



CITY OF
PORTLAND, OREGON

**OFFICIAL
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 31ST DAY OF AUGUST, 1994 AT 9:30 A.M.

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

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

Agenda Nos. 1407, 1417, 1418, 1419, 1420, 1422 and 1425 were pulled from Consent. On a Y-4 roll call, the balance of the Consent Agenda was adopted as follows:

CONSENT AGENDA - NO DISCUSSION

- 1404** Accept bid of GBC Scientific Equipment, Inc. for atomic absorption spectrophotometer for \$49,500 (Purchasing Report - Bid 8)

Disposition: Accepted; prepare contract.

- 1405** Accept bid of Interstate Mechanical, Inc. for Columbia Boulevard Wastewater Treatment Plant Administration Building HVAC upgrade for \$142,454 (Purchasing Report - Bid 11)

Disposition: Accepted; prepare contract.

Mayor Vera Katz

- 1406** Confirm appointment of Janet Kakishita, Nadia Kahl, Frances Portillo-Denhardt and Joan Strouse to the Metropolitan Human Rights Commission (Report)

Disposition: Confirmed.

- *1408** Authorize lease from Pittock Block General Partners, a Washington General Partnership, for Police Bureau contact office (Ordinance)

Disposition: Ordinance No. 168056. (Y-4)

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- *1409** Create one Project Manager position in the Bureau of Environmental Services in accordance with the Personnel Rules adopted by the City Council (Ordinance)

Disposition: Ordinance No. 168057. (Y-4)

Commissioner Earl Blumenauer

- *1410** Authorize termination of a contract with American Cast Iron Pipe Company for gate and tapping valves through December 31, 1994 (Ordinance; Contract No. 40032)

Disposition: Ordinance No. 168058. (Y-4)

- *1411** Apply to the Oregon Department of Transportation for grants totaling \$140,000 to provide critical bicycle lane connections to the Broadway, Hawthorne and Burnside Bridges (Ordinance)

Disposition: Ordinance No. 168059. (Y-4)

- *1412** Execute Lease Agreement with the Federal Aviation Administration for air space above NE Marine Drive west of I-205 (Ordinance)

Disposition: Ordinance No. 168060. (Y-4)

- *1413** Create a trustee account for the Morrison Oil property right-of-way offer (Ordinance)

Disposition: Ordinance No. 168061. (Y-4)

Commissioner Gretchen Kafoury

- 1414** Accept Materials Testing Lab remodel II project as complete, authorize release of retainage and final payment to Columbia Cascade Construction, Inc. (Report; Contract No. 29063)

Disposition: Accepted.

- 1415** Accept contract with McCoy Electric Company, Inc. to furnish and install equipment in the 3rd floor computer facility of the Portland Building as complete, authorize final payment and release retainage for a total of \$832 (Report; Contract No. 29238)

Disposition: Accepted.

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- *1416** Contract with Interstate Mechanical, Inc. for removal of a multi-zone airhandler and the furnishing and installation of a new heating, ventilation and air conditioning system in the Administration Building at the Columbia Boulevard Wastewater Treatment Facility in the amount of \$142,454 (Ordinance)

Disposition: Ordinance No. 168062. (Y-4)

Commissioner Mike Lindberg

- 1421** Amend Solid Waste and Recycling Collection Chapter of the City Code to create consistency between language and practical application of the franchise hauler program (Ordinance; amend Chapter 17.102)

Disposition: Passed to Second Reading September 7, 1994 at 9:30 a.m.

- *1423** Authorize a contract with the lowest responsible bidder for the Alder Basin Relief and Reconstruction Phase 1-Unit 3 and provide for payment (Ordinance)

Disposition: Ordinance No. 168063. (Y-4)

- *1424** Agreement with Century West Carollo for analysis and design of a storm sewer system and engineering services during construction (Ordinance)

Disposition: Ordinance No. 168064. (Y-4)

- *1426** Amend contract with Woodward-Clyde Consultants for \$520,000 (Ordinance; amend Contract No. 27806)

Disposition: Ordinance No. 168065. (Y-4)

REGULAR AGENDA

- S-*1407** Amend Intergovernmental Agreement with Multnomah County for the Regional Drug Initiative (Ordinance)

Discussion: Cay Kershner, Clerk of the Council, noted that a Substitute had been filed. Commissioner Kafoury moved the substitute and Commissioner Hales seconded. Hearing no objections, the Mayor so ordered.

Paul Richmond, PO Box 454, 97207, said in the past the Regional Drug Initiative has been a conduit for programs which deprive citizens of their civil liberties. He urged the City to remove itself from this project.

Disposition: Substitute Ordinance No. 168066. (Y-4)

- *1417** Amend contract with KPFF Consulting Engineers for engineering services (Ordinance; amend Contract No. 29230)

Discussion: Mr. Richmond commented on this and the following three items. He said the City is giving grants to public housing at the same time it is trying to shut down Lincoln Loan, which has been making housing available to a lot of people who have been turned down elsewhere. This makes it seem like the City believes that if low-income housing exists it must be owned either by corporations or non-profit entities.

Commissioner Kafoury said Items 1418 and 1419 reflect changes made during the budget process about how the City works with non-profits other than Northeast Community Development Corporation (NECDC). The City is now giving competitive grants to the non-profits, most of which got about \$40,000. She said she believes the community-based non-profits are doing some of the best work in the community on housing and is proud the City is supporting them. She would not comment on Lincoln Loan because they are in litigation with the City.

Disposition: Ordinance No. 168067. (Y-4)

- *1418** Contract with Housing Our Families for \$36,071 to support affordable housing development and provide for payment (Ordinance)

Disposition: Ordinance No. 168068. (Y-4)

- *1419** Contract with Central City Concern for \$40,000 to support affordable housing development and provide for payment (Ordinance)

Disposition: Ordinance No. 168069. (Y-4)

- *1420** Contract with Northeast Community Development Corporation to provide support for the Nehemiah Housing Opportunity Program in the amount of \$360,360 and provide for payment (Ordinance)

Discussion: Commissioner Kafoury said she is comfortable that NECDC is meeting their goals. There were a lot of reasons for a slow start-up but they have satisfied their agreement this year.

Disposition: Ordinance No. 168070. (Y-4)

- *1422** Intergovernmental agreement with Multnomah County for Water/Sewer Bill Discount Program eligibility verification administration (Ordinance)

Discussion: The Clerk said Commissioner Lindberg's office had requested that this be continued one week.

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Disposition: Continued to September 7, 1994 at 9:30 a.m.

***1425**

Amend contract with Lee/Ruff/Stark Architects for \$7,880 for additional engineering services for the Interstate Facility and Willis Building improvements and provide for payment (Ordinance; amend Contract No. 29086)

Discussion: The Clerk said an amendment was distributed changing the amount to \$7,880. Commissioner Kafoury moved the amendment and Commissioner Hales seconded. Hearing no objections, the Mayor so ordered.

Disposition: Ordinance No. 168071 as amended. (Y-4)

Mayor Vera Katz

1427

Authorize Mayor to sign agreement conveying \$1.5 million to Portland Public Schools for core school police functions in 1994/95 fiscal year (Second Reading Agenda 1396)

Discussion: Mayor Katz said the City will also absorb the Parkrose School District police officer since it had major budget reductions as well.

Disposition: Ordinance No. 168072 as amended. (Y-4)

Commissioner Mike Lindberg

1428

Accept completion of the Kenton Basin Sump Project, Unit 4, and authorize final payment to the James W. Fowler Company (Report; Contract No. 29091)

Disposition: Accepted. (Y-4)

At 9:45 a.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 31ST DAY OF AUGUST, 1994 AT 2:00 P.M.

THOSE PRESENT WERE: Mayor Katz, Presiding; Commissioners Hales and Kafoury, 3.

OFFICERS IN ATTENDANCE: Cay Kershner, Clerk of the Council; Kathryn Imperati, Senior Deputy City Attorney; and Officer Chuck Bolliger, Sergeant at Arms.

Commissioner Charlie Hales

- 1430** Deny appeal of West Hills Homes, Inc. and Larry and Nina Lindstrom against Hearings Officer's decision to deny application for a Planned Unit Development and Subdivision located between SW Arnold and Coronado Streets and between SW 44th and 39th Avenues (Findings; Previous Agenda 1402; 93-00591 PU SU EN)

Discussion: Commissioner Hales noted that he had been absent at the original hearing and suggested continuing this item to a time when the three Council members who had been present then would be in Council.

Disposition: Continued to September 1, 1994 at 2:00 p.m.

- 1429** **TIME CERTAIN: 2:00 PM** - Adopt Natural Resource Inventory, ESEE Analysis, and Skyline West Conservation Plan; amend Comprehensive Plan and Title 33 of the City Code; amend official zoning maps of the City of Portland (Ordinance introduced by Commissioner Hales)

Discussion: Commissioner Hales said this is the last of the City's environmental zone planning efforts.

Mayor Katz asked Planning to address how this connects to the streamlining process for environmental zone review.

Tim Brooks, Bureau of Planning staff, said that he was helped on this plan by Catherine Lawson, an economic analyst, who substantially refined and expanded the City's conflicting use analysis for Goal 5. He said staff has learned that some new information would be submitted today which it has not had an opportunity to review and asked that today's hearing be continued in order to consider it. He requested closing oral testimony after today but leaving the written record open until Friday, September 2.

