housing preservation activities in Portland (Ordinance)

Disposition: Ordinance No. 167713. (Y-5)

***858** Contract with Metropolitan Family Services for \$27,000 for Project Linkage Summer Yardwork Project and provide for payment (Ordinance)

Disposition: Ordinance No. 167714. (Y-5)

Commissioner Mike Lindberg

859 Accept completion of the NE 13th Avenue basin CSO sump project Unit 14 and make final payment to Moore Excavation, Inc. (Report; Contract No. 28736)

Disposition: Accepted.

***860** Authorize an application to the Oregon Arts Commission for a grant in the amount of \$12,050 (Ordinance)

Disposition: Ordinance No. 167715. (Y-5)

***861** Contract with the U.S. Geological Survey for streamflow and water quality monitoring without advertising for bids (Ordinance)

Disposition: Ordinance No. 167716. (Y-5)

***862** Authorize a contract with the lowest responsible bidder for Polymer Spill Containment Basin for the Bureau of Environmental Services and provide for payment (Ordinance)

Disposition: Ordinance No. 167717. (Y-5)

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***863** Authorize a contract with the lowest responsible bidder for composter sludge bin and carbon conveyor modifications for the Bureau of Environmental Services and provide for payment (Ordinance)

Disposition: Ordinance No. 167718. (Y-5)

***864** Contract with James M. Wood to provide consulting services for a predictive maintenance program focusing on vibration testing and analysis for the wastewater treatment branch facilities and equipment (Ordinance)

Disposition: Ordinance No. 167719. (Y-5)

***865** Authorize a contract with Oregon Health Division to provide laboratory and consulting services and provide for payment (Ordinance)

Disposition: Ordinance No. 167720. (Y-5)

***866** Call for bids for the Stephens Slough storm sewer relocation project (Phase III), authorize a contract and provide for payment (Ordinance)

Disposition: Ordinance No. 167721. (Y-5)

***868** Authorize the Director of the Bureau of Environmental Services to approve an Intergovernmental Agreement with the Multnomah County Drainage District No. 1 for Water Quality Program Plan implementation in the Upper and Lower Columbia Slough (Ordinance)

Disposition: Ordinance No. 167722. (Y-5)

***869** Designate a sewer easement area within Colonel Summers Park, release an existing easement and provide for payment (Ordinance)

Disposition: Ordinance No. 167723. (Y-5)

City Auditor Barbara Clark

870 Approve October, 1993 through March, 1994 sidewalk maintenance bills for assessment (Report)

Disposition: Approved.

REGULAR AGENDA

***824** **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 (Hearing; C-9805; Ordinance introduced by Auditor Clark)

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Discussion: Dan Vizzini, Auditor's Office, noted that this is the second public hearing on the formation of this district, adding that after the first hearing, Council modified the boundaries, made some decisions about the character of the project and directed the City Engineer to bid the project. Based on those modifications, the Auditor's Office prepared new engineering estimates which were mailed to property owners. After the Office of Transportation received bids on the project, the Auditor's Office recalculated the engineer's estimates and mailed out the latest cost estimates based on some very attractive bids that were received. He said both outstanding and new remonstrances need to be addressed and Council needs to make a decision on the kind of project it wants and whether it wants to proceed.

Teresa Culp, Office of Transportation, reminded Council of the three major concerns of this project - connectivity, assessment methodology and cost. She noted that Council had agreed at the earlier hearing that the City's previously proposed compromise regarding connectivity for Dolph Court should be reevaluated to see if consensus could be reached. In addition, work would be done to see if costs could be lowered, and project boundaries would be revisited. At the second hearing, staff reported that no compromise could be reached between the neighbors and the Balches regarding Dolph Court. They also reported on expanding the district for storm sewer on SW 48th, expanding it for sidewalks on SW Marigold between 51st and 52nd, use of gravel paths on vacant lots as interim pedestrian facilities, construction of sidewalk on one or both sides of the street, obtaining bids prior to LID formation and additional funding from Environmental Services for storm sewers. Also, at the second hearing Council decided not to add the street compromise but directed staff to amend the district boundaries to add the storm sewer and sidewalk and bid the project out to show the difference in cost with and without sidewalks on both sides of the street.

Ms. Culp said the low bid they received was about 18 percent below the engineer's estimate. New cost estimates were then mailed to property owners. She said with the revisions the overall cost to individual property owners is down about 26 percent from the original numbers. Typical assessments for a 5,000 square foot lot would range from \$6,700 to \$10,200, with sidewalks on both sides of the street. Limiting sidewalks to one side of the street would reduce costs by another \$150 to \$200. Given the concern with costs, Transportation is recommending that sidewalks be built on one side of the street only.

Mayor Katz said she had voted no initially because she was surprised Council did not support the compromise the community had worked out with Transportation staff. She asked if that was an issue that can be revisited today in terms of the design.

Ms. Culp said yes.

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Mr. Vizzini said Council has full authority to determine the character and scope of the project.

Commissioner Lindberg asked what percentage of the properties would be in the \$10,000 range.

Ms. Culp said she thought it would be evenly split between vacant property and the developed properties with driveways and storm laterals.

Leonard Weitman, 8710 SW 50th, 97219, said the compromise solution regarding the connection of 49th to 50th (and not connecting 50th to 50th) is supported by the overwhelming majority of the neighborhood. The primary opponents are the Balches.

Mayor Katz asked if this is the major outstanding issue.

Mr. Weitman said yes and urged that Council support it.

Helen Gould, 8908 SW 50th, said the cost reduction is much appreciated. She said the area being paved, from Marigold to Dolph Court, has largely vacant lots, is very steep and is a lower priority for connectivity. The area not being paved, from Marigold to Orchid, has houses on both sides and is the high neighborhood priority for connectivity. It is the preferred way out of the neighborhood. This LID is paying for future development while the area of existing development is not being paved. She said she will be paying \$85 for the next 20 years and will still be driving on a street with potholes. To avoid the potholes the only paved route is in front of Smith School and traffic will also divert through 50th and Robert Court since the preferred route is not getting paved.

Regarding the storm sewer, Ms. Gould noted that there is three quarters of a block that is not being paved in the middle of the paved sections. She asked what will happen to the storm water on the unpaved street portion. She recommended that property owners be encouraged to pave the portion between Orchid and Marigold and that the full \$150,000 subsidy from BES be granted.

Tony Nordone, 4830 SW Marigold, 97219, said his assessment is lower now but he is getting very little value because all he is getting is a route to Smith School while the main route people use is 49th or 50th. He is also at risk for a second assessment in the future when those streets currently not in the LID are paved. He said he would rather pay more today to pave those streets now rather than going through another LID later.

Eileen Spencer, 8832 SW 50th, 97219, said the 50th to 50th connection is still of concern and they would like Council to agree to the compromise, adding that they were very surprised when that did not happen at the last hearing.

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She supported paving all sides of the properties on 49th and 50th south of Marigold so they will get full value for the amount they are spending.

John Alland, Land Use Chair for Southwest Neighborhood Information (SWNI), said last time they thought there was agreement about the compromise and called the staff proposal an excellent compromise that should be adopted. Paving the upward end of 49th and 50th should also be done to relieve traffic problems.

Kay Durtschi, SWNI, said people want connectivity but not for cars, only for pedestrians and other uses. She said Dolph should be made one way for the safety of children on their way to school. She said there should be sidewalk connectivity from Dolph to the school along 49th and asked Council to consider doing that as part of this LID. Finally, Robert Court residents are being impacted severely by the assessments while their use of the street will be minimal.

Commissioner Lindberg asked if the neighborhood thought the compromise had been agreed to by the City beforehand and then believed Council revoked that commitment at the last hearing.

Mr. Alland said the neighborhood was very much in favor of it while the Balches, while not thrilled, were not going to oppose the whole LID because of it. That is why it was considered a done deal.

Frank Warrens, 5112 SW Robert Court, raised the issue of equity for Robert Court property owners who will not receive one iota of benefit for the paving of Dolph Court. He said he is being assessed \$7,000 and asked Council to modify the process to zero out all the Robert Court assessments. He said the cost would be about \$42,000 if the seven Robert Court residents were eliminated but it would be unfair to add that cost to other property owners. He said that amount should be prorated among the undeveloped lots based on their square footage.

