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CITY OF  
**PORTLAND, OREGON**

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**OFFICIAL  
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 18TH DAY OF JANUARY, 1995 AT 9:30 A.M.

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

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

Agenda Nos. 48 and 49 were pulled from Consent. On a Y-5 roll call, the balance of the Consent Agenda was adopted as follows:

**CONSENT AGENDA - NO DISCUSSION**

- 44** Accept bid of Phoenix Computer Associates, Inc. for IBM processor upgrade hardware for \$183,000 (Purchasing Report - Bid 77)

**Disposition:** Accepted; prepare contract.

**Mayor Vera Katz**

- \*45** Contract with Phoenix Computer Associates, Inc. for IBM processor upgrade hardware for a total of \$183,000 and provide for payment (Ordinance)

**Disposition:** Ordinance No. 168439. (Y-5)

**Commissioner Earl Blumenauer**

- \*46** Amend contract with Roy F. Weston, Inc. to authorize continued design, development and implementation of the infrastructure management system for the Office of Transportation (Ordinance; amend Contract No. 28732)

**Disposition:** Ordinance No. 168440. (Y-5)

**Commissioner Charlie Hales**

- 47** Accept completion of Duniway Park running track, make final payment to Southwest Recreational Industries and authorize release of retainage (Report; Contract No. 29587)

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**Disposition:** Accepted.

**Commissioner Mike Lindberg**

- 50** Accept completion of contract, make final payment and release retainage to Snyder Roofing and Sheet Metal Co., Inc. for repair Phase C project for the Bureau of Environmental Services (Report; Contract No. 28979)

**Disposition:** Accepted.

- \*51** Authorize the Commissioner in Charge of Public Utilities to execute an agreement settling the following litigation: Portland Winter Hawks, Inc. v. Metropolitan-Exposition Recreation Commission et al., Multnomah County Circuit Court Case No. A9208-05961 (Ordinance)

**Disposition:** Ordinance No. 168441. (Y-5)

- \*52** Increase Bureau of Environmental Services change order authority for SE Alder basin relief and reconstruction, Phase 1, Unit 3, to 35 percent of the original contract amount (not to exceed \$302,890) (Ordinance; amend Contract No. 29542)

**Disposition:** Ordinance No. 168442. (Y-5)

- \*53** Increase Bureau of Environmental Services change order authority for the sewer diversion manhole modification project, Phase 2, to 50 percent of the original contract amount (not to exceed \$169,950) to repair a broken 54-inch line at the site of a proposed tidegate structure (Ordinance; amend Contract No. 29390)

**Disposition:** Ordinance No. 168443. (Y-5)

- \*54** Call for bids for the Essex sanitary sewer system, authorize a contract and provide for payment (Ordinance)

**Disposition:** Ordinance No. 168444. (Y-5)

**City Auditor Barbara Clark**

- \*55** Reduce special assessment lien on property located at 3333 NE Marine Drive (Ordinance; amend Ordinance No. 166022)

**Disposition:** Ordinance No. 168445. (Y-5)

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**REGULAR AGENDA**

**Commissioner Gretchen Kafoury**

- \*48** Authorize Restated City Agreement with United States National Bank of Oregon regarding Portland Community Reinvestment Initiatives, Inc. (Ordinance)

**Disposition:** Continued to January 25, 1995 at 9:30 a.m.

- \*49** Authorize amended Indemnification and Reimbursement Agreement with Portland Community Reinvestment Initiatives, Inc. (Ordinance)

**Disposition:** Continued to January 25, 1995 at 9:30 a.m.

- 42** **TIME CERTAIN: 9:30 AM** - Report on Energy Upgrades for the Portland Building (Report introduced by Commissioners Kafoury and Lindberg)

**Discussion:** Commissioner Kafoury said with its upgrades in the Portland Building, the Bureau of General Services has been able to save about \$30,000 a year on what it pays for lights.

Commissioner Lindberg said this has been a great partnership between the Energy Office and General Services. He noted this really started three years ago when Council established the Energy Challenge program which set as its goal cutting \$1.0 million a year from the City's energy bill over five years. He said the City has now identified \$850,000 in reductions of which \$630,000 have been completed with this project.

Fred Miller, Vice President, Portland General Electric (PGE), said it is nice to recognize a partnership that is really working. He said rather than replacing the capacity of its Trojan nuclear plant, PGE is instead working to achieve energy savings through programs such as this one. He presented a rebate check for \$107,354 to the City and said he hoped some of those responsible for the savings could share a part of it.