Mr. Brooks said this is the last of eight such plans to conserve open space and protect natural and scenic resources and once it is accepted the City

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will have completed its periodic review requirements for Goal 5, Natural Resources, a process that has taken eight years.

Mr. Brooks showed slides of the Skyline area, noting that it contains a mixture of housing, agricultural land and forested ravines. He said the area is developing quite rapidly but much of its rural character remains. Developers usually site their houses along the ridge tops leaving the steeper ravines as open space. He described some of the birds and animals found in the area. He said the Planning Commission had amended the staff report to address some property owners' concerns, adding that the Commission noted that all lots within the plan area remain buildable and in many cases environmental review would not be required to build, particularly once streamlining recommendations are adopted as they grant a review exemption for single dwellings in conservation zones. Mr. Brooks said both the Planning Commission President and Vice President serve on the streamlining committee and find this plan consistent with the amendments it is proposing.

Mayor Katz asked if property owners understand the impact of the streamlining efforts and if Planning staff met with impacted property owners to review them.

Mr. Brooks said yes, giving as an example Marilyn Loy, one of the most highly impacted landowners, who will be able to build without a review in the conservation zone. He said charges made in a form letter that individual land owners were not notified are unfounded, noting that similar charges were made to the Planning Commission which instructed staff to renotify all affected land owners even though a full area notice had been given in May, 1993. He said staff checked and found those signing the form letter were on the notification list as well.

Mr. Brooks said most of the mapping issues raised have been resolved except in one new case. He said staff also responded to calls about a flier which suggested that protection zones would be placed over existing homes, precluding any additions or rebuilding after a fire. He said this is untrue. Concerns about impacts on property values will be discussed by Ms. Lawson. He said the plan protects sensitive resources while preserving housing opportunities which far exceed the number of identified needed housing in the City's buildable lands inventory done in 1987. He noted that the Planning Commission unanimously voted in favor of the plan.

Mayor Katz asked him to review the information in a manner similar to what was done with the Albina Plan.

Catherine Lawson, economic analyst, said she was delighted that her analysis found that environmental zoning had a positive economic impact.

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She explained the methodology used to identify conflicts and the economic, social, environmental and energy elements involved along with recommendations for full, no, or limited levels of protection. She said the most emphasis was placed on the environmental analysis while the most concern focused on the economic consequences. She said the analysis also indicates ways in which property values are increased or decreased when significant resources exist on a site. She said staff recently learned from a property appraiser that properties with environmental zoning in the Southwest neighborhoods increased in value after environmental overlays were in place. She said her research shows that forested areas, wetlands and other amenities increase property values. She cited Site 145 in Forest Heights as an example of a developer taking advantage of the natural amenities without disturbing them. She said the increment of value associated with natural resources is capitalized into the market value of a property, as are the costs of protection. If the increase in value attributed to amenities is greater than the cost associated with protection, property values increase.

Ms. Lawson said in this particular plan area developers worked with staff to use cluster techniques and owners of single parcels have benefited from siting their homes on the most appropriate areas of their property for development. This reduces cost and substantially increases benefits. Regarding increases in development costs resulting from the application of environmental zones, she said in most cases these costs can be offset by density transfer options and by the environmental streamlining proposals. She described several methods used to place a value on environmental resources, including contingent valuation methods, which determine the maximum amount people are willing to pay for natural resource preservation. A recent study in Multnomah County found that the forest was the most highly valued resource and that, in general, properties close to natural resources had greater value than those further away. She also addressed the impact of environmental overlays on tax revenues. She described how the value of wetlands might be computed as well as several other methods of determining the value of natural resources. Because there are indicators in this particular study of positive benefits capitalized into residential use, this decreases the impact of costs associated with environmental zoning. Anecdotal evidence supports that the loss of such resources could significantly decrease property values.

Commissioner Hales asked whether the increased regulatory costs on properties with natural resources was taken into account as well as their increased value. He asked which costs - the old cost under the present regulations or the hopefully lower costs under the new streamlining regulations -- had been factored in.

Ms. Lawson said they looked at the costs in both cases and found that there would be substantial savings with the new regulations. In both

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cases, however, the net was positive (in terms of increased property values).

Jeff Lewis, 4154 NE Brogden, Hillsboro, OR, said he and his wife, along with another couple, own 100 acres in the overlay area and received a PUD plan approval in 1982 but with such restrictive conditions they could not sell the property. When a few of the restrictions were relaxed, a number of offers were made but then lost when prospective buyers learned of the proposed environmental overlay. He said developers will have little to do with property zoned in this manner and he believes this zoning has destroyed most of the property's value. He said the most recent offer to buy the property included a 40-acre set-aside and this offer will be cancelled if there are any additional demands of acreage. If that occurs, they will consider this a full or partial taking of their property, without proper compensation or without proper notification or preparation of an economic impact statement. He said many of the property owners in this overlay were not notified and 84 percent of the property owners west of Forest Heights are against this, clearly showing that the neighborhood associations' vote of approval does not represent the affected property owners.

Mayor Katz asked him if the testimony given before the Planning Commission was accurate, indicating that his original planned unit development could still be built today under the proposed regulations.

Mr. Lewis said no, that was not accurate.

Larry Neal, 7035 SW Palmer Way, Beaverton, OR, said Mr. Lewis' property is the single largest property affected by this overlay. There are developers interested in it but not the way it is proposed, adding that the original 1982 plan did not call for clustering in the same way and did not call for as high a level of protection as is proposed now. He said even if some housing is clustered, 49 sites is the most one can get now, while the original plan called for many more.

Dave Hohler, 18060 SW Pheasant Court, Aloha, biologist for A.G. Crook Co., a Beaverton environmental consulting firm, summarized his company's assessment of fish and wildlife values.

Dorothy Cofield, staff attorney, Oregonians in Action, said their position is that when private property is taken without just compensation, it is a taking under the Constitution and that even a partial taking is still a taking. She said in this case she represents Jeff and Carol Lewis and in working with them found that developers do not want to touch properties with environmental zones on them. She said if, as the City's economist testified, the value goes up why not allow the property owner to preserve the property values without governmental regulation. She said the recent

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Supreme Court decision in Dolan vs. City of Tigard puts the burden on the government to support its land use regulations, asks for fairness in property takings and for proportionality when conditions are placed on a landowner. She said they believe the proposed overlays on the Lewis property will not meet the Dolan proportionality test. Regarding the streamlining effort, it is a little optimistic to state that a lot of developments will not need reviews, as the report acknowledges that a substantial number of new developments will still require them. Only when a property has a footprint entirely out of the environmental zone will it escape expensive environmental review.

John Sherman, 1912 NW Aspen, 97210, congratulated Planning staff for this plan, which seems to offer a reasonable amount of protection for key resources while respecting the rights of individual property owners. He said when the specifics of the plan are adopted, some property owners may rush out to cut every tree and asked that the plan be adopted as an emergency ordinance in order to prevent this from happening.

Daniel McGuire, 3300 SW River Rd., Hillsboro, OR 97123, a realtor, said this plan seems to take a Sheriff of Nottingham approach and if prospective developers are forced to go through all of these hoops they will build somewhere else. He said these property owners need to be reimbursed for the amount of money they are losing. He also argued that other economists could argue exactly the opposite as the City's economist. He said if people have to put on a pair of boxing gloves and fight City Hall in order to overcome the environmental restrictions, they will go somewhere else.

Mayor Katz asked if he had any specific properties he wanted Council to review.

Mr. McGuire said there is a piece of property in Multnomah County where the property owners were forbidden to sell their property unless they brought the driveway up to certain Codes, which would have cost more than the property was worth.

Theron Conover, 12985 NW Sioux, said he owns seven and a half acres on Skyline and due to the overlays, only between 15 and 20 percent of his property is buildable without seeking extra permits or going through an environmental study. He said he does not know when an inventory was done on his property and does not understand how they determined the valuation of the trees. If he cannot build a house on his property, it has no value with just trees because he cannot cut them.

Commissioner Hales asked if the lot lines shown were conceptual.

Mr. Conover said he has two tax lots (Tax Lots 32 and 33) currently and

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at one time he tried to put a third tax lot there. He will not be able to do that because most of one of the lots would be unbuildable. The other two would be buildable if he had environmental studies done. He said when he originally bought the property there was only a 50 foot setback from the street; now it is 100 feet so basically he is getting pinched from both sides.

Linda Lovett, 9005 NW Skyline Blvd., 97231, said her property (Site 143, Tax Lot 31, parcels 8 and 9) is about 50 percent in a conservation zone and expressed concern about how the lines were drawn determining what should be in an environmental protection or conservation zone and what should not. She said the lines seem very vague as does the information provided. She said this vagueness seems to place the burden on the property owner to prove that where the house sits is not within that zone, instead of the burden being on the City. She said she and her husband are still negotiating on this issue with Mr. Brooks and it inaccurate of him to say these kinds of issues are resolved. She said she also believes notification was insufficient as she feels very strongly that every land owner in the study area should have received maps showing where the lines are and been given an opportunity to respond. She said in her case she believes her house straddles an environmental zone. A final concern is fire protection, which has not been adequately addressed, noting that the fire department calls for a 30-foot

swath around the houses of lawn or something nonflammable and if they are not allowed to cut any trees within 30 feet, she is worried about her house burning down.