Tom Tower, 5018 SW Robert Court, strongly supported the compromise to disconnect SW 50th at Dolph Court, which he said is opposed only by the Balches. He said when Council did not vote for that disconnect the neighborhood felt betrayed by the City even though staff may have felt just as shocked by that vote. He asked for continuation of the sidewalk along Dolph Court to 52nd through some other process to protect kids going to Smith School.

Ed Sullivan, attorney representing Mr. Tower, Mr. Weitman and other neighbors, said under the City Code, Council can approve the compromise and the matter can be brought to closure. He noted the connectivity issue as to whether 49th should connect with 50th or whether 50th should connect with 50th. Their proposal is that 49th and 50th be the connectors, which

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fulfills City transportation policies on connectivity. He asked to drop Point A which would make the connection of Dolph to 50th. He also raised the issue of continuing the LID 100 feet south of Marigold on 49th and 50th to make the improvements on both streets and not just Marigold. He said that could be done in a way that does not require that it come back as a separate item to Council. With these two compromises, everyone can walk away happily and the City can get the improvements it so badly needs for this area.

Shirley Clay, SW 50th, said she is appalled that 50th is not being paved from Orchid to Marigold. She said if you are going to have connectivity it does not make sense not to pave that section.

Gile Downes, attorney for Anthony and Don Balch, said cutting off the connection between 50th to the south and north of Dolph Court, as proposed in the compromise, reflects misplaced concern about traffic as this was addressed when it was decided to decrease street width and allow parking on only one side of the street. The likelihood of any significant flow-through traffic is very small, given the design and layout of the street. Good traffic engineering suggests that a connection be made from 50th to the south and 50th to the north to prevent traffic from diverting to SW 52nd into the neighborhood of Smith School. He said this is the first time he has seen a proposal for one way on Dolph Court and asked how people on 50th and 51st will get to their homes. He said he understood City staff came up with the proposal for a blockage at Point A but were not promoting it if all the neighbors did not agree. He said many of the people remonstrating have waived their rights to do so, having bought their property knowing the improvements were coming. He said you cannot keep building houses and have no streets and storm sewers for them. He said at one time property south of Marigold was to be included in the LID but was eliminated because the majority property owner did not agree to participate. If the boundaries are realigned now, a whole new set of dissidents can argue about it. This project must go forward.

Terry Hereford, 8847 SW 50th, supported the project and asked that it go forward. She said she has been waiting a long time for a street and is very pleased that the costs have come down.

Lonnie Wheeler, 8825 SW 50th, supported the project, including the compromise, but not if it held back going ahead.

John Egan, 8833 SW 50th, urged Council to move ahead with the project, despite the high cost.

Anthony Balch, 5152 SW Dolph Court, said another opening is needed to get to Garden Home Road and the blockage on Dolph does not make sense as those who will eventually build on the currently vacant lots will need the

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direct connection. The blockage also does not make good engineering sense and makes it difficult for many residents to get to Smith school.

Tammy Tuske, 8718 SW 50th, at the corner of 50th and Dolph, said she is not in favor of connecting 50th and 50th there as she does not want through traffic in that section. She requested that sidewalk be continued up to 52nd on Dolph.

Mike Tolvisky, 5120 SW Marigold, opposed the addition of sidewalks on the south side of Marigold. He said a sidewalk on the north side makes more sense as it connects with the crosswalk on 52nd, Orchid Park and the rest of the neighborhood.

Vic Rhodes, Transportation Engineering, said staff met with neighbors about the compromise and told them they would try to come up with a workable idea. What is being portrayed as a compromise on the 50th to 50th connection was discussed as an alternative and staff agreed to meet with the Balches about it. The neighborhood told them it did not go far enough while the Balches rejected it out of hand. At that point staff told the neighbors the issue was dead since there was no agreement on either side. Subsequently, it was brought to Council for resolution.

Mayor Katz said now that it is clear that Council supports connectivity, this compromise has risen again as an issue for the community even though originally they felt it did not go far enough. The Balches never came to the table and staff was left to do shuttle diplomacy. She asked Mr. Rhodes if this is a workable compromise.

Mr. Rhodes said they did bring the Balches to the table but no resolution was reached. Whether it is a workable compromise is for Council to decide.

Commissioner Blumenauer asked about the one-way street that is now part of the compromise.

Mr. Rhodes said this is the first time staff has seen it.

Commissioner Blumenauer said the issue of connectivity and cul-de-sacs has been around a long time. He said while immediate neighbors do not support connectivity, if you fracture the system with one-way streets and make it harder for people to move, that makes the system worse in the long run. He said it is wrong to think that everything is subject to compromise and throw in a barrier here and a one-way street there. He said the grid needs to be finished in order to ease traffic to Smith School. He asked Mr. Vizzini about the fairness of the Robert Court assessments.

Mr. Vizzini said the assessment policy, endorsed by Council repeatedly, stands on the principle that abutting property share in the cost of the

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improvement. The Robert Court properties are in because the original developer changed the way properties relate to each other. When the City approved the subdivision, it identified Dolph Court as a future issue and required the developer to dedicate 20 feet of right-of-way to a future Dolph Court and stated that properties in Rolphe Addition would be subject to future assessments for the improvement of Dolph Court. In addition, an improved street on the south side of those properties does provide some benefit in the form of improved drainage and better access to the backs of the lots. For all these reasons, those properties have been included. He said it is not fair to suggest that those properties be excluded simply because their garages do not empty onto Dolph Court and have the City or the undeveloped property owners assume that cost. Historically, this Council has not treated vacant property differently from any other and every property in this project was liable for street improvements from the day the plat was laid back in the 1890's. While sympathizing with Mr. Warrens, he noted that his property was always subject to assessment once the City decided to improve Dolph.

Commissioner Hales asked about the rationale for not including the 100 foot sections on 49th and 50th south of Marigold.

Ms. Culp said they recommended not including it because the cost would be about \$35,000 for the additional 100 foot segments, adding \$400-500 to the assessment on every single property in the district.

Commissioner Hales asked if the sidewalk on Dolph was going to stop at the rear lot line fronting 51st and if that will result in a 100-foot gap between 51st and 52nd.

Ms. Culp said yes but they have talked with Mr. Balch about extending the sidewalk to 52nd and were told he had plans to do that. There are some technical problems because no notice was given on this property.

Mayor Katz asked if Mr. Balch is committed to that.

Mr. Downes said Mr. Balch would be glad to include that sidewalk in the LID.

Commissioner Lindberg said the question is will he be willing to pay for construction of the sidewalk there.

Mr. Rhodes said Mr. Balch can either give the City a check for the cost of the sidewalk or it can be Bancrofted.

Mayor Katz noted that she seemed to be the only one concerned about the connectivity issue at 50th and Dolph Court. She asked about the paving of the south side of Marigold at 50th and 49th.

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Ms. Culp said their latest cost run projects the increase for that at about \$350 per lot.

Mayor Katz asked if anyone on Council wanted to add those 100 feet sections back in.

Commissioner Lindberg noted that if the sidewalk is only on one side, the cost would decrease by \$200 and this would increase it.

Mr. Vizzini said they would net each other out.

Commissioner Lindberg said he would support that change but would not do so if the project has to be redesigned.

Commissioner Hales asked if it was correct that the bids are based on sidewalks on both sides but the staff recommendation is for one side.

Ms. Culp said they got bids to do sidewalks on both or just one side. They will save \$16,000 by doing one side.

Mayor Katz asked if there is any consensus about extension of the pavement south of Marigold.

Commissioner Hales asked what the inclusion of the 100 foot sections in this LID would do to the prospects for forming an LID to connect the remaining unpaved portions of the street south of Orchid and complete the network.

Ms. Culp said she did not think it would harm completion of the network. She said one reason they had to drop it from inclusion was because a large amount of vacant property was controlled by one owner who was not interested in moving forward with the project. That situation would remain unchanged even if the City did the 100 foot segments.

Commissioner Hales said he would be ready to support that change.

Mayor Katz said she seems to be the only one still concerned about the so-called compromise.

Mr. Vizzini said it would be best to get agreement on the modified LID first, defining the character of the project and then come back and deal with formal approval of the district. He said he understood that the Mayor was interested in a motion that would modify the plan to build the 100-foot strips on 49th and 50th south of Marigold.

Commissioner Blumenauer asked what the cost increase would be on that.

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Ms. Culp said it will add \$350 per property and should not be a detriment to future completion of the grid.