David Kish, Bureau of General Services, said he is proud of his maintenance staff for doing this project because it is one that would normally be contracted out privately. As an experiment the Bureau did contract out half of the 12th floor of the Portland Building privately to establish a baseline of costs and then the City's own crew determined that they could do the same work cheaper, about 13 percent less than the private contractor. That entitled the City to the rebate check.

Mayor Katz noted that the Bureau of General Services has a

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gainsharing program and asked how those involved might share in at least a portion of the rebate.

Mr. Kish said this is the kind of program where that concept can work although they have not applied it as yet.

Sue Anderson, Energy Office, said credit should also go to David Tooze of the Energy Office for promoting energy savings, mostly behind the scenes. She said this is one of several rebate checks the City is receiving for a total of about \$400,000.

**Disposition:** Accepted.

**43**

**TIME CERTAIN: 9:35 AM** - Support Oregon Health Science University's efforts to operate as an independent, public institution (Resolution introduced by Mayor Katz and Commissioners Blumenauer, Hales, Kafoury and Lindberg)

**Discussion:** Commissioner Blumenauer said it is hard to imagine an institution more critical to the health of the region than Oregon Health Science University (OHSU) in terms of providing critical educational and medical services as well as its critical economic development impact. He said there has been a lot of talk about allowing public institutions to behave in a more flexible manner and this resolution supports giving OHSU the tools that will make this happen.

Peter Koehler, President, OHSU, said he believes these efforts fall within the framework of reinventing government. He said their mission is threefold -- education, research and critical care. As State support has decreased, OHSU reviewed other organizational options and determined that operating as a public corporation would allow them to carry out their mission more effectively. He requested support from Council for this proposal which will give them a single board and allow them a single stop for decision making. He said as the largest employee in the City, they intend to continue their strong research development, noting that in the past two months research activity has brought in \$10 million in support. They will retain their mission of basic health care.

**Disposition:** Resolution No. 35358. (Y-5)

**Commissioner Earl Blumenauer**

**56**

Endorse the concepts of the Request for Proposal (RFP) for the Central City Streetcar project and direct the Bureau of Transportation Engineering and Development to advertise the RFP (Resolution)

**Discussion:** Commissioner Blumenauer said this RFP on the Central

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City streetcar brings together pieces of work on the River District, Central City 2000 and South/North rail alignment, allowing them to work even better. He said a Citizens Advisory Committee was formed five years ago to consider such a streetcar and staff has been successful in securing matching federal funds for some preliminary engineering. This RFP will allow them to answer some tough questions regarding feasibility and the possibility of forming public/private partnerships. Most important, it will give them that information in the same time frame as the South/North lightrail planning process. He said one possibility is providing a streetcar connection between OHSU and the North Macadam project.

Commissioner Blumenauer said another priority for him, although not a part of this RFP, is to extend the streetcar to the east side, connecting focal points such as the Convention Center and the arena that would not be connected to light rail for another ten to twenty years. He said he hopes to have a package back to Council with this information before it has to make decisions about the lightrail alignment. He hopes the study will also demonstrate how the streetcar connections can work regardless of lightrail.

John Carroll, Chair, Central City Alignment Committee, said this committee was formed for the sole purpose of looking at the feasibility of the streetcar system and the resolution represents the consensus of neighborhood and other interested organizations. He stressed that such a system would be an integral part of the City's transportation system, not just a joy ride or photo opportunity. From day one, an Eastside connection was also considered a very important component. He complimented Vicki Diede, Vic Rhodes, Roger Shiels and Commissioner Blumenauer for their good work in keeping this going.

Commissioner Lindberg asked how this relates to the Eastside since it is not a part of this RFP.

Commissioner Blumenauer said this piece moved more rapidly because development opportunities are further along in Northwest, the River District and North Macadam. However, the lines shown in the initial plan include recreated lines that existed 75 years ago and the goal from the outset was to consider restoring streetcar services in these areas. He said he hopes to piggyback potential Eastside connections on top of this project before the South/North alignment is determined.

Commissioner Lindberg asked what would be known in May, the next time the South/North alignment is considered.