Eleanor Nelson, 8555 NW Skyline Blvd. (Section 10, 1N, 1W, Tax Lot 11 and 33), said these are very oppressive rules for a property they have owned for 50 years. She said the property was a cow pasture when they purchased it and now they are being told the trees they have grown can not be cut without permission.

Mayor Katz asked if they were planning to cut their trees.

Ms. Nelson said they planned to cut the trees, as needed, only for firewood. She said there were only six large trees when they moved there and they have no large animals of any kind.

Les Blaize, 9630 NW Skyline, 97231, said approximately 75 percent of his property is in an environmental overlay which unfortunately has doubled his land value. He said he represents no special interest other than his own and he has waited a long time for this plan as there have been irreparable environmental scars placed in his neighborhood and some very ugly developments. He said while Tim Brooks did a very good job under the constraints placed upon him by Commissioner Hales, this plan would look totally different if it had not been encumbered by the philosophy Mr. Hales has brought to planning. He said during the three years they have

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waited for this plan, developments have come in which have destroyed the environmental acceptability of the neighborhood. He said he is for the plan as it stands and believes it should include an emergency clause. People will be surprised at what they can actually do with their property now that it has a more sustainable value than just whacking the trees and putting up ticky- tacky little houses.

Mayor Katz asked how long it took to work on this plan.

Mr. Brooks said it has taken about three years.

Charles Donaldson, 9033 Alameda Genoa, Houston, TX 77075, said he understands that with the overlay he will not even be allowed to cut the grass on his property. He said right now it is a dangerous fire hazard. He said the plan interferes with his basic right to do what he wants to do with his land. He said the overlay will also adversely affect the sale of his land and the City is responsible for the damage done to him. He said he will fight to the bitter end to protect his rights and the City should not take what is his without compensation.

Gary Goncher, 5745 SW Glenbrook Rd., Beaverton, 97007, said his property is Skyline Acres, Lot 25. He objected to the lack of notification, contending that he never got any indication when he brought the property three months ago that this plan was going into effect. He also objected to the way the survey was done and the way the lines were drawn, adding that he believed a lot of it was based on a 1986 wildlife survey. He said their property has changed quite a bit since the surveys were done. Depending on how the plan is implemented, it may cost him a substantial amount more to build on his property.

B. M. Brooks, 11516 NW Skyline Blvd., said he owns 50 acres of property in the area which has three houses on it. He said it seems to him that some slick people who own a little property are talking people into things that are not protecting their property interests. He said property owners lost ground in 1934 when everyone who was a registered voter was allowed to vote on school measures, rather than just property owners who pay the taxes. He asked Council to put itself in their shoes and do what it thinks is right.

Nancy Fick, 4028 SW 53rd Place, said she owned Tax Lot 25, Map 10, 1N, 1W and Tax Lot 1, Lot 1, Willalatin Park. She said one property is in Multnomah County but shows up on City water maps as being in the City. It has been divided in half on that map. The other one has been erased from maps at the Multnomah County surveyors. She objected to the government telling people what they can do with their property, claiming that there has been an infiltration in Portland of people with socialistic principles who favor confiscation of private property for public purposes

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without compensation. She said they cannot get surveys of their property if it is in opposition to City Hall.

George Fick, 4028 SW 53rd Place, owner of Tax Lot 15, Map 10, 1N, 1W, said he has already been hit with a scenic overlay which imposes a 100 foot setback on a one acre lot. He asked for a no vote.

Homer Wolfington, 5635 SW Knightsbridge Dr., 97219, said he and his wife own seven lots severely affected by the Fanno Creek zoning and only recently became aware of their predicament. He said environmental overlay zoning was put into place in a very underhanded way because of inadequate notification of property owners. Sending out a notice stating that a study is being done in no way tells owners they are about to be robbed of the value of their property. He said there has been no further notification that they are aware of and because of this affected citizens have had very little input. He said most of those pushing this program are fanatical environmentalists. He said the mapping mistakes are serious and the actual resource is often non-existent or completely out of the zone area. Wetlands are not located with any precision and while this may not seem important, it becomes crucial when one goes in for a permit. He said in some situations this zoning makes lots unnecessarily unusable and in other cases endless environmental studies and appeals make building economically unfeasible and leave the owner with property he cannot use or sell even though he is still stuck with paying taxes on it. He expressed frustration because Planning is just one of many departments the property owner is required to satisfy, each with its own agenda. There is also little flexibility in allowing either planners or property owners to exercise their own judgment. For this reason, it is very important that the new rules be carefully evaluated, clearly defined and practical.

Mayor Katz noted that he identified some organizational issues that Council is trying to resolve, aside from the issue of the overlay zone.

Betty Wolfington, 5635 SW Knightsbridge Dr., said existing vacant lots in approved subdivisions which have already gone through review before this zoning was put into effect should not require a second review. Many people will feel betrayed when they find the City has rezoned their lot and they can either no longer build or it becomes too expensive to do so. The limitations on how they can landscape and use their property are also too severe. Regarding the claim that property values increase in areas with environmental zoning, Ms. Wolfington, a builder and realtor, said the buying public finds it desirable to live next to, but not in, an environmental zone as it is not willing to be subjected to the extreme regulations this zoning imposes. She said she is not talking about pristine forests, just lots in existing subdivisions. She said property owners ought to be allowed to landscape their own lots as they desire and in accordance

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with neighborhood standards. She asked how much are taxpayers willing to pay for the "plant police" to enforce these rules. She said good environmental practices need to be encouraged by education, not legislation, adding that unenforceable laws create contempt for the law. As someone who owns seven lots, she has been severely hurt by this zoning. She noted that because of a gross mapping area they are losing a sale because the prospective owner proposes to enlarge his deck. They have appealed to the Planning Bureau for help but it takes time to correct these errors and in the meantime they are left twisting in the wind because of the City's mistake. She said the City is stealing their resources and that this has less to do with environmental protection and more to do with stopping growth. If the City wants people to build here it will have to mitigate these laws as the effect on people is horrendous.

Corey Larner, 10605 NW Skyline Blvd., 97231, questioned the constitutionality of this legislation, claiming that it amounts to a taking and unlawful seizure of property. He cited the Dolan and Nolan vs. California Coastal Commission cases and said without restructuring, the City will find itself in a no-win law suit. He asked for a no vote, adding that the City's belief that it can impose and enforce these regulations borders on fascism. The cost of obtaining a building permit in a C zone is so much that it kills developability and the P zone makes the property untouchable.

Mayor Katz noted that the City Attorney had written a memo regarding the applicability of the Dolan case.

Mr. Larner said right now he has 30 homes under construction in the City but will not touch anything with a C zone because there are too many red flags. He said this is definitely a taking issue.

Mayor Katz said Senate Bill 100 has been tested in the Courts and with voters and so far there has not been a taking issue. She said, however, she knows this plan will be tested through the courts.

Scott Neish, 9325 NW Old Skyline Blvd., said he chose to live in this rural part of the City where each of the home sites is two acres and where there is no clustering which allows stacking like suburban land tracts. He said that is what he was trying to get away from. He said the topography and terrain is not easily developable and attracts a different type of person. He asked for streamlining of the process, comparing it to having a root canal, which goes on and on. He said because he came in with a good attitude, he did not have any problem going through the process in Washington County but he wished it were quicker.

Earl Grove, 607 NW Skyline Crest, 97229, said he has worked with this process for years and watched the area go through many phases, including

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barren land. He said the land he bought was purchased by the developer for less than \$50 an acre. Buildability was only in people's dreams because the land was never there is a state to be built on; one could see that when the forest was gone. He said Mr. Brooks has identified areas that are in trouble and which have always been in trouble. He complimented Commissioner Hales for getting a workable agreement between the developers and current and future residents. He asked that this be passed.

Michael Carlson, Audubon Society, 5151 NW Cornell, 97210, congratulated City staff on this plan but highlighted the need, as is being worked out on the streamlining committee, for an environmental handbook to explain some of the concerns raised. He also called for Citywide notification of properties within environmental zones. In order to protect the resource, he asked that the plan be passed with an emergency clause.

Nancy Rosenlund, 5900 NW Cornell, 97210, said this plan is very giving and understanding. She said, as a resident on 10 acres in the Balch Creek area, her property is considerably more curtailed than Skyline property owners. She said they cannot cut trees or expand anywhere other than up. However, their property has more than quadrupled in value and they have had mindboggling offers for it. She said she hates to hear the realtors poormouthing and cautioned against getting rid of the trees because of erosion. She said she finds it hard to believe people who say they were not notified, noting that all the affected neighborhood associations sent out many announcements about meetings on the plan. She said it is people's own fault that they did not pay attention.

Karl Winkler, 6335 NW Skyline Blvd. 97225, said he and his wife own three tax lots at this address, two with houses and one that they planned to build on. He asked if the panhandle area (Map 2, Site 144) of his property was placed in a sensitive area. He said they hope to build on that property but do not plan to cut any trees.