Mr. Vizzini said the issue of improvements from Orchid to Marigold are completely development-related and this is a timing issue for those who own the vacant lots.

Ms. Culp said the bids did not include those 100 foot segments and there would be some increased cost to do that but it would be in the range of \$100 to \$150 per property, when the decreased cost of putting the sidewalk on only one side of the street is included.

Mr. Rhodes said he wants to make sure these changes do not require renotification or restarting the process.

Mr. Vizzini said the legal notice given to the property owners is the second engineer's estimate, which has since been lowered. He said Council cannot make decisions that are a detriment without notice or an opportunity for property owners to be heard. He said it may be worthwhile to ask for comment on the proposal but the notice provides enough leeway for Council to make these design decisions, which are being made in a public hearing. He said he would argue that they need not go out again.

Mayor Katz asked how many neighbors present today support the extension of the street 100 feet on Marigold.

Commissioner Hales moved to include the 100 foot sections of 49th and 50th in the project area. Commissioner Lindberg seconded.

Mr. Downes suggested approving the motion only if the City Attorney determines that no new notice is required.

Kathryn Imperati, Senior Deputy City Attorney, said she believes this modification is within the latitude allowed the Council. She suggested noting for the record that the show of hands in support of this motion was 16 affirmative votes, zero opposed.

Roll was called on Commissioner Hales's amendment. (Y-4; N-1, Kafoury)

Commissioner Kafoury moved to build sidewalks on one side only. Commissioner Hales seconded. Roll was called. (Y-5)

Commissioner Blumenauer moved to overrule the remonstrances and move ahead with the time and manner ordinance. Commissioner Kafoury seconded. Roll was called (Y-5)

Commissioner Blumenauer noted that the project represents significant

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compromise, costs have been significantly reduced and sidewalks extended to better serve the school. He said more money needs to be allocated to help make these LIDs affordable and clearer signals need to be given staff and citizens about the implementation of City policy so that every LID does not have to go through such a lengthy process.

Commissioner Hales said he is glad that costs have been reduced while the effectiveness of the project increased. He said he was unable to find any rationale for the disconnect on Dolph and believes this design is superior to one in which the connectivity policy was not carried through.

Commissioner Kafoury said she believes this is a good deal for the homeowners.

Commissioner Lindberg said he will get Transportation and BES staff together to discuss the use of BES funds to subsidize such projects. He said it is mandatory to move ahead with this project and supported connectivity, noting that the entire flow of traffic in a neighborhood must be considered.

Mayor Katz noted she had voted no last time, based on failure to accept the compromise, but believes the project needs to proceed.

Mr. Vizzini recommended that the directives be modified in the ordinance to indicate what Council has approved.

Ms. Imperati said the modifications should be clearly identified in the directive section of the ordinance.

Mr. Vizzini identified two modifications: 1) include 100 foot strips for street construction on 49th and 50th south of Marigold; and 2) build sidewalks on only one side of the streets. The earlier modifications were expansion of the district for storm sewers on SW 48th and expansion for sidewalks on Marigold between 51st and 52nd.

Commissioner Blumenauer moved the amendment. Commissioner Kafoury seconded and the motion carried. (Y-5)

Disposition: Ordinance No. 167724 as amended. (Y-5)

Commissioner Mike Lindberg

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Amend Title 17 of the City Code to revise solid waste and recycling collection rates and charges in accordance with the Extraordinary Rate Review recently completed (Previous Agenda 820; amend Code Chapter 17.102)

Discussion: Rod Monroe, Metro Councilor, said Metro must find a permanent way to fund planning and described a proposal which includes the

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addition of a small construction excise tax as well as lowering the tipping fees from \$75 to \$74 or \$73. He said two Councilors and the Metro Executive recommended that the tipping fees be lowered independently of this package. This was based on assumptions they have now learned are invalid and it would be wise for the City to assume that the tipping fee will continue to be \$75 per ton. He described various ways being considered by Metro to cover the cost of its planning efforts. He said \$250,000 in savings has been achieved by renegotiating the way Metro purchases fuel.

Mayor Katz asked him to explain how the tipping fee could be lowered by one or two dollars.

Mr. Monroe said if the excise tax is cut to six percent, with the fuel savings and approval of the Waste Management agreement, Metro would perhaps be able to lower the tipping fee by up to \$2.00. However, it would be prudent for Council to assume that the tipping fee will remain at \$75 this year although he hopes that will not be the case.

Commissioner Lindberg asked if the change would come within 30 days or so.

Mr. Monroe said it is more likely to occur 90 to 120 days from now. He said the increase in the excise tax would not in any way affect the tipping fee; it just means less money going to solid waste and more money going to planning and general government at Metro.

Commissioner Lindberg said you contend that what Metro does with the excise tax will not affect the garbage rates.

Mr. Monroe said that is correct and if they can lower the excise tax there is further justification to reduce the tipping fee.

Commissioner Lindberg said the City based its rate methodology on the premise that the tipping fee would be reduced.

Sue Keil, Bureau of Environmental Services, said rates were premised on a \$74.00 tipping fee, taking into account that the excise tax is included in that amount. This was based on the recommendation of the Metro Rate Committee and the Metro Executive.

Dean Marriott, Director, BES, said the options are to adopt the proposed rate schedule which calls for no increase, taking a risk that if the \$75 tip fee continues to be charged, the haulers will be squeezed and an adjustment upward may need to be made later. The other option is to increase the rates now and then reduce them later, if the tipping fees are reduced. The third option is to leave the current rate schedule in effect for now, indicating that there is not enough information to make a decision.

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Mayor Katz said another option would be to lower the fees another dollar to \$73.

Mr. Marriott said there is a strong possibility this issue will have to be revisited in the fall.

Commissioner Lindberg suggested adopting the rates proposed until we see what Metro does.

Ms. Keil said the downward rates are not impacted by the tipping fee. The only thing affected is the 32-gallon can rate, which most customers have. The nickel upward would be in that single class of service.

Mayor Katz said she has tried to do whatever she can to keep a lid on the rates because this jurisdiction has some of the highest solid waste, sewer and water rates per household income. She urged Metro to rethink using this as a way of raising revenues to pay for other programs.

Mr. Monroe said that is his goal and he strongly supports holding the line on tipping fees. He said if the excise tax can be cut there is a real possibility of cutting the tipping fee but it must be done cautiously. He said, however, he does not think the tipping fee will be raised for at least two years.

Ms. Keil said it would be helpful to have information about tipping fees prior to the time the City sets its rates for July.

Commissioner Lindberg said they hope to have a partnership agreement with Metro on the timing of these issues in future years.

Disposition: Ordinance No. 167725. (Y-5)

825

Accept bid of Clearwater Construction for SW 50th and Marigold Street sewer and water line improvements for \$759,795 (Purchasing Report - Bid C-9805)

Discussion: Commissioner Hales asked if the modifications approved earlier this morning need to be reflected in this.

Teresa Culp, Office of Transportation, said Council simply needs to decide to award the contract.

Dan Vizzini, Auditor's Office, said the modifications can be handled through Change Orders.

Disposition: Accepted; prepare contract.

835 Issue Sewer System Revenue Bonds (Ordinance)

Discussion: Ken Rust, Debt Manager, said this authorizes sewer revenue bonds that allow the City to start the CSO project and take advantage of relatively low interest rates. They plan to issue the bonds in July.

Disposition: Passed to Second Reading June 8, 1994 at 9:30 a.m.

***867** Authorize the Director of the Bureau of Environmental Services to approve an Intergovernmental Agreement with Portland State University for water quality implementation monitoring in the Upper and Lower Columbia Slough (Ordinance)

Discussion: Commissioner Hales said he continues to be concerned with the amount being spent on research as opposed to actual construction.

Dean Marriott, Director, Bureau of Environmental Services, said this is a \$26,000 contract with Portland State University graduate students. He said the Bureau must do continuous water quality monitoring on the Slough and establish benchmarks while implementing water quality improvements. He said these students will collect data and run computer models to provide information about total maximum daily loads appropriate for the Slough.

Commissioner Hales said the City must demonstrate dramatic improvements in the cost effectiveness of its public works projects in order to justify the money it has spent on research. He said he believes the City is still spending a great deal of money on the front end.

Mr. Mariott said he considers this foundation work and without a good foundation, the money spent on the building will be for naught. He said this data will be extremely important in setting targets with the State as, if they are wrong, there can be enormous cost implications.