Commissioner Blumenauer said he doubts if this study will be completed by then. However, they hope at that time to show three

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things: 1) that a streetcar is not just a novelty but an integral part of economic development and transportation within the City; 2) begin an accelerated planning process on the Eastside; and 3) through the Central City Transportation Management Plan process, achieve a better idea of how the pieces fit together. He said it is unlikely that they will have final answers in April or May about the alignment, noting that Council has made a commitment to study both alignments (Caruthers and Ross Island) and both may be carried forth to the next planning level.

Mayor Katz said one of the reasons this area ripened more quickly was because when Council adopted the notion of Central City 2000, the area was broadened to take a look at the River District and Portland State University (PSU), as well as OMSI and the Blazer arena on the Eastside. Moving this a little quicker not only fits in with Central City 2000 but mitigates some of the heated discussion about which lightrail crossing is best. She said the City really needs a system that serves the entire central City, as that makes a lot more sense in terms of an integrated transportation system.

Mr. Carroll said the Steering Committee believes the Eastside connection is very important and will not allow it to get lost.

Lindsay des Roches, Portland State University, said this is a very exciting time for the City and complimented Mr. Carroll for his leadership and helping them recognize the importance of this piece to the University's transportation plan. She said they are very excited about the possibility of extending the streetcar from PSU up to OHSU and solving some of the problems of getting up and down the hill. They are also very excited about a linkage to the Eastside.

Steve Fosler, 2308 NW Lovejoy, Northwest District Association and Central City Transportation Management Plan representative, said Northwest Portland supports the alignment as proposed and believes this process will answer many of the outstanding questions. He said many people have not fully realized the effect of growth on the Central City and the fact that extensive improvements are needed to let growth occur.

At 10:07 a.m., Mayor Katz excused herself and Commissioner Hales presided.

Michael McLafferty, Pearl District Neighborhood Association, said they anxiously await the streetcar and believe it will truly benefit Central City residents.

Peter Fry, Downtown Community Association (DCA), said this project is

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a very critical part of the downtown transit system. The DCA supports formation of a Citizen Advisory Committee as it believes past citizen involvement was very important in getting to this point without a great deal of controversy. He noted that the idea of a streetcar as a transit vehicle, not a tourist attraction, was not initially supported by Tri-Met but is now, opening up the possibility of receiving federal funds. Mr. Fry said another possible benefit may result as use of the streetcar on 10th and 11th allows conversion of parking lots to housing in the RX zone. Finally, the DCA supports the connection of OHSU to PSU and the River District but hopes other aspects of the project are not sidetracked or delayed.

Lee Lacey, past President, Downtown Community Association, noted that the DCA held three outreach meetings about the streetcar and thanked Vicki Diede and other staff for their help.

Commissioner Blumenauer said he does not expect to get a significant amount of federal money for this but believes it may be possible to develop it locally, with resources within the Central City, and not compete with other projects for federal funds.

Commissioner Hales said this is a visionary idea, comparing it to the Olmstead model Portland commissioned many years ago. This is an outstanding example of building consensus around the seed of an idea.

Commissioner Lindberg complimented all those involved as it will make a major difference in ensuring a vibrant inner City. He said people are using a lot of ingenuity in finding funding and, if the vision is strong enough, he believes the project will come to fruition.

**Disposition:** Resolution No. 35359. (Y-4)

**\*57**

Contract with Mitchell Nelson Welborn Reimann Partnership to provide project management for a traffic calming project on NE 33rd Avenue (Ordinance)

**Discussion:** Commissioner Blumenauer said this project underscores the City's commitment to the neighborhoods to deal with the consequences of growth and increase in vehicular traffic. He said he has been tremendously impressed with what has happened along 33rd Avenue where a coalition has been formed. He said Transportation has set aside \$50,000 but, because of budget cuts, there is no money identified to do the actual work on this project. He noted current conversations about excess resources and said he hopes Council will focus on problems of neighborhood livability. He said 33rd is a vital North/South artery as there is nothing else between the major collectors

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on 82nd and Martin Luther King Boulevard (MLK). As a result 33rd has inherited a lot of traffic, which is often higher than on the four-lane MLK. He said if the Transportation budget continues to be cut, Council will have to say no to its neighborhoods and this would be a tragedy. He said if Council does not want to invest in this in the future it is better to kill it now rather than having the neighborhood and the Bureau go through this preliminary work. He noted the fairly massive cuts currently underway in Transportation.