Arnold Rochlin, Forest Park Neighborhood Association, PO Box 83645, 97283, said one can do more in a scenic overlay zone in Portland than in most commercial zones in other towns. Structures can be set back 20 feet from the street, even in a scenic overlay zone, not 100 feet, as someone testified earlier. He said the streamlining committee has not yet adopted any plan and it would be wrong for Mr. Brooks to promise any property owner that the environmental zone would be less burdensome than it is now. He said a lot of property owners, including himself, have a strong incentive to maximize the financial gain from their property. But people do not have a constitutional right to do anything they want on their property without regard for its effect on the rest. He urged adoption, adding that the plan has already been compromised too much.

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Carl Constans, 1826 NW Miller Rd., 97229, supported the plan, adding that the economic benefit of having a piece of property that supports natural resources was shown to him when he purchased property in Hartung Farms. He said he now lives in Forest Heights and asked for protection of a wetland shown in Phase II, Resource Site 145 (Map 6).

Jeanette Conover, 4454 SE 12th, 97202, co-owner of Tax Lot 2, Lot 32 and 33 asked how this plan can be considered when the wetland is not finished. She said the City is telling her that they have drainage, which they do not have. She said her two lots are almost totally impacted. She also questioned the notification process and said people, at the very least, ought to know what they can do with their property.

Mark Zoller, real estate appraiser and broker, testified on behalf of Jeff Lewis, whose property he has listed for sale. He said property values will go up but the question is what happens to the values the day this overlay goes into effect. He said he has an offer on Mr. Lewis' property contingent on whether this overlay goes into effect and said a stronger, harder look should be taken on the economic impact of the overlay than what was presented today. He said with this overlay the price offered on 80 percent of the lots will be based on how many lots are approved for construction. Ms. Lawson is correct in that if you have an existing house with maximized development and then the overlays are imposed, the values will go up because no one can build behind you. That was the only side the City's economist looked at, not the individual consequence of those with a personal stake. He said the damages on these people need to be addressed.

Mayor Katz asked for any information comparing the economic impact on property that would have been developed in one fashion prior to the imposition of the overlay with what can be done once it is passed.

John Alland, 10463 SW 53rd Ave., 97219, said value should be considered in terms of what will be in place 50 to 60 years from now. He said this is an evolutionary process and everyone has to learn what their responsibilities are in terms of long term sustainability and water quality protection. He said this plan needs to be passed with an emergency clause to protect the resource.

Patricia Miller, 11165 NW Cornell Rd., said her property is in Washington County and has a river running through it now. She said people who live below the plan area will be significantly impacted if this is not adopted. She said people have begun to cut trees in the wetland area which she and an adjacent property owner were able to preserve. Some kind of regulation needs to be imposed to preserve the environment both in and below the

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area. She asked for adoption of the City's erosion control plan of February, 1994, as without it there is no enforcement and protection becomes purely academic.

John Perry, 2516 Chapala St., Santa Barbara, CA 93105, said he is part owner with his wife and Jeff Lewis of 100 acres on Skyline. He objected to the lack of notification and said this overlay will allow them to do something on possibly eight lots out of 42, affecting about 80 percent of their property. He said he hopes this can be resolved in a way that both satisfies environmentalists and property owners, adding that development should occur on the hillside, not on the farmland.

Bruce Godfrey, 10547 NW Larson Park Dr., 97229, said he lives outside the affected area but found out about this through his neighborhood association. In general he supports the Plan and believes individual property owners should not be allowed to do anything they want. The restrictions imposed by the plan are not so much about providing benefits to offsite individuals as they are about preventing development activities from creating new costs for adjacent and downstream properties. Exceptions can always be made if unreasonable harm is being done but development has already damaged the area and future damage should be prevented. Without enforcement procedures, however, the whole plan is meaningless and economic disincentives should be imposed to keep developers from doing the wrong thing.

Gail Parker, 1950 NW 102nd, said she lives downstream from this area and owns property with a wetland half on it and half on land in Forest Heights, with whom she has been involved in a dispute over cutting a tree. She said Lots 2 and 3 in Phase IV West in Forest Heights are designated wetland but it also goes onto Lot 4 and they have asked Forest Heights to consider the wetlands rather than the lot lines as being there first when determining the protection. She said Forest Heights agreed that they would provide a 25-foot buffer but it appears to be only 10 to 15 feet. She said her concern is with enforcement and with having penalties to ensure that developers perform according to the overlay. She cited several instances where developers were circumventing regulations.

Lyella Winkler, 11745 SW 70th, Tigard, 97223, said they are concerned about what they can and cannot do on their two-acre property (Lot 21, Tualamette Acres) and about the financial hardship imposed on them if the overlay zones are adopted due to the cost of site plans. She said they want to build on the property, if they can.

Mr. Brooks said there is some conservation zoning on the back portion and the Planning Commission looked at the property and found that Ms. Winkler can build there without a review.

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Mayor Katz asked her if she knew she could build without restrictions.

Ms. Winkler questioned whether that was true of the top part.

Mayor Katz asked her to check with Planning staff today to get this resolved.

Donis McArdle, 1519 SW 66th, 97225, real estate broker, disagreed with Ms. Lawson's testimony, stating that she was present at the interview with the professional appraiser who stated that marketability of those three properties was enhanced by the overlays, not that the value was increased. In all cases there was no value added for the environmental overlay. In one case it simply put into law what was already contained in the CC&Rs. The other two cases involved C overlays and the City employee led the appraiser to believe that environmental studies could be done by an individual at nominal cost. Ms. McArdle disagreed. She read a letter from Kathleen Lane and Joseph Parker expressing their dismay about the imposition of these restrictions on existing home sites and the cost of environmental studies. She said the ownership of real property is a right that is constitutionally protected and each overlay takes away from the bundle of rights acquired by the property owner at the time of purchase. She cited a judicial decision noting discounts in property values when zone changes are required.

Logan Ramsey, 3026 NW Skyline Blvd., owner of Tax Lot 33, Section 22, 1N, 1W, said the plan adversely affects this property and he does not understand why his land is being covered by 99 percent E zones when they have the same type of land that Forest Heights does. He said in Forest Heights most of the protection occurs along the stream channels yet his entire property is covered. He does not understand the equity, adding that he submitted a map showing 26 percent as a compromise and it was ignored. He said neither the issue of transferable development rights or the two-acre sewer issue have been addressed, even though Council had requested that they be. He said there is a big difference in value on whether land is buildable with or without a view. With no view, you miss out on two-thirds the value of your property. He also asked about landowner involvement, arguing that specific mapping was not indicated until the end of June, 10 days prior to the Planning Commission meeting. He said the E zone is being applied with a broad brush rather than providing protection, as was initially intended in Goal 5, for specific or scientifically-significant sites. They were not meant to be applied to the entire West Hills. He asked Council to direct a compromise and requested that the record remain open longer than Friday.

Mayor Katz said submitting letters in writing will be permitted but additional oral testimony will be up to Council.

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Dudley Walton, 9025 NW Skyline Blvd., said the lines on his property were arbitrarily drawn and he too is concerned about fire protection. He said his intent is to landscape the vegetation to give him a fire break. He said he cannot understand why Mr. Lewis cannot put 47 lots on 100 acres when there are 1-1/2 parcels all over this area.

Chris Wrench, 3103 NW Wilson, 97210, said she does not own property in the area but believes the area is extremely valuable to the City as green space and urged adoption of the plan.

Mike Bercutt, 8610 SW 59th, 97219, said staff, while they did a better job in the past, still failed to seek out as many affected land owners as possible as directed by Oregon Administrative Rules (OAR). Staff did react to landowner concerns when they were expressed and made adjustments to inventory. He said he believes notices must clearly state the consequences in terms of cost and the time delay necessary to take even a simple project in a EP zone, such as a child's swing set, through the review process. He said the Skyline West Plan, like all those previously enacted, continues to place environmental zoning on platted lots. He called for their removal as current regulations already protect the streams. He said new subdivision requests should be reviewed for Goal 5 compliance just as they are for all other land-use goals. First, a resource must be clearly defined and then the resource mapping must be prepared from current data, not from 1991 aerial photography, coupled with accurate land surveys. This would allow better review of subdivision applications and place the burden of proof on the City, not the land owner. Irresponsible developers who cut down trees can be dealt with. First, all bureau regulations should be reviewed to see how they force the developer to cut trees down in order to meet their requirements. Second, there should be a tree ordinance. Finally, trees should be recognized as not always being desirable despite how emotionally involved we become when a neighbor cuts one down.

Mayor Katz asked how long Council wished to keep the record open.

Commissioner Hales suggested keeping the record open for additional written testimony, particularly with regard to mapping or specific applications of the plan. He said he would like Mr. Brooks to respond to the issues raised today prior to the next Council hearing.

Commissioner Kafoury suggested using a matrix and going through the properties one by one.

Mayor Katz said she hoped staff would view those sites where there are questions, as they did with the Albina Plan.

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Council decided to continue the matter to September 21, 1994 for the Second Reading.

Commissioner Hales said at that time Council should also consider adding an emergency clause. He suggested keeping the record open for one week, to Wednesday, September 7 at 5:00 p.m.

Commissioner Kafoury said conflicting policy issues should also be identified, noting that one report said the City would end up with a net increase of 1400 or 1700 housing units. She said the impact of the whole zoning change should be highlighted.