Liane Scull, BES, said this implements part of the water quality plan approved by Council and is part of a five-year long monitoring program.

Commissioner Hales asked if Council can expect to see five years of this particular expenditure and if the City is required to do this.

Ms. Scull said yes, as part of the negotiations with the DEQ.

Disposition: Ordinance No. 167726. (Y-5)

871 Request from Jobs with Justice to address selection of bond underwriters considered by the City for upcoming debt issues (Communication)

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Discussion: Mayor Katz noted that no one was present to address this.

Disposition: Referred to Commissioner of Finance and Administration.

Mayor Vera Katz

872 Amend the boundaries of the North/Northeast Portland Enterprise Zone to add land owned by Oregon Steel Mills (Previous Agenda 787)

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

873 Qualify Oregon Steel Mills for Enterprise Zone tax abatement with a loss of employment (Previous Agenda 788)

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

***874** Adjust the FY 1993-94 Budget for Period II changes (Ordinance)

Discussion: Ruth Roth, Bureau of Financial Planning, said three minor amendments need to be made. Emergency Communications needs to move \$390,000 to cover cost-of-living increases; the Mayor's Office will recognize \$4,570 in charitable contribution campaign reimbursements and the Health Insurance Fund is transferring \$30,000 to the Office of Finance and Administration for the purchase of health benefits.

Commissioner Lindberg moved to amend the exhibit to make those corrections. (Y-3; Kafoury and Hales absent)

Disposition: Ordinance No. 167727 as amended. (Y-4; Kafoury absent)

Commissioner Earl Blumenauer

***875** Enter into an Agreement with the Tri-County Metropolitan Transportation District of Oregon and Vintage Trolley, Inc. for the operation of the Vintage Trolley (Ordinance)

Discussion: Commissioner Blumenauer said this agreement allows the City to receive the greatest benefit from the Vintage Trolley operation until the start up of Westside light rail. It will have a very positive affect on the Lloyd District and provide a tremendous amenity for downtown.

Bill Naito, Vintage Trolley, Inc., said volunteers have worked very hard to make this trolley work as part of the City transportation system. He said the Vintage Trolley can be to Portland as the cable car is to San Francisco.

Al McCready, 2407 NE 27th, said he and the other 27 volunteers strongly believe they provide a valuable service for the City.

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Mayor Katz asked Mr. Naito whether it was correct that over the next five years, if spending continues at the current level, the loss would be about \$116,000, assuming that Tri-Met forgave \$396,000, which they just did. She asked if they planned to spend down the \$1.2 million federal trust fund to pay for the operating losses.

Mr. Naito said yes and they were told it was legal to do so.

Commissioner Blumenauer said the Vintage Trolley Board has raised twice as much money from the private sector as had been anticipated and are hard at work lining up more support. Going to a higher profile daily service will make it easier to get that support.

Mr. Naito said if the trolleys run seven days a week there will be more advertising impact and it will be easier to get donations.

Mayor Katz noted that without donations the trolley will lose about \$1.2 million over the next five years if the service is expanded and there will be even more of a loss if it cannot be shifted over to the light rail tracks.

Mr. Naito said after using up the trust fund over the next five years, the City and Tri-Met will own four very fine trolley cars to either transfer to the Central City streetcar line or sell.

Mayor Katz said she wanted to make sure there is no commitment to pick up either the Vintage Trolley or the Central City trolley.

Mr. Naito said that was correct.

Commissioner Blumenauer said there is virtually no financial risk to the City and the City will end up owning \$2 million worth of trolley cars.

Mayor Katz noted this calls for the City to provide \$35,000 for the trolley in lieu of fares.

Disposition: Ordinance No. 167728. (Y-4)

***876**

Interagency Agreement with Oregon Department of Transportation for Transit Preferential Corridor Study (Ordinance)

Discussion: John Gillam, Office of Transportation, said this and the following two agreements are funded with 90 percent federal funds and a 10 percent local match, split five percent with the Oregon Department of Transportation (ODOT) and five percent with the City. All three studies are in ODOT's 6-year plan, have been approved by Metro and should be completed within 12 to 18 months. He explained the purpose of the first study.

Commissioner Blumenauer said these have been in the pipeline for a long time but first needed approval from ODOT because of the use of federal funds. There will be extensive opportunities for citizen involvement.

Commissioner Lindberg said he wholeheartedly endorses all three of these studies, noting that many of these go back 16 years and the potential for improvement and redevelopment are incredible.

Disposition: Ordinance No. 167729. (Y-4)

- *877** Approve a Local Agency Agreement with the Oregon Department of Transportation for the Southern Triangle Access and Circulation Study to be conducted as a part of the Surface Transportation Program (Ordinance)

Discussion: Mr. Gillam said although this area is now primarily industrial, institutional uses and other mixed uses which present potential traffic conflicts are also developing in this area. This study will focus initially on the Water Avenue extension south of OMSI.

Commissioner Hales said he appreciates acknowledgement of the importance of improving southbound access on the Central Eastside and the combination of work that will be done at both the east and west end of the Ross Island Bridge gives Council a chance to deal with some major policy issues and pressing transportation problems in the Central Eastside.

Disposition: Ordinance No. 167730. (Y-4)

- *878** Authorize a Local Agency Agreement with the Oregon Department of Transportation for transportation and land use market analyses for the South Portland Circulation Study as part of the Surface Transportation Program (Ordinance)

Discussion: Mr. Gillam noted a 1978 study which called for downscaling or closing Front Avenue at the Ross Island bridgehead south and use the right-of-way for housing. Council determined that it should not be implemented until improved access to outer Southwest was provided. The Terwilliger Interchange project will provide such access and this study will reevaluate the earlier study and determine if its assumptions are still feasible.

Disposition: Ordinance No. 167731. (Y-4)

Commissioner Charlie Hales

- 879** Adopt design guidelines for the East Portland/Grand Avenue Historic Design Zone (Second Reading Agenda 816)

Discussion: Michael Harrison, Planning Bureau staff, noted some minor

amendments that clarify the effect on transportation facilities in the area.

Mayor Katz asked how substantive the amendments were.

Mr. Harrison said they are not substantive, but simply clarify the relationship between the guidelines and improvements in the right-of-way. They were negotiated between the Office of Transportation and the Central Eastside Industrial Council, which fully support them.

Commissioner Hales moved the amendments, noting that they are simply guidelines. Commissioner Blumenauer seconded.

Disposition: Ordinance No. 167732 as amended. (Y-4)

- 880** Dissolve the Pittock Mansion Advisory Commission (Second Reading Agenda 817; repeal Code Sections 3.70.020 and 3.70.040)

Disposition: Ordinance No. 167733 (Y-4)

- 881** Revise fees charged at municipal golf courses and establish effective dates (Second Reading Agenda 818; amend Code Section 20.20.010)

Discussion: Bill Panaretos, Portland School Board member, asked that Council revisit Commissioner Blumenauer's proposal for a non-resident golf fee surcharge which failed two weeks ago. He said it is important for the school system and the City to keep the schools viable. In response to questions from Mayor Katz, he described some of the program cuts the District has made.

Commissioner Blumenauer said he will not propose an amendment today but would be happy to have higher golf fees go to other priorities such as those identified by the Mayor.

Mayor Katz said she has requested a list from the School District of the other reductions and impacts to see how it all lays out. She is also waiting for Commissioner Hales to present the Parks program in order to judge where the gaps in after school programs may still remain and begin to see if Council as a whole can get to a "win-win" solution.

Commissioner Lindberg suggested holding a Council informal to see if common ground can be reached on what the City can do to fill gaps in athletic programs and other areas of the education system.

Commissioner Blumenauer said Council could profit by having more regular meetings with the School District.

Commissioner Hales said he is proud of the work Council did during the

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budget session. The debate about surcharges has increased his understanding of the depth of public concern for the school system. He said he is frustrated about debating a \$500,000 measure to deal with a \$100 million problem. He said raising golf fees just puts a band-aid on a badly wounded patient, adding that it is critical to begin forming a coalition to seek solutions at the next session of the State legislature.

Mayor Katz cited the amount allocated in the budget for schools, noting that while the City has not walked away from the issue, it is one that needs a Statewide solution. She suggested holding an education summit may be in order on the regional level as a first step.