Rob Burchfield, Principal Traffic Engineer, Bureau of Traffic Management, said this contract will initiate a formal public involvement process and development of a traffic calming program for NE 33rd from Broadway to NE Columbia Boulevard. The \$58,000 contract includes \$8,000 provided by the Bureau of Housing and Community Development specifically for traffic studies around the Kennedy School site where development is slated. He said this contract will continue an ongoing partnership between residents and the City which, although viewed as a leader in traffic calming, has never attempted a project of this type before.

Commissioner Blumenauer said Mr. Burchfield understates how unusual this project is and Transportation staff should be recognized for its willingness to challenge fundamental assumptions on a street of this nature.

Lee Dayfield, 2645 NE 39th Avenue, Grant Park Neighborhood Association board member, a member of the land use committee for the NE Coalition and the Reclaiming NE 33rd Coalition, said she initially got involved because of concerns about the intersection and Brazeo but the scope rapidly mushroomed to encompass a much broader area. A capital improvement project was requested in 1993 for NE 33rd from Broadway to Columbia and, as a result, this contract is before Council now. She said their group has already done an enormous amount of work on NE 33rd issues and many people are willing to commit their spare time to make this project happen. They also want to be innovative about funding in order to save money in any way they can. Because of the size of the project and number of neighborhood associations involved, it is critical for Council to fund it to completion.

Kathleen Todd, Livability Coordinator, Northeast Coalition of Neighborhoods and staff assistant to the Reclaiming NE 33rd Coalition, said this initiative has been pushed by the seven neighborhoods aligning NE 33rd. She said she is pleased with partnership between Transportation and the coalition members, who have been very involved in drafting the RFP and selecting the consultant. They are anxious now for the process to begin.



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Norma Freitas, 3220 NE Knott, said 33rd is a street overused by cars and needs to be restored to the people. She said with the development of Kennedy School and additional facilities slated for Grant Park, increased use of the street is inevitable, providing a perfect opportunity to promote multi-modal transportation uses, such as bikes and pedestrians. She asked Council to recognize the importance of funding this project.

Janet Baker, 3416 NE 39th, Wilshire representative to the Coalition, referred to the progress report prepared by the Coalition. She said the work they have done and their strong commitment gives them the right to ask Council for funding. She said this is a very cost-effective project with many benefits to the neighborhood and is consistent with other City commitments for parks and economic development projects in Northeast Portland. She said neighbors have proved they are willing to continue their involvement and do anything that is required, including hard labor, tree cutting, etc. They will also continue to work with Chief Moose on enforcement as well as on education. The project represents a statement of the City's commitment to restore sanity to NE Portland streets.

Chris Pearce, 4334 NE 32nd Place, said in the past five years there has been a huge increase in traffic on NE 33rd and if the urban growth boundary is to remain intact inner city residents must accept more neighbors. That raises the question of what can be done on a congested street like 33rd and it is critical to spend the money to find out what can be done so that gridlock does not result. Traffic diversion devices on other streets may also be diverting traffic to 33rd. He said he cannot think of a single other major street that has as many residences as this one.

Commissioner Blumenauer noted that Council has a proposal pending for funding of the overall project.

Commissioner Kafoury said she has been pushing for Council to discuss some of the priorities it identified last year. She said while there has been a rush to put all the Livable City resources in the River District, she will keep pushing to put more money in the neighborhoods. Council has to figure out what they are going to do with these streets as growth occurs. She said she feels very strongly that this is a critical project that needs to be funded.

Commissioner Hales said even if the City is successful in reversing the slippage in the gas tax, other means for funding such projects outside General Fund resources need to be found. The City has to be realistic about the likelihood of the Legislature increasing the gas tax. The good news is the commitment of the neighborhoods but the bad news is that

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solving this problem will be expensive. Also, Council has an obligation not to invalidate the support for this project and find a way to make it work, though not necessarily through traditional funding sources.

Commissioner Kafoury said in the past Council has said since Transportation had the gas tax it did not need General Fund monies. Now General Fund dollars are being used to pick up capital needs and fund what tax increment dollars used to cover. She said she does not understand why this project, something on the list of highest community priorities, cannot be factored in.

Commissioner Lindberg asked if there was an estimate about its cost.

Commissioner Blumenauer said Transportation has a \$350,000 request before Council to use some of the as yet undesignated funds to pay for this project. There is no money in the funded part of the Capital Improvement Program (CIP) for this and the reality is that cuts in the CIP are likely.

Commissioner Lindberg said he told the Mayor last week that he felt there was a major gap in transportation funding. He said he definitely agrees about the seriousness of the problems on 33rd.