Disposition: Passed to Second Reading September 21, 1994 at 2:00 p.m.

At 4:46 p.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 31ST DAY OF AUGUST, 1994 AT 7:00 P.M.

THOSE PRESENT WERE: Mayor Katz, Presiding; Commissioners Hales and Kafoury, 3.

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

1431

TIME CERTAIN: 7:00 PM - Adopt Prosperous Portland, Integrated Policies for Jobs and the Economy, as the City's Economic Development Policy (Ordinance introduced by Mayor Katz)

Discussion: Commissioner Hales said what is brought before Council tonight are recommendations for amending the Economic Development portion of the Comprehensive Plan. When the Council accepted Prosperous Portland in January it set in motion an extensive public review process of the proposed economic development policies by the Planning Commission. The package now before Council clearly identifies which policies are to be used in land-use decisions and which are directed at how the City operates or what projects the bureaus may initiate in the name of economic development. A minor amendment has been proposed by the Commission changing the targeted adoption date for the Cultural Resources segment to March, 1995 instead of December, 1994.

John Russell, Chair of the Mayor's Business Roundtable, said this represents over a year's work by a large number of citizens. He said the Roundtable was charged with preparing a new economic development policy for the City and briefly described the process, which involved many groups, City bureaus and individuals. Prosperous Portland views the City's economic development role from two perspectives -- operating principles and policies/strategies. It includes six operating principles and 21 policies grouped under four topic areas: 1) business climate; 2) business development; 3) workforce development; and 4) physical development and new infrastructure. These four areas were judged as critical for the City's attention.

Jan Burreson, Director, Portland Development Commission, described the process and what changed as the Roundtable and Steering Committee reviewed it with citizens and City employees. After release of the initial draft in October, 1993, the neighborhood coalitions asked for more time to comment. The time lines were then extended to allow more participation and a revised draft was released on July 22. She said the original draft was written rather narrowly from an economic development standpoint and was perceived as negative towards City bureaus and functions. As a result, language was added to make it clear that this policy is to exist in

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context with other City policies and to speak to community values, particularly neighborhood livability and the environment. In addition, some neighborhoods felt that references to customers, stakeholders, etc. excluded them so language was added to include all persons and organizations and not just the business community. As a result of the Comprehensive Plan process, very few changes were made to the original content but five policies were added that were carryovers from the earlier plan. Language was added to address the issue of sustainable economic development, balancing development with preservation of environmental assets and the maintenance of Portland's livability. Specific action items were added regarding sustainable economic development.

Rick Michaelson, President, Portland Planning Commission, said the Commission strongly supports the Prosperous Portland document but found it would be best not to adopt portions of it that were not directly applicable to individual land-use applications as they could be impossible for individual properties to meet even though they are important as general policy. Also, calls for reducing regulation become a problem because land-use reviews and conditions on their approval add to the regulatory base and, if the City had a policy of not adding regulations, those reviews might be challengeable in court. For those reasons, they tried to focus the Comprehensive Plan elements of Prosperous Portland on things supportive of the land use process. He said there is a conflict between the need for policies to be all inclusive versus the need to have a workable land-use review process. The Commission decided to set aside those policies that were not directly applicable to the land use review process, although they would still be adopted as part of Prosperous Portland. He said they are looking at a way to have a comprehensive document that includes all of the City's policies without having them all become relevant to land-use cases.

David Knowles, Interim Director, Planning Bureau, said the Planning Commission is charged with making recommendations about amendments to the Comprehensive Plan. An extensive public review process was conducted regarding these amendments, including four community forums and three public hearings. They received 30 amendment requests during those hearings, many of which were accommodated. The most controversial subject was business climate, as neighborhoods felt that residential and environmental interests would be neglected. The Commission voted to delete the business climate language from the Comprehensive Plan but that language, which remains in the Prosperous Portland document, will be a priority for the Planning Bureau, particularly making customer service a priority and reviewing their regulatory environment relative to other jurisdictions. He said they will continue to be guided by all the economic policies Council adopts, not just those in the Comprehensive Plan.

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Mr. Russell noted the six operating policies in Prosperous Portland: 1) high performance/high quality service; 2) building on strength; 3) taking an integrated approach to economic development with all City bureaus; 4) building community partnerships; 5) community-based service delivery; and 6) accountability regarding outcomes. He said Prosperous Portland is the first City economic policy to include four issues in a single policy framework: 1) business climate; 2) business development; 3) workforce development; and 4) physical development and infrastructure. Key elements are: 1) instilling a customer service ethic in all bureaus; 2) integration with workforce and physical infrastructure development; 3) recognition of the need for low-cost housing; 4) acknowledgement of the need for a competitive business climate; and 5) adoption of workforce and business loan policies to ensure that neighborhoods benefit and that businesses get a start. Business recruitment and retention as well as worker training efforts are focused on seven key target industries that will create family-support jobs. Prosperous Portland recognizes the importance of small businesses and sees the City as a catalyst for economic development in the City and region. Finally, it speaks to the need to do this while preserving the City's environmental assets and retaining community livability.

Ms. Bureson said the next two hearings will be September 14th and 21st.

Mayor Katz asked staff to keep track of the issues raised and address them at the next hearing.

Paul Richmond, PO Box 454, 97207, said bringing in international companies and enhancing the City's international position raises concerns because the issue is not the size of the paycheck but the quality of life. Things that matter are people having food, shelter and time to spend with people they care about.

Leslie Kochan, Chair, Portland Jobs for Justice, said Prosperous Portland focuses too much on luring industries through tax breaks, subsidies, etc., a model which has been documented to be a failure as an economic strategy. She said a second concern is that it was written by the Business Roundtable without one representative of labor or workers. She noted the participation on the Roundtable of two men who were principals in PAMCO, which walked away from Portland with millions of dollars of public money leaving PAMCO bankrupt and a debt to Portlanders of between \$20 and \$50 million dollars. Finally, the document says little about the need to address the growing polarization of income, giving the average worker some control over working conditions or supporting sustainable economic development. She presented an alternative plan which would include raising the minimum wage, emphasizing public job creation and strengthening unions.

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Jamie Partridge, Portland Rainbow Coalition, supported the alternative plan proposed by Portland Jobs for Justice. He said this plan would bring up people currently on the bottom half of the working class, building up a customer base for smaller businesses at the same time. He said under the alternative plan, the City could insist on higher wages for companies that do business with it, insist that employers list wage levels and adopt measures that encourage unionization.

John Grueschow, Worthy Wage Campaign, 2243 NE 20th, 97212, opposed the Prosperous Portland plan. He said as a child care worker, now working with mentally-disabled adults, he has never made a livable wage, noting that the average wage for child care workers is \$5.48 per hour. Many have inadequate or no health benefits, little job security and poor working conditions. He noted the high turnover rate for both child care and disabled adult workers, adding that important work is being done for ridiculously low wages. Any economic plan which contributes to increased polarization between the rich and poor is no solution and for this reason, this proposal should not be adopted.

Tom Ustach, 1224 NE 59th, 97213, a teacher at Cleveland High School, said economic growth should raise the community up as a whole rather than just making Portland a good place for big companies to do business. He said he fears that even with all the educational reforms currently underway most of the available jobs will be low wage service jobs. He called for a higher minimum wage, the use of public money to support people making low wages and more economic rights through unions.

Dave Mazza, Labor and Environmental Solidarity Network, said despite everyone's efforts, this document is still too flawed as it fails to integrate protection of the environment and protection of the standard of living of City residents. He said the document too often offers a trickle down approach in which market forces will deal with externals such as environmental protection and protection of existing family-wage jobs. For instance, only three of the 21 policies say anything about environmental quality or resources and the remaining 17 contain a theme of improved business climate through deregulation so that the final message sets a tone encouraging less than stringent enforcement of needed regulations. He said emphasizing recruitment of outside industries by competing in public giveaways will result, as other cities have seen, in far fewer jobs than promised, lower pay and less revenue for public bodies. He suggested formation of a Citizens Economic Development that would represent a wider variety of people and integrate environmental and social standards into the development plan by establishing specific criteria to protect these values.

Jeannie Berg-Reyal, 5016 Riverside S., Salem, OR 97306, said Prosperous Portland does not address wages and working conditions of Portland

workers. She described the situation of workers employed by Pony Express, who simply do not earn enough to buy the basic necessities of life. She asked Council to take a greater interest in the wages of these workers and their working conditions.

Marcie Olson, 3405 Fairhaven Ave., Salem, 97303, said she is a striking Pony Express employee who works a 50-hour week without being paid overtime. She said they would like overtime pay, basic benefits and a living wage.

Michael Ames Conner, 1225 SE Pine, 97214, said wages for production workers in the State have decreased and, while workers work more hours, they make less money. He said taxes on the wealthy and corporations decrease while the poorer people pick up the slack, increasing polarization. He said Prosperous Portland will reward these trends and should be scrapped in favor of a community-sponsored, worker-friendly, environment-sustaining Portland.

Dale Terhune, 5721 SE Foster Rd., 97206, said increasing population has harmed the livability of the City. He said he is a small businessman trying to get started and is worried about international corporations getting tax breaks which will end up having him pay more taxes. He said he would like to see absentee ownership held more accountable. This plan is flawed and insulting to small businessmen like himself as he believes his business will fold if this is passed as written.