Disposition: Ordinance No. 167734. (Y-4)

Commissioner Gretchen Kafoury

***882**

Contract with Bank of America Oregon and Portland Development Commission to execute a Private Lender Participation Agreement (Ordinance)

Discussion: Gary Wallis, Portland Development Commission, said this new agreement with Bank America will provide \$3 million in rehabilitation loans over the next two years. Similar prior agreements have allowed over 200 loans to Northeast Portland residents, granting \$5.4 million in additional rehabilitation loans over the one million dollars available in federal funds for this work.

Disposition: Ordinance No. 167735. (Y-4)

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

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 1ST DAY OF JUNE, 1994 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 Chuck Bolliger, Sergeant at Arms.

Commissioner Charlie Hales

887 Appeal of Multnomah Neighborhood Association against Hearings Officer's decision to approve application of Osman and Meliha Ergene for a zone change and fill review to construct attached residential dwellings on property located east of SW Capitol Highway and south of SW Miles Street (Previous Agenda 799; 93-00860 ZC EF)

Discussion: Duncan Brown, Planning Bureau, said the Multnomah Neighborhood Association and the applicant reached agreement during mediation and the Neighborhood Association has now submitted a written request to withdraw its appeal.

Disposition: Appeal withdrawn.

888 Tentatively deny appeal of Arnold Creek Neighborhood Association and uphold Hearings Officer's decision as amended 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 (Previous Agenda 802; Findings; 93-00658 PU EN AD)

Discussion: Cay Kershner, Clerk of the Council, said a request for a one-week continuation had been made.

Disposition: Continued to June 8, 1994 at 2:00 p.m.

884 Update on transportation issues in the Portland Community College - Sylvania Master Plan (Report)

Discussion: Alice Jacobson, Executive Dean, Sylvania campus, Portland Community College, updated Council on their progress in dealing with the transportation issues in their Master Plan. Major changes have included charging for parking, reducing fees for carpoolers, subsidizing bus riders and adding a shuttle bus between campuses. Their goal was to reduce the

number of cars by two percent but preliminary data leads them to believe they have actually achieved a nine percent reduction.

Commissioner Hales said the report was very clear and he appreciates the efforts made by the college to comply.

Disposition: Accepted. (Y-4)

885 Adopt the Report and Recommendation of the Portland Planning Commission to the Portland City Council on City Life: The Urban Show of Homes (Report)

Discussion: Mark Bello, Planning staff, said the Planning Commission recommends approval of this housing demonstration project for 18 units for the site at SE 16th and Center. He showed slides of the site, formerly a community garden, and reviewed the approval criteria.

Brian Scott, City Life Chair, outlined formation of City Life, an Urban Show of Homes, which is made up of six groups, including the American Institute of Architects, the Home Builders Association, REACH Community Development and the Planning Bureau. He said their goals are affordability, innovative architecture, sound urban design and market viability. He reviewed the site selection criteria.

Mr. Scott acknowledged controversy about the winning design entry but explained that Reach Community Development will work with the architects and neighbors to make sure the units are right for the Brooklyn neighborhood. Construction will begin the end of this summer and the Show of Homes is scheduled for Spring, 1995. He said public participation has been high since the beginning, adding that this project helps implement Future Focus and Livable City projects as well as the goals and policies of other organizations regarding homeownership and affordability.

Commissioner Hales said the process has been a collaborative one, noting that weaving new housing into older neighborhoods is a slow process. This project supports an agenda shared throughout the community and he hopes it will provide a successful example for others to follow.

Disposition: Adopted. (Y-4)

886 Amend the Brooklyn Neighborhood Plan and Comprehensive Plan map and zoning in order to allow the City Life housing demonstration project in the Brooklyn neighborhood (Ordinance)

Discussion: Ruth Spetter, Senior Deputy City Attorney, reviewed the procedures for testifying. The Mayor asked for ex parte contacts.

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Commissioner Hales, Blumenauer, Kafoury and Lindberg, as well as Mayor Katz, described their meetings with City Life team members and some of the other groups involved but stated their belief that these contacts would not prevent them from making an objective decision on the issues.

Mark Bello, Planning Bureau staff, said the amendment adds new language to allow higher density on a demonstration project of regional significance on a site over 35,000 square feet. It would amend the zoning from R5 to R2.

Diane McCready, 1609 SE Rhone, 97202, said she attended all the City Life meetings on behalf of the Brooklyn Neighborhood and was on the jury for the design selection. She recommended approval, adding that winning designs were chosen for affordability and compatibility. She said the jury is continuing to act as a design review committee, working with neighborhood residents. As a realtor, she said she is very excited about creating opportunities for truly affordable housing here.

Kathy Bare, 3363 SE 14th, 97202, said it has been a challenge to maintain housing in this neighborhood and the City Life project is a welcome opportunity to create homes. Because the time frame was accelerated the neighborhood had little time to review the winning designs, which she finds disturbing. However, the willingness of City Life to create a design review process is very encouraging so that all neighbors who desire to participate in the process may do so.

Alys Allwardt, 3758 SE 8th, recently-elected member of the Brooklyn Action Corps (BAC) board, said she and an overwhelming majority of Brooklyn residents oppose this project. She said the site is not appropriate for a housing demonstration project due to its proximity to Brooklyn School and the tremendous parking problems the area already has. She said the site is badly needed for a different project. She asked that the record be left open for seven days and for a hearing at night so those who work can attend. Ms. Allwardt charged that this proposed change has brought controversy and despair to neighbors. She said the timeline was too short and the Brooklyn Action Corps board was unresponsive, failing to honor requests for a poll of residents on this issue. She said neighbors voted almost three to one against changing the Plan or zoning at the March 16 BAC general meeting and objected to the process conducted by the Board. She cited a petition signed by more than 90 percent of the 400 people contacted, stating their opposition. She said a group of Brooklyn neighbors has committed itself to gaining a community center at this site but found that the City Life group, which had connections, money and a politically correct project, wanted this site for its project. She said for the good of the neighborhood, City Life should be built on some other site.

Mayor Katz asked if Ms. Allwardt would still oppose the project if there was another site for a community center and why its being close to the school was

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objectionable.

Ms. Allwardt said traffic is a concern as is the fact that the proposed density is higher than what the neighborhood hammered out for that area in the Brooklyn Neighborhood Plan. She said they would not need a zone change for a community center.

Mayor Katz said there would be a lot of traffic at a community center too and she has some difficulty understanding the problem in having families living near the school.

Ms. Allwardt said having families living near the school is fine but the number on the site does not meet with great approval in the neighborhood.

Mr. Bello said a conditional use would be required for a community center.

Commissioner Lindberg asked for clarification regarding BAC board support for the project despite the neighborhood opposition shown at a community meeting.

Ms. Allwardt said the community meeting was held one week prior to the BAC board action. She said neighborhood opposition was overwhelming.

Allen Moss, 3903 SE 14th Ave., 97202, expressed concern with the parking, particularly when school is in session. Referring to one of the meetings, he said the vote was 54 to 19 against, after approximately 20 people walked out in disgust because they were told their vote would mean nothing. He said it seems as if the decision has already been made and the neighborhood is just being humored by officials. He said he is not even sure neighbor participation will count much on the design either. Mr. Moss said this is an ideal spot for a community center and that should be taken care of first before density is increased.

Tami Brunelle, 3817 SE 14th, 97202, new BAC board member and member of numerous other community groups, said they already have high density housing in Brooklyn and do not need any more. She said neighbors were told their votes would not count which has discouraged them from attending meetings on the issue, including the Council meeting today. Most residents favor a community center on the site, not the housing project. There is a serious gang problem in Brooklyn and most of the people on the BAC board are out of touch because they do not have children in the schools. If this is passed, she requested help to get a community center in the neighborhood.

Commissioner Kafoury asked if they have contacted Multnomah County as they are developing a new community-based family service model.

Ms. Brunelle said they wanted to have a community center that was not

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restricted by the rules from other agencies, such as the Parks Bureau.

Commissioner Kafoury said Brentwood Darlington has been working with Multnomah County to get a community center at Lane School and she would be glad to help them, too.