Scott Bailey, 2725 NE 29th, economist, said Prosperous Portland should not use a regional benchmark for its wage comparison; wages should be compared with inflation. Second, the programs outlined are basically subsidies of capital, encouraging businesses to be more capital intensive and to create fewer jobs. Third, over the past 30 years, the relative tax burden on property owners increased 50 percent, partially due to tax rollbacks to businesses. He said the City could do better than this, suggesting that more research be done to see what does work around the country. He also found that the only place where programs are held accountable is in the workforce section. He questioned why the City would pursue a tax incentive policy when it has been shown it does not really work in terms of delivering new, good jobs.

Bill Resnick, Committee for Sustainable Economic Development, said one cannot have a prosperous City when some are getting fabulously rich and more than half are losing income. He said Prosperous Portland fails because it would increase income polarization, its environmental provisions are only window dressing and it would be undemocratic. He said it has one central thrust -- to lure industry -- and uses the same devices, such as tax concessions, cheap loans, building infrastructure, paying for training and providing privileged access to government as were used in the PAMCO

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case, where the State lost between \$8 and \$50 million dollars. Research shows that tax breaks redistribute investment jobs but do not create more. He said he does not believe this strategy will ever attract enough new jobs to compensate for the decline in working people's income. He said seeking more investment for jobs has to be done as part of a program with a triple focus -- decent income for all workers, environmental restoration and democracy. He asked Council to adopt the alternative plan which addresses these issues. He also asked for a change in national policy.

Mayor Katz said the PAMCO investment was made by PERS.

Mr. Resnick said while that is correct, many City dollars were spent on roads, training and funding PDC.

Kyle Kajihiro, 4054 NE Rodney, 97212, said he is active with the Hotel Workers Organizing Committee and is concerned about family wage jobs, worker health and safety and the right of workers to organize. Growth and jobs do not necessarily translate into a better quality of life. He noted low-wage conditions in the visitors industry, which continues to receive enormous public subsidies through room taxes, lottery funds, etc. He described several citations of the Sheraton Hotel for failure to take proper precautions regarding asbestos removal and exposing room workers to toxic chemicals.

Tom Tucker, 8812 NW Springville Court, said the proposal is well done but the workforce development section needs further clarification. He said more collaboration between industry and the schools is needed to ensure that 16-year olds not on a college track get the high-tech skills they need in order to get jobs when they graduate. Also, the assumption "the more growth the better" needs to be balanced so that local residents can say "enough" when any area gets too crowded.

Commissioner Kafoury said when it comes to issues raised such as wage polarization, the City tends to dismiss them because it believes this is national policy, over which it has no control. She said she would like to address these issues, even though some, such as the Pony Express, seem beyond the City's authority. She suggested an addendum that talks about workers and perhaps includes some strategies to show what might be done locally, in conversations with the State and federal government.

Commissioner Hales said that might be coordinated with the legislative agenda Council will be discussing soon.

Commissioner Kafoury said there are some serious issues about this disparity, particularly if the City is building an economy that continues to compress the wages of a majority of its citizens. She said it is very hard to implement existing housing policies as many families simply cannot afford

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to buy a house. This aspect has been not given as much attention as it needs.

Mayor Katz suggested reviewing the legislative package to see what could be done there.

Commissioner Kafoury asked if the sustainable economy policy is linked to Prosperous Portland.

Commissioner Hales said he believes it is coming from the Environmental and Energy Commission but is not certain.

Commissioner Kafoury said there does not seem to be an average citizen committee as part of the City bureaucracy.

Mayor Katz said the Business Roundtable was only a piece of this plan. Most of the work was done by the 100 citizens involved in the policy direction; there were a lot of average Joes and Joleens there, as well as bureau employees.

Commissioner Kafoury said the community development people involved were somewhat frustrated because of the narrow perimeter put around what economic development meant, for understandable reasons. She said she would like to take a stab at developing something else.

Commissioner Hales said regarding land-use, the City has been careful not to sink to the lowest common denominator, i.e. allowing gated-entry subdivisions and sound walls just because Washington County does. He said one of the areas he was very critical about in the original draft was the notion that the City should serve as an uncritical participant in regional economic growth without saying that it wants a certain portion of that growth. He said clearly the City could go too far and adopt great social policy here that ensures that it loses market share and becomes a bedroom community for a booming Hillsboro and Clark County. Attention to how our economic development effort relates to the rest of the region is very much in the City's interest. He said he thinks the language regarding economic development is still a little vague.

Disposition: Continued to September 14, 1994 at 9:30 a.m. Time Certain.

REGULAR AGENDA

Commissioner Charlie Hales

***1432**

Amend Goal 5, Economic Development, of the City's Comprehensive Plan and adopt the goal, policies and objective statements of the City's Economic Development Policy (Ordinance; amend Ordinance No. 150580)

Discussion: Charlotte Uris, 2526 NE 10th, Land-use Chair, Irvington Community Association, said Irvington believes support for economic development should take into account all the City's Comprehensive Plan to ensure that the public as a whole benefits from the policy. She said it should be consistent and cross reference the Comprehensive Plan. She asked that Council decide, with citizen input, the nature of the Comp Plan, and how the City will implement the Comprehensive Plan elements in its other policies. She said the weak citizen involvement should be revised to better meet State requirements. She said Irvington would like environmentally and socially sustainable economic development policies and believes current references to them in the document are inadequate. She said the issues must be explored further and explicitly placed into City policy, including Comp Plan reviews. Regarding Goal 5, she said the goal of providing a full range of employment and economic choices for individuals and families is not addressed anywhere else in the document as it is assumed that what is good for any business is good for workers too although that connection is not made anywhere else. At a time when wages and jobs are being cut, the amount and quality of employment opportunities gained by City efforts should be a relevant criteria. She recommended the addition of specific language for that as well as new language regarding livability, neighborhood and business association involvement in implementation of the Plan and community revitalization efforts. She noted several other changes ICA would like to see in the Plan and said she would submit her testimony in writing.

Mayor Katz said PDC or the Planning Bureau will respond to these suggestions.

Kay Durtschi, 2230 SW Caldew, 97219, said the numerical order of the economic development process is out of line. She said it should start with community-based economic development first and use the community plans as a basis for economic development. If the neighborhood is involved, businesses will be sustainable.

Paul Richmond, PO Box 454, 97207, said a previous speaker raised a core question regarding how much economic growth is necessary. He said unlimited economic growth is not feasible and there is no reason why taking care of people's needs has to be based on a 40-hour work week. He said the City should look at what makes an economy sustainable for the majority of citizens, not just corporations.

Mayor Katz said a lot of issues have been raised, some of which are global and national in scope. She said the City's limited impact in these needs to be clearly understood. She said she does not make a clear distinction between community economic development and economic development. For her that is the creation of jobs, whether on main street, Rivergate or downtown. Regarding sustainability, she said it could also be called

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carrying capacity, as it was in the 1970s. She said a lot of the issues raised go far beyond these two documents and at some point may be addressed in another venue.

Disposition: Continued to September 14, 1994 at 9:30 a.m. Time Certain.

At 8:47 p.m., Council recessed.

SEPTEMBER 1, 1994

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 1ST DAY OF SEPTEMBER, 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; Ben Walters, Deputy City Attorney; and Chuck Bolliger, Sergeant at Arms.

REGULAR AGENDA

- 1430** Deny appeal of West Hills Homes, Inc. and Larry and Nina Lindstrom against Hearings Officer's decision to deny application for a Planned Unit Development and Subdivision located between SW Arnold and Coronado Streets and between SW 44th and 39th Avenues (Findings; Previous Agenda 1402; 93-00591 PU SU EN)

Disposition: Findings Adopted. (Y-4; Hales abstained)

Commissioner Lindberg moved to suspend the rules in order to consider a resolution. Commissioner Hales seconded and the Mayor, hearing no objections, so ordered.

SUSPENSION OF RULES

- 1432-1** Express Council support for Artquake expansion (Resolution)

Discussion: Commissioner Lindberg said Artquake was originally planned 18 years ago as a means to bring citizens downtown to the new transit mall and to reconnect with downtown businesses.

Karen Whitman, Artquake festival director, described the program's expansion and highlighted several special events, including new activities aimed specifically at families.

Disposition: Resolution No. 35308. (Y-5)

- 1433** **TIME CERTAIN: 2:00 PM** - Liquor license application for CPG Oregon, Inc., dba Up Front Bar and Grill, 833 SW Front Avenue, Dispenser Class A liquor license (renewal); favorable with Letter of Warning and restriction recommendation (Report introduced by Commissioner Kafoury)

Discussion: Gary McGrew, License Bureau, said for the past two years this night club has been open to minors two nights a week, remaining open until 3 a.m. on Thursday and 4 a.m. on Sunday. He displayed a floor plan

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to show how minors are separated from the adults only section, noting that adults are not allowed to carry alcoholic beverages from the liquor bar when they join the minors in the other sections. The Bureau believes that Up Front is operating in violation of OLCC's minor posting rule as it does not think current law allows minors on premises licensed to serve alcohol which have a tavern-like or night club environment. He said this position is consistent with past unfavorable recommendations the Bureau has made on new applications proposing to operate in this manner. The Bureau position is also consistent with the Regional Drug Initiative's guiding principles for alcohol availability which were recently adopted by Council as sound public policy. He said the City has also stated this position before the OLCC. To explain the Bureau's favorable recommendation for Up Front, he noted OLCC approval of a temporary change in minor posting at several places in Eugene where no alcohol was to be served in any portion of the premises. Shortly after their approval, OLCC approved a request by the Up Front Bar and Grill to operate an 18 and over night club from 9 p.m to 4 a.m. two nights a week. The Bureau believes this action was significantly different from the previous approvals because alcohol service was allowed to continue in a portion of the premises. The License and Police Bureaus believe that operating both a teen club and an adult alcohol business together is prohibited by State law. The Bureau recommends a favorable recommendation with a letter of warning and a restriction that would not allow minors on the premises. It also calls for the OLCC to review its current policies regarding minors and refuse to grant approval for any future proposals to operate in this manner.

Larry Sievert, Police Bureau, said he conducted an analysis of the activity at Up Front after receiving a number of complaints and found a pattern of persistent problems, including assaults and fights on the dance floor, numerous noise complaints, intoxicated people in the street, etc. Because the June 1992 renewal period had already passed, this information was forwarded to the OLCC. He prepared a graph to show what has been done to remedy some of the problems there, noting that from November 1992 the increase in serious crimes was quite high. OLCC issued a warning after receiving this report and this led to the signing by management of an 18-page compliance plan. A meeting was held with other businesses in the community which wanted to get Up Front into compliance, rather than shutting it down. In June, because the plan was working, the Bureau decided to give them a favorable recommendation on their renewal but at that same meeting Up Front informed them that they would focus more on their underage club as liquor sales were down. Police immediately expressed concern about minor liquor problems already in the area, which then skyrocketed as Up Front become the place to go for minors from Eugene to Longview. Minors could mingle with adults in the restaurant and on the dance floor, and Police found a substantial rise in the number of minors drinking in their cars who were either coming or going from Up Front. He said in the past six months there have been two more meetings

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between Up Front staff, OLCC and Central Precinct officers and even though the number serious crimes have leveled off, the minor drinking problems still remain a serious concern.

Norma Jaeger, 1523 NE 57th, manager of Alcohol and Drug programs, Multnomah County, asked Council to draft sound policy particularly with regard to the public health issues raised when underage individuals obtain alcohol. She said the owners are trying to shore up sagging liquor sales by focusing on minors. This operation is clearly a joint occupancy that is clearly in opposition to good public policy. She asked Council to continue its efforts to support the Regional Drug Initiative availability principles which clearly indicate that this operation is out of line.

Susan Suglunski, Regional Drug Initiative (RDI), 522 SW 5th, noted adoption by the Council of the RDI guiding principles for alcohol availability. She said citizens, including youth, have a right to an environment free from risks and problems resulting from the use of alcohol beverages. Preventing the furnishing of alcohol to minors is of utmost importance in protecting young people who are particularly vulnerable because of inexperience and immature judgment. She said this type of activity gives young people the impression that alcohol needs to be available for adults to have a good time.

Joe McLoughlin, General Manager, Up Front Bar and Grill, said they operated as a restaurant and nightclub when they opened in 1989. After several years the clientele became undesirable, including gang members, and so a number of changes were made, including agreement on a compliance plan with OLCC, to turn the club around. This was successful and the problems went down to almost nothing but, because of low revenues, they almost went out of business. They then asked the OLCC for permission to operate an underage club two nights a week to generate additional business. They agreed and the operation they have now is extremely well supervised and there is minimal exposure by minors to alcohol. He said there is no encouragement of minors drinking and overconsumption rules for those 21 and over are strictly enforced. Those who have been drinking prior to entry are not allowed admittance. He said they are largely unaware of the violations cited by the Police because those arrested are found outside the club. They have security to check the area and discourage drinking in cars. He said on the nights they are open to minors they attract between 400 to 600 people, the majority under 21, and he believes the number of incidents reported is rather small compared to the number attending.

Chris Giannoulas, president of the corporation, said by providing a teen nightclub they believe they keep people of this age from using fake i.d. and that coming here is preferable to drinking unsupervised. He said they cannot be asked to control activity two or more blocks away. He said they

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rely for their survival on operating the club for minors two nights a week.

Scott Spencer-Wolff, Downtown Community Association, said they strongly endorse this recommendation. He said they believe management has made concerted steps to correct the problems but there is still a long way to go. Strict separation of minors from adults is absolutely critical so that both are simply not present at the same time and there is absolutely no commingling.

Mayor Katz asked the police officers working that area to come forward.

Officer Rick Haberness, Central Precinct, said Lt. Siewert had pretty much explained their activity.

Officer Suzanne Wessler, Central Precinct, said in areas with teenagers there is always an alcohol problem but allowing it to be served in the same establishment only increases the problems.

Commissioner Blumenauer asked about the grounds for denial. He said he is troubled because the owner and manager seem to completely deny what is going on here.

Mr. McGrew said if the applicants had not shown a willingness to work with the Police and the neighborhood, the Bureaus would definitely make an unfavorable recommendation. However, while they are willing, they are unable to control the problems because of the nature of the business. The Bureaus believe the problems would go away if minors are restricted from the premises. He said he would feel better if the applicants agreed to that and, if Council wishes, there is a basis to forward an unfavorable recommendation. That basis would be that the problems are serious and consistent and the applicants are unable and unwilling to correct them. He said this was a tough call on the Bureau's part and it is open to either recommendation.

Commissioner Blumenauer said he heard that the owner is doing this as a matter of survival and if the City goes forward with this recommendation, it will be even more marginal as the owners try to find something to pump up their business. He said he was troubled by a number of statements made by the manager and owner and a lack of appreciation for the serious problems this has created. That is why he is uncomfortable with the Bureau recommendation.

Mr. McGrew said the Bureau wants to send a strong message to OLCC that it believes the rules have been stretched too far in allowing this operation to occur and if Council would prefer an unfavorable recommendation that would be all right, too.

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Commissioner Hales said, given what the Code says about the grounds for denial, this case is not better than some of those where Council's recommendations were unfavorable. He asked how much worse the problems would have to be to merit an unfavorable recommendation.

Mr. McGrew said this is a serious record and does provide a basis for an unfavorable recommendation.

Officer Sievert said their conflict is with the way the OLCC interprets their ruling. He said they do not have any problems with the other underage clubs where there are no regulations. Here there are regulations on the adult side, and the OLCC is saying it cannot deal with the underage side. He said the Bureaus would like OLCC to interpret its regulations so that minors are restricted from the entire building, not just one portion.

Mayor Katz asked if a Council vote to deny the license would make the City's task before the OLCC more difficult.

Mr. McGrew and Officer Sievert said no.

Mayor Katz said the City's goal is to make a recommendation that sticks with the OLCC.

Commissioner Kafoury said Council could clearly state that it believes having minors on the premises is not acceptable.

Commissioner Blumenauer said he does not want to see anything else like this in our community and Council should make it clear that this crossed the line and is not right.

Mayor Katz asked how many underage clubs stay open until 3:00 and 4:00 in the morning.

Officer Haberness said there are about three downtown but the others serve no alcohol. This is the only one of its kind on the Westside.

Mayor Katz asked if there are rules for teenage clubs.

Officer Sievert said not at this time but they are working on them.

Commissioner Hales moved to recommend denial of this application.

Disposition: Unfavorably recommended. (Y-5)

Commissioner Gretchen Kafoury

1434

Liquor license application for Pool Factory, Inc., dba Chalk N Roll, 5231 SE McLoughlin Blvd., retail malt beverage liquor license (new outlet); favorable with restriction recommendation (Report)

Discussion: John Werneken, License Bureau, said two letters of objection were received by individuals concerned that this attracts neighborhood children. He said the Bureau found this operation similar to Up Front and described how the space is divided into areas where people of all ages may play pool and areas where management proposes to have pool and serve liquor for adults only. He said staff did not see how this mixture could be supported in view of the problems that have resulted from the operation of other establishments where adults and minors, entertainment and alcohol are all mixed together. Management has indicated it could present an alternative proposal which would more completely close off the drinking section. Staff, however, believes it is better to say no, based on the problems it has experienced when minors, adults and alcohol are involved together in a tavern-like setting. Unlike Up Front, no problems requiring a police response or complaints have been filed. If this applicant wants to offer beer and does not allow minors on the premises there should be no more problems here than there are with any other place devoted to pool and beer. That is why the Bureau's recommendation is favorable with the restriction that no minors be allowed on any portion of the premises.

Officer Lawrence Sievert, Police Bureau, said there have been two cars vandalized and two assaults during the last year.

Pat Sheehan, operator of the facility at 231 SE McLoughlin, said they have been operating in this location since 1990, serving all ages. However, the adults who play in leagues have been insistent on having a beer and they are unable to generate enough revenue without alcohol sales. He said the business has changed over the years and there are no longer free-standing billiard rooms. Play now occurs mainly in taverns or bowling alleys. He said their operation is somewhat more like a bowling alley than a tavern. Kids do need somewhere to go and they have operated without problems for the most part. He said they do have people coming there who have been drinking at other places and have been able to take care of them. He said there is no way to stop people who have been drinking from mingling with those who do not drink. He described how they plan to separate the drinking area for adults only from the area set aside for the underage and for table sales. He said segregating minors completely from adults who would like a beer would eliminate the problem of commingling.