Jilene Detweiller, member of the BAC board and newly-elected chair, said the Board has expanded to include some of those opposed to the project and in favor of a community center, which she agreed would be greatly used. She explained the process, noting that a general meeting was held and a flyer was sent out which drew many people despite the fact that it was not entirely factual. She said the general membership at that time voted against the project; their vote was advisory to the Board. A week later the Board vote was split and she is very sorry anyone got the idea that their vote did not count. The Board split seven in favor, two abstentions and one opposed. In the end it came down to a difficult choice between a very good housing demonstration project and the dream of a community center that is a very long way from being funded. She appealed for a long range plan to fund it. The choice for her was between a housing project that was real and a vacant lot that was causing problems.

Commissioner Blumenauer said this project is in keeping with the spirit of renewal evident in the Brooklyn Neighborhood Plan. He cited the reasons in opposition: traffic; a different use for the site; and the argument that the majority was not represented. If a community center were built here there would be far more traffic problems than with this mixed-use project. He said while a community center may be desirable, a much more practical approach is to turn the Brooklyn School into such a center. He said he knows the BAC does listen, as does the Planning Bureau and Council. He said just because there is not agreement does not mean people have not been heard. He said the concerns stated do not offset the really exciting project which he believes will be a tremendous distinction for Brooklyn.

Commissioner Hales said vacant lots and blank walls increase public safety concerns and compatible housing should help alleviate these. He said the message regarding density is to make sure the design is one that will have broad acceptance. He said if such projects cannot work at a site like this, it is questionable that they will work anywhere.

Commissioner Kafoury said this proposal meets the criteria for a zone change although she is very sensitive to the need for community centers in all neighborhoods of the City. She said there are some opportunities to partner with the schools and use existing facilities more, particularly with the refocus by the County on the services it provides.

Commissioner Lindberg said this project meets the criteria but it is sad that a project that is so positive has been so divisive. He said more eyes on the

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street and more feet on the street will make the neighborhood safer and put more kids in the school. He said he also supports moving ahead to get some type of a community center.

Mayor Katz said the divisive issue here is a community center versus housing. She said there has been constant talk about the need to use existing school facilities for community activities, adding that it will take quite a while for a community center and what is needed is to look at what can be done right now. This is not a dense housing development but promotes home ownership. The design, however, has to be compatible with the community and residents need to work closely with City Life to maintain the character of the neighborhood. She said the City and its neighborhoods will be lost if sprawl is allowed outside the Urban Growth Boundary so it is critical to look at available sites within the City for families with children to live.

Disposition: Passed to Second Reading June 8, 1994 at 2:00 p.m.

At 3:25 p.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 2ND DAY OF JUNE, 1994 AT 2:00 P.M.

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

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

REGULAR AGENDA

889

Appeal of Mr. and Mrs. Ted Lamm against Hearings Officer's decision to approve application of Babler Brothers (aka Pacific International Pipe Enterprises) to amend previous conditional uses and zone changes for property located at 8100 NE Grand Avenue (Hearing; 93-00833 CU ZC)

Discussion: Al Burns, Planning Bureau staff, said this is an appeal of a request to delete a past condition of approval requiring improvement of a portion of NE Grand Avenue.

Linda Meng, Chief Deputy City Attorney, read the applicable guidelines for those presenting testimony.

Mr. Burns reviewed the basis of the previous conditional uses, adding that conditional use permits are no longer required for fill so those conditions are no longer operative. The sole remaining criteria for judging whether this request should be granted are the zone change criteria which relate to adequacy of services. The question is whether the improvement of Grand Avenue is still needed because of the activities occurring on the Babler Brothers site. Since the condition was proposed, Babler has acquired independent access to NE Columbia and no longer needs the access to Grand. He showed slides of the site, noting that staff is recommending that the decision of the Hearings Officer be affirmed.

Mark McCulloch, attorney representing the Lamms, disagreed that the need for paving Grand Avenue relates solely to granting ingress and egress to the Babler Brothers. He said there is a greater public need, not just for the adjoining property owners. He said Grand is currently unimproved and a lot of problems are caused by the dust created there. He read a statement from Mr. Patel, owner of a motel on Grand Avenue, who also expresses concern about the dust, dirt and broken water lines caused by the heavy trucks parked there. Mr. McCulloch said now that the Bablers no longer need this access, they are asking that their continuing obligation no longer be heeded. But the Lamms and other property owners in the vicinity believe removal of these conditions does not serve the public need. He said the Babler Brothers

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should do what they have been required to do for 21 years but which the City has never enforced. Secondly, the report indicates that past fill practices may make it difficult to put a paved road in the area. He said, however, he believes the applicant was quite careful about the type of fill that was put there.

William Cox, attorney representing the Babler Brothers, and Barry Edwards, Chief Financial Officer for the Babler Brothers, presented the case for the applicant.

Mr. Edwards outlined the use of the property, which prior to purchase by Babler Brothers was a landfill with access only on Grand. He noted the improvements which were made, as required by the City, including bringing the roadway up to grade, dedication of 11,000 square feet to the City for a right-of-way and installation of a storm sewer. Since 1991 they have no longer needed access onto Grand Avenue and are asking to delete requirements for further improvements as they have a safer and more convenient access from the east. Traffic at Grand and Columbia Boulevard is a nightmare and Transportation and Planning staff agree that the conditions requiring road improvements are unnecessary and that it would be inequitable to require the applicant to bear their entire cost. He said no public or private purpose is served by further improving Grand Avenue except to personally benefit the appellants.

Mr. Cox said he understands this appeal is de nova, noting that Mr. McCullough has cited a letter from a motel owner who did not appear at the Hearings level. He asked if the City would allow that submission.

Ms. Meng said new information can be submitted and either side may ask for a seven days continuance in order to respond.

Mr. Edwards presented a letter from Roberts Motors, which states that the road is adequate and does not need to be paved.

Mr. Cox disputed Mr. McCullough's contention that the road improvements serve the public need. He cited correspondence from Glen Pierce of the Office of Transportation stating that they do not want this portion of Grand improved because the intersection of Grand and Columbia is too close to the intersection with Martin Luther King, Jr. Boulevard and Columbia and will add to traffic congestion. He noted that Mr. Pierce also states that a total vacation of the area may be in order. He said the northern end of the street has already been vacated by Mr. Lamm who wants access to his own property. If neighbors feel the need for the improvement, they should form an LID and share in the cost. Regarding the subsurface, he said while some defective fill was found in the north end, no one knows where it came from. This improvement was imposed originally in order to build some industrial structures on this property but it has since been found that this would be

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inappropriate because of the bad fill there. He said Mr. Lamm is fully aware of this as he participated in the fill of this street in the early 1970's. He said this is a matter more of equity than land use and the Bablers, who have waived their right to remonstrate, believe that if the Lamms are willing to pay for their share of an LID they can proceed to form one.

Mr. McCulloch, in rebuttal, said the impression has been given that the Bablers have only had this property since 1988 and whatever may have happened did not involve them. That is incorrect as the family has been involved in land use decisions there for 21 years and the condition to pave Grand Avenue has been the directive of four land use decisions. Second, despite the fact that the Office of Transportation has indicated it does not want the improvement, the public need includes not just what the traffic flow may be but also the effect of the unimproved condition on the contiguous land owners. Third, Mr. Lamm should not be faulted because he received a street vacation, as he has long wanted to make sure that Grand Avenue, as a public street, is paved. He said the Lamms believe in fairness these conditions should not be abandoned at this late date simply because they were not enforced and the property owner on whom they were imposed tried to wait them out.

Mayor Katz asked if the Lamms had complained to the City about the failure to enforce the conditions.

Mr. McCulloch said yes, Mrs. Lamm met several times with Transportation staff but without success.

Mayor Katz asked the Bureau to respond to the enforcement issue.

Commissioner Blumenauer asked for clarification about the need for the street improvement.

Glen Pierce, Office of Transportation, said the condition imposed most recently in 1989 to improve the road was enforced by requiring a performance bond for the value of the street improvement. The applicant designed street improvements and provided a performance bond of \$127,000.

Commissioner Hales asked if the condition for the improvement was predicated on the need for access.

Mr. Pierce said yes because Grand Avenue was being used as the primary access to the site at that time. Transportation staff have discussed whether improving Grand Avenue is still appropriate and believe it is not because of congestion at the intersection of MLK and Columbia Boulevard.

Commissioner Blumenauer said because of changes requested by the applicant, a condition was imposed that if the site was used for these

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industrial uses, then the road improvement would be made by the applicant.

Mayor Katz asked what was done prior to 1990 when the City got the performance bond. She asked what happened in 1973. She said she needs a better answer about how the City processes these complaints.