Dave Miller, Chalk N Roll Business Manager, said currently league players who come to Chalk N Roll now go other places to drink and then return for their tournament matches. Management believes if they have a loft area

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for adults only, they can better control intoxicated persons. He compared this to a bowling alley, where one can get a beer while playing, not a night club where people come to dance or pick up people.

Mayor Katz asked what staff's recommendation would be if there was a completely separate entrance.

Mr. Werneken said the recommendation would be the same because the concern is that adults and young people are drawn to the same place at the same time for the same purpose. He said this is not functionally any different than Up Front as far as the two groups interacting with each other is concerned. He said staff's approach is evolving on this and they would like Council guidance as there is a whole range of activities from golf courses and theaters to night clubs and dance halls and somewhere along that continuum the experience becomes uniformly bad. He said he personally feels that point is when the main activity is socializing with adults who are drinking.

Commissioner Kafoury said she thinks, with the league play, this would be much more like a bowling alley. She said pool is the main activity here and to her that is the difference.

Commissioner Hales said it is not his intention to create some sort of alcohol apartheid. If there are serious and persistent problems, then licenses should be denied. But this is a new application and he is struggling as he believes applicant's suggestion may have some merit.

Commissioner Lindberg said he agrees and is willing to give the applicant a try and then have an evaluation.

Mayor Katz said she is torn on this one but believes this gives the City a chance to set some early ground rules on what she thinks will become a very serious problem, adding that FBI clearly identify this as the kind of environment where homicides occur. She said she would rather err and agree with the bureau on this one rather than having to retreat.

Commissioner Hales said there is a difference between retreating and saying the standard is responsible ownership and compliance with the law. He said he is struggling about what to do with the renewals on bowling alleys as they come through in order to be consistent with a strict no minors policy. What is the difference between a pool hall and a bowling alley, as both are places where kids are involved, there are leagues and alcohol is a sideline to the basic purpose.

Mr. Werneken said this is not easy as he knows Mr. Sheehan is a good operator. Existing places with a major emphasis on pool generally are either exclusively for adults or completely for minors. He said possibly

what is now focused on pool may become something else if half is turned into a tavern.

Commissioner Kafoury moved to review this application and see if the suggestion about separation is realistic.

Mr. McGrew said a lot of taverns in Portland would like to be able to allow minors on the premises. He said current law allows minors on the premises if the opportunities for minors to dine are maximized and exposure to alcohol consumption is minimized. He displayed a chart to show how the law applies to various kinds of establishments and said the Bureau recommends that the line be drawn before you allow minors in taverns and they consider a pool hall with liquor as a tavern. He said at a bowling alley, the primary activity is a sporting event, not drinking. He said they are worried about where to draw the line if all the taverns in Portland are allowed to have minors on the premises. He said OLCC is in the process of reviewing this to clarify current laws because, as strictly interpreted, right now it would not allow alcohol in a bowling alley or hotel lobby. License bureau staff believes to allow minors in a pool hall crosses the line.

Commissioner Hales asked if OLCC could address the issue of pool halls and bowling alleys at the same time. He said he understands that there is a trend to have pool halls that are appropriate for families or minors and should not necessarily be classified as a tavern. He said perhaps Council should wait for the OLCC clarification before making its recommendation. He does not see any of the factors for making an unfavorable recommendation present in this case.

Mayor Katz said Council would like more time to take a look at the actual design of the facility and to identify the rules for bowling alleys and pool halls. Council members do not see much difference between them and perceive both as sports.

Mr. Sheehan said he would rather have the time to prove themselves rather than be granted a tavern license. He said billiards is a growing sport and they do not intend to create a pool hall that is like a tavern.

Disposition: Referred to Bureau of Licenses.

1435

Liquor license application for Bridget Jan Kilgess, dba Choices Pub, 2824 SE Stark Street, retail malt beverage liquor license (renewal); favorable recommendation (Report)

Discussion: Mr. Werneken said they received one complaint which was received before the application for new ownership was filed. The proposed new owner managed the location for many years and maintains a number

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of policies to prevent patrons from drinking or carousing on the sidewalk. He said they have no basis to conclude that there are serious and persistent problems here, adding that the neighborhood association has made no recommendation and the Police Bureau has found no grounds for denial.

Rebecca Gardella, 516 SE 28th, outlined a number of problems associated with this licensee, including late-night noise, rowdy behavior and lack of parking.

Michael Gennen, 537 SE 27th, said there is a party atmosphere here and patrons use the neighborhood as a parking lot. He said the noise goes on all the time and believes there would be a lot of complaints if neighbors were polled.

Mayor Katz asked how many other taverns are here.

Mr. Gennen said Starkeys is down the street but they have a parking lot. The problem here is parking in a residential area.

Mayor Katz asked if it would be possible for the clients to use the Portland Alliance Office parking lot rather than the neighborhood for valet parking. She added if the neighborhood is not organized, then the Bureau does not get the information it needs to document the problem.

Commissioner Lindberg noted some measures that can be taken that may help alleviate the problem.

April Gardella, 516 SE 28th, read a statement from Patrick Gardella, same address. She said the Alliance parking lot only has five parking spaces. Mr. Gardella opposed renewal of the license because of drinking on the streets, shouting, etc.

Bridget Kilgress, manager of Choices Pub, said she sympathizes with the complainants as the volume has grown. She said she put on extra security on weekends to ensure that people get into their cars and leave quickly. She has told everyone in the neighborhood to call her if there are problems and will continually try to keep them in hand. She does not allow any drinking in front of the premises and controls it to the best of her ability. She is a new licensee who has worked eight years to get this license and will try anything that will help.

Mayor Katz noted there are no real grounds for denial.

Commissioner Kafoury suggested that Council accept the Bureau's recommendation and having the complainants work with their neighborhood associations.

Mayor Katz asked the Bureau to go out to the neighborhood and instruct them on how to fill out complaint forms. She also suggested that the licensee consider valet parking.

Disposition: Favorably recommended. (Y-5)

1436

Liquor license application for Thu Minh T Milford, dba Stark Street Quick Stop, 2816 SE Stark Street, package store liquor license (renewal); favorable with restrictions recommendation (Report)

Discussion: Mr. Werneken said this is right across the street from the previous outlet in a location with quite a few outlets where alcohol is served. Because of concern about the availability of alcohol to transients, this store is not allowed to sell any wine besides wine coolers or any alcoholic beverages after 10 p.m., very unusual restrictions in this part of the City. The Bureau received one complaint but does not believe there is a basis for denial at this time, although they recommend that the restrictions be continued.

Rebecca Gardella, 516 SE 28th, said parking is inadequate and the Alliance Parking lot cannot be used. There are too many night spots in a residential area and over the years the neighborhood has become more and more commercial. She said many people gather here, resulting in loud noise and drunks spreading out through the neighborhood. She noted her previous testimony against this license, which she finds a detriment to the neighborhood.

April Gardella, 516 SE 28th, read a statement from Patrick Gardella, who asked that no alcohol beverages be sold after 9 p.m.

Mayor Katz suggested to the Gardellas what they might do to establish a record.

Disposition: Favorably recommended with restrictions. (Y-5)

1437

Liquor license application for Rock N Rodeo of Portland, Ltd., dba Rock N Rodeo, 220 SE Spokane Street, Dispenser Class A liquor license (renewal); favorable with restrictions recommendation (Report)

Discussion: Mr. Werneken said this location experienced serious and persistent disturbances last summer and fall. Since that time, City staff, OLCC and club management have tried to get control over the situation. He said the applicant has accepted rather substantial restrictions from the OLCC, rather than penalties and, while the restrictions have not been 100 percent successful, the Bureau believes there is a reasonable chance the problems will be reduced to a reasonable level. He outlined the restrictions, including allowing entrance only to patrons parked in the

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licensee's valet parking areas and providing security.

Officer Sievert, Police Bureau, said this is one of the largest clubs in the City and in the beginning many of the investors did not realize that Portland has different standards. Once they became aware of them, they made a lot of improvements, particularly with security.

Spencer Whitted, Regional Manager for Rock N Rodeo, said they were astounded by the club's success and unprepared to handle the numbers who showed up. He said OLCC made many good suggestions, including serving free coffee and muffins, which have helped a great deal, as has securing additional parking. He said from November to May there were almost no complaints and then in June OLCC met with neighbors regarding another licensee and someone made a comment that there had been no complaints lately from Rock N Rodeo. Immediately following that meeting, a complaint was sent to the OLCC listing 12 different events which were listed as 12 separate complaints. He said they believe listing 12 complaints based on one letter is a little unfair but are moving the emphasis away from a bar to a restaurant. He said he will meet with the complainant.

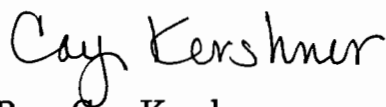
Commissioner Kafoury moved to approve the recommendation.

Mayor Katz said she was not happy with this report and hopes things will change with all these restrictions.

Disposition: Favorably recommended with restrictions. (Y-5)

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

BARBARA CLARK
Auditor of the City of Portland


By Cay Kershner
Clerk of the Council