Mr. Pierce said if a specific condition is imposed to improve the street, compliance can be imposed through Code enforcement.

Mayor Katz said the issue of Code enforcement when there is a complaint needs further discussion and some historic perspective.

Commissioner Blumenauer said the issue here is that when the ordinance was passed a time line was never established for the actual completion of the road. The City did get a performance bond to make sure it would happen but it does not look as if there was a specific violation by the applicant.

Mayor Katz said she is concerned about the City's role in making things happen and whether time lines should be put on conditions in future applications.

Commissioner Hales said the critical question for him is whether under Code and State law it is appropriate that the applicant be solely responsible for the improvement or whether an LID should be required if other property owners will also benefit. In this case, there is not a sufficient connection between what is happening on the property and this street to require the Bablers alone to improve it, although there is enough to require them to participate in an LID.

Commissioner Hales moved to tentatively deny the appeal and uphold the Hearings Officer's decision. Commissioner Kafoury seconded.

Mr. McCullough asked that the record be left open for seven days.

Mr. Burns said there is also a request that the landscaping requirement be met by October 1.

Commissioner Blumenauer said the Hearings Officer made the correct analysis as this improvement is not required for the current uses and there is no public or private benefit to be gained by imposing the improvement totally on one owner. There is an issue of specificity, however, and more clarification might have been helpful.

Mayor Katz said she thinks the City should be a little more careful in the future with regard to the specificity on conditions.

The Mayor noted that the record would be left open for seven days.

Disposition: Tentatively deny the appeal (Y-4); applicant prepare findings for June 22 at 2:00 p.m.

Commissioner Gretchen Kafoury

890 Liquor license application for RKD, Inc., dba The Caribou Club, 503 W. Burnside Street, Dispenser Class A liquor license (renewal); Favorable recommendation with Letter of Warning (Report)

Discussion: Commissioner Kafoury said the record is very clear about the willingness of the applicant to work with the License and Police Bureaus.

Mike Sanderson, Bureau of Licenses, said their favorable recommendation with a warning hinges on staff's belief that the licensee will continue to demonstrate a willingness to control the problems that have been reported at this location. The applicant has implemented an acceptable compliance plan which seems to be working and is supported by the Old Town/Chinatown Neighborhood Association.

Perry Christianson, License Investigator, Police Bureau, said he has been advised by the Police that the problems at this outlet have diminished although they express reservation about the possibility of recurring problems. He said he believes this is addressed by the letter of warning.

Disposition: Favorably recommended with Letter of Warning. (Y-4)

872 Amend the boundaries of the North/Northeast Portland Enterprise Zone to add land owned by Oregon Steel Mills. (Resolution)

Discussion: Christopher Juniper, Portland Development Commission, said they have been working with Oregon Steel Mills to craft a workable partnership to keep the company in Portland. He said this agreement will allow the City to keep 700 quality jobs and will require Enterprise Zone hiring which should give about 40 percent of new hire jobs to Enterprise Zone residents. This agreement will keep leading-edge steel making infrastructure investments in Portland and position the Rivergate site for additional future investments anticipated by Oregon Steel. He explained that this amendment will enable the company to earn a five-year tax exemption on new property taxes generated by investment. Oregon Steel Mills will make direct program contributions of \$450,000 annually to the Northeast community to support job training and business development programs. To retain the abatement, 25 percent of annual openings must be filled with Enterprise Zone residents and the company must retain 97 percent of their existing employment over seven years. Therefore, even if no no new positions are created, they expect 100-200 Enterprise Zone residents to be employed there at the end of the

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abatement period. The tax abatement would be about \$2 million per year over five years.

Mr. Juniper described the economic contribution the company makes locally. He noted that the report prepared by the Office of Finance and Administration (OFA) estimated the cost to property taxing governments at \$50,000 per job. OFA's analysis assumes that Oregon Steel would make the investment whether or not this program was approved, an assumption that is not necessarily true as the company looks at how it can remain competitive globally. He also described State legislation which gave local governments the opportunity to decrease the tax bills of certain companies, such as steel and semiconductors, that must make huge investments in order to do business.

Bill Resnick, Portland Committee for Sustainable Economic Development, said this is a bad deal for the City as it gives away \$10 million dollars. He asked if the City planned to grant a tax abatement to every capital expenditure and if so, how it would pay for the added expenses that come with growth. This deal cuts jobs and it seems dubious for the City to subsidize modernization and get a net loss of jobs. He said even successful enterprise zones do very little to benefit the poor areas around them and the \$450,000 for training and development, if needed, should be directly appropriated, not first given to Oregon Steel and then given back to a community organization. Any job growth will occur only in the short run and giving such tax breaks will ultimately reduce decent work as it amounts to corporate blackmail and encourages corporate musical chairs throughout the country. Every time companies move, they hire a cheaper workforce, contributing to a polarization of income levels, and reducing public revenue.

Mr. Juniper continued his analysis of the financial impact. He said the cost of the exemption over five years is estimated at \$2,929,000 while they estimate that during that same period the City will collect \$8 million from Oregon Steel through property taxes and business license fees. He also analyzed the cost to the City per person job year, adding that there is no easy way to measure the cost per job. He said PDC and the North/Northeast community support this amendment because it meets the intent of the Enterprise Zone to reward the creation or retention of jobs in the Northeast area. It is also important for the City to make a clear statement that existing businesses are valued just as much as new companies. Without the tax abatement, there would be no incentive for Oregon Steel Mills to hire Enterprise Zone residents.

Commissioner Kafoury asked about the policy regarding tax abatement, noting that when she supported tax abatement for Riverplace she made it very clear that was the last time she would support any tax abatement until a policy was in place.

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Mr. Juniper said a City team has been working on one which has not yet been completed and in this case the the company needs to make an investment decision now.

Tim Grewe, Office of Financial Planning, said this process demonstrates the need for getting firm ground rules. He said a group of City employees has been working on such a policy and expect to have a draft in about 30 days. He said PDC did advise them that there were several projects in the pipeline so OFA went into a little more depth regarding this project in order to give Council information it would expect to receive when such policy is in effect.

Commissioner Kafoury said Oregon Steel Mills is exactly the kind of business the City wants but she is deeply troubled by the amount, the implications for other businesses and the lack of policy. She said she also thought the Enterprise Zone was more specific about new jobs, not just the retention of existing ones. She said tax abatement should not be used to reward people.

Mr. Juniper said the Statute contemplates the use of enterprise zones in three different situations: 1) new companies bringing new jobs; 2) existing companies which increase employment by 10 percent; and 3) existing companies which invest more than \$25 million with no loss of employment. The second resolution allows a three percent leeway regarding job loss.

Commissioner Kafoury said she thinks this is very dangerous water for the City to get into.

Mayor Katz said the first draft of the policy was rather weak and that is why Council does not have it yet.

Sandy Willow, 2936 NW Savier, a volunteer organizer for Friends of Seasonal and Service Workers, opposed this expansion and called for the abolition of all such enterprise zones based on their concern for more jobs at decent wages. She contended that this will provide neither more jobs nor jobs at living wages. When the Nabisco amendment was passed in 1987, the requirement that jobs must increase by 10 percent was deleted from State legislation. The history of enterprise zones has been to continually water down their purpose and increase the tax burden on other property owners and small businesses. She cited a number of studies which conclude that enterprise zones are not effective, provide little or no benefit for the inner-city poor, and cost far too much for the number of jobs created. She said there is not a single example of a successful enterprise zone anywhere in the country, if the criteria is the creation of good-paying, stable jobs.

Rosalie Randell, 1509 NE 10th, Northern Oregon coordinator for Ad-Hoc Coalition of Concerned Health Professionals (CCMP), said they oppose this \$4.4 million tax giveaway and ask for abolishment of the Enterprise Zone. At a time when State and school expenditures are being slashed, every cent

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of property tax dollars given away through enterprise zones takes money away from desperately-needed health care and other essential services provided by the State. She called for abolishment of the Oregon Health Plan. Ms. Randell said this proposal does not guarantee the hiring of any new employees or that the corporation will not just move to another state when the tax abatement ends.

Ray Adams, Vice President of Finance, Oregon Steel Mills, said they compete in a world market where no prisoners are taken, including parts of the world where people do not have health care benefits or living wages. He said because of the competitive nature of their business, they are unable to pass taxes on to their customers and consequently, because they also strive to pay high wages and benefits, their bottom line is not as good as it should be. For this reason they have asked to be included in the Enterprise Zone and receive tax abatement. He said Oregon Steel has demonstrated over the years that they pay decent wages, citing low turnover and good working conditions. Of the \$180 million to be spent on the construction project in North Portland, \$65 million will be spent in the Portland area.

Barbara Sarantinas, a member of Friends of Seasonal and Service Workers, said communities are being destroyed by allowing profiteers to wrangle tax exemptions, adding to the taxpayers' burden and leaving small businesses unable to compete. Oregon's Enterprise Zone law only benefits large corporations and creates a permanent underclass of workers in permanent slums. Such zones loosen health and safety standards and the conversion process is used to unlawfully appropriate another's property, driving down wages and resulting ultimately in a smaller and smaller tax base. She asked that the entire program be repealed. The agreement to hire 25 percent of new workers from North/Northeast Portland is symbolic since the company's expansion does not add new jobs. She said the City will pay \$9.78 million for 35 jobs over five years.

Mr. Juniper noted some technical amendments to both resolutions, none involving any substantive change. In the first resolution, the word exemption is substituted for abatement. The same thing was done in the second resolution where a new paragraph has also been added which clarifies that the entire work force in the Portland area would be considered in the employment numbers and that the language state 97 percent of the workforce.

Commissioner Hales moved the amendments to the first resolution. Commissioner Blumenauer seconded and the motion carried. (Y-4)

Commissioner Blumenauer asked about the reaction of the other taxing districts that would be affected, such as the Portland School District.

Mr. Juniper said they did not discuss the abatement program with them.

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Commissioner Blumenauer asked why they did not.

Mark Clemons, Acting Development Director, PDC, said PDC as the agent for the Enterprise Zone program has the responsibility to move the program forward but is not required to talk to each taxing district.

Commissioner Hales noted that what is at stake is foregone revenue, not a reduction in existing revenue.

Commissioner Blumenauer said he remembers the Nabisco proposal and its threat to close half its plants around the country if it did not get the abatement. Looking back, he is not persuaded that the company would not have gone ahead and modernized anyway and he thinks that might be the case here as well.

Commissioner Hales said it is a fair question to ask if this investment would occur anyway. However, we are not talking about a reduction in current revenues but only foregone increases.

Commissioner Blumenauer said, however, that if revenue that might otherwise have come to very troubled jurisdictions, particularly the schools, is taken off the tax rolls, then the City has an obligation to talk to them about it. He asked Drew Bardon about some of the economic conclusions made regarding energy use.

Drew Bardon, Economist, Bureau of Financial Planning, said generally people in the Northwest are looking for generating capacity. The analysis concludes that the expansion would result in increased franchise fees coming to the City. He said he has no way of knowing if the additional load might have come from somewhere else or not.

Commissioner Blumenauer asked how many jobs are being talked about at the point of certification.

Mr. Juniper said present employment is about 775 and that is the number they would expect at precertification.

Commissioner Blumenauer asked what would happen if market conditions change.

Mr. Juniper said if in the last year of exemption, 2000 to 2001, employment is less than 97 percent of what it is today, the entire exemption would be disqualified and the entire amount of property taxes due, plus interest, would be collected. Also the \$450,000 contribution would not be refundable.

Commissioner Blumenauer asked what would happen if employment were cut in half the day after the abatement program lapsed.

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Mr. Juniper said there would be no penalty. He said the assumption about energy franchise fees was predicated on Oregon Steel's \$17 million per year electric bill to PGE, five percent of which comes to the City.

Commissioner Blumenauer asked if other major facilities within spitting distance of the Enterprise Zone boundaries could be looped in or out to give similar benefits to other large operations.

Mr. Juniper said they have identified 900 acres in the current Enterprise Zone where there will be no industrial development, such as streets and parks. They would have the capacity to remove that acreage from the Zone and change the boundary to capture other investments that would benefit Northeast residents. There is, however, a 12-mile distance restriction keeping the Zone in North Portland.

Mayor Katz asked what the history has been for the creation of jobs in Northeast Portland through the Enterprise Zone.

Mr. Clemons said there has not been substantial use of the Zone, noting that the statutes were changed dramatically in the last session of the Legislature. He said he will provide the numbers over the next week.

Mayor Katz noted that Washington and Multnomah counties have selected two or three target industries, including the metals industry, while the City is looking at adding a fourth. She asked what resources are being received to assist the metals industry.

Mr. Clemons said he would get those figures within the next week, adding that discussions are currently underway regarding how those dollars will be expended. The region will receive approximately \$1.5 million for regional strategies regarding the three targeted industries, metals, high technology and biotechnology. He said the idea is to combine the Oregon Steel Mills dollars with regional strategy dollars and other companies to put a training center together in Northeast Portland to support all those companies.

Mayor Katz said the cheap labor pool is actually a labor pool that will be trained for high quality jobs.

Mr. Clemons said the goal is obviously to raise the skill level and earning capacity of the workers.

Mr. Juniper noted that to get the abatement Oregon Steel must hire 75 percent of the workers at more than 150 percent of minimum wage.

Commissioner Blumenauer said he likes Oregon Steel and wants it to stay here but does not want the City to get in the middle of an ultimately self-destructive bidding war. Comparing Portland with Pueblo, Colorado, he said

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the problem is high State taxes, not high property taxes or energy costs. His concerns are the high cost per job, with OFA estimating that the estimated unit cost per job is \$50,000, and no new job creation, only normal turnover which could provide opportunities for Northeast residents anyway. He said this asks local governments to forego up to \$6 million which might otherwise flow to them. Placing \$180 million in the abatement category is a staggering amount for not creating any new jobs. He said maneuvering the boundary to add 900 acres is also of concern and everybody in the periphery could make requests for the same benefits given Oregon Steel. He said he does not see any great benefit for the City and does not believe this can be justified on the basis of jobs.

Commissioner Hales said it is a bit of miracle that the City has such a diversified economy as most major cities have been unable to maintain a manufacturing base with a basic industry such as steel and have loss family-wage jobs. He said he does not want Portland to lose its healthy economic base in the Central City. He said in the light of this bigger picture, the question is not just the cost per job but whether the City is doing what it can to maintain a diverse economy.

Commissioner Kafoury said perhaps the City will decide that tax abatements are critical but this one is too expensive, particularly as there is no policy in place. She said she is also troubled about the failure to discuss this with other jurisdictions so that they understand the cost benefit. She said from the evidence she sees, there are major questions about the effectiveness of enterprise zones.

Mayor Katz said other communities would give anything to have the diversification of manufacturing industries that Portland has, particularly in the light of competition with foreign countries. She said the City should enhance the ability of such companies to stay here and has very few tools to do so. The hiring of minorities does not happen unless there are incentives (or guns to the head) and it is the Enterprise Zone legislation that allows the City to use incentives to guarantee the ability to hire citizens from pockets of poverty. Even though it does not add new jobs, it does guarantee opportunities for people in North/Northeast Portland to have decent jobs as turnover occurs. The benefits are being given to companies that are making major commitments to the community and this is a sound policy. She said little has been said about the positive impact this will have on suppliers. She said she is disappointed in today's vote and the need to wait for Commissioner Lindberg's return. She said she is not crazy about property tax exemptions but the overriding issue is that this is an industry that is disappearing in the United States and the City ought to do whatever it can to make sure it has incentives that expand the number of good jobs. This does pose a risk but one she is willing to take.

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Cay Kershner, Clerk of the Council, said the measure fails but it could be moved to another time for reconsideration.

Mayor Katz, noting that was recently done for a tree, asked that this be continued.

Commissioner Blumenauer said he has no interest in having something fail for lack of a majority and feels comfortable moving it forward. He flagged his point about the addition of 900 acres adjacent to the Enterprise Zone.

Disposition: Failed to pass as amended. (Y-2; N-2, Blumenauer and Kafoury) Moved for reconsideration June 15, 1994 at 2:00 p.m.

873 Qualify Oregon Steel Mills for Enterprise Zone tax abatement with a loss of employment (Previous Agenda 788)

Disposition: Continued to June 15, 1994 at 2:00 p.m.

At 4:30 p.m., Council adjourned.

BARBARA CLARK
Auditor of the City of Portland



By Cay Kershner
Clerk of the Council