Commissioner Hales asked about the displacement of traffic from one street to another and to what extent this project will consider this. For instance, if traffic calming is implemented on 33rd, what would be the impact on other streets.

Mr. Burchfield said they will look at all those issues and then implement a project that will not have unacceptable external impacts on other parts of the neighborhood. He said because of the breadth represented by the coalition, staff believes they have an effective consensus-reaching process. The most difficult part will not be the technical solutions but managing the scope and coming up with the right kind of balance. The money requested is not a lot considering the kind of problems here and they realize there will not be something for everybody in this project.

Commissioner Blumenauer said there is capacity on Martin Luther King Boulevard which is not being used as much as it could be. What may come out of this study is how to use existing capacity more effectively.

Commissioner Hales asked what is expected at this stage from other City bureaus and jurisdictions that need to integrate their planning into this work.

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Mr. Burchfield said the contract calls for formation of a steering committee; affected bureaus and interested outside agencies will be invited to participated. Issues will be taken to any bureaus or agencies who do not wish to serve on the committee.

Commissioner Blumenauer said this project is unprecedented in terms of citizen involvement. He said he will make sure Council has an opportunity to vote on funding this during the coming fiscal year and will also discuss this project with the Mayor. Finally, he will continue to think creatively about how to make such projects cost effective.

Commissioner Hales said he is pleased to support this and commended the neighborhood for its activism as this is what it takes to make progress against a difficult problem like this.

Commissioner Kafoury said this is a part of Livable Cities and she looks forward to finding a way in the next month or so to fund the project.

**Disposition:** Ordinance No. 168446. (Y-4)

**Commissioner Charlie Hales**

**\*58** Contract with Sellwood-Moreland Improvement League, Inc., aka SMILE, for \$20,500 to provide improvements to the Oaks Pioneer Church at Oaks Pioneer Park and provide for payment (Ordinance)

**Disposition:** Ordinance No. 168447. (Y-4)

**Commissioner Gretchen Kafoury**

**\*59** Grant permits to provide agency-requested transportation services in the City (Ordinance)

**Discussion:** Dennis Nelson, Director, License Bureau, said this and the following ordinance grant permits for additional limited transportation providers. He said the agency-requested transportation service is a very narrow niche allowing companies to provide round-trip service to passengers outside the City for medical and other appointments. This ordinance will add six vehicles in this category for a total of 30. He said this permit process allows the Bureau a bit of control in terms of insurance and keeping scam artists out.

**Disposition:** Ordinance No. 168448. (Y-4)

**\*60** Grant permits to provide specially-attended transportation services in the City (Ordinance)

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**Discussion:** Mr. Nelson said this adds one additional new vehicle and also renews the permit for one provider, TLC, which previously had a permit which has expired.

Commissioner Kafoury moved to amend Exhibit A to include TLC. Hearing no objections, it was so ordered.

**Disposition:** Ordinance No. 168449 as amended. (Y-4)

**Commissioner Mike Lindberg**

**61** Establish an Advisory Committee to examine the final transfer and consolidation of certain City of Portland facilities at Metro (Resolution)

**Discussion:** Cay Kershner, Clerk of the Council, said Commissioner Lindberg's office had requested a one week continuance.

**Disposition:** Continued to January 25, 1995 at 9:30 a.m.

**\*62** Authorize a contract and provide for payment for construction of the SE 45th and Harney sanitary sewer (Previous Agenda 31)

**Discussion:** Linda Dartsch, Bureau of Environmental Services, reminded Council of the switch three years ago from funding Mid-county sewers as Capital Improvement Projects rather than through formation of Local Improvement Districts. Later, Council approved the same funding mechanism for the remaining residential pockets in the City without sewers. The 45th and Harney project is the second one of these to come to Council. Under this program, unlike Mid-County, people do not have to connect to the sewer or pay for it until they do connect. Also, there are a number of financing programs to help people who have trouble paying the assessments when they do connect. The Bureau is now in the process of finding all the pockets in the City that are not yet completed. Ms. Dartsch said this is an area where a number of cesspools have failed and where some property owners have requested sewers.

Commissioner Lindberg asked how many cesspools are failing in this area.

Dan Miller, Project Manager, BES Engineering Services, said they do not have a record of documented failures but a number of residents have told them their cesspools and septic systems are near the end of their useful lives.

Sally Lucero, 5859 SE Harney Dr., said residents of Harney Drive were told, at the time the mid-County sewers went in, that it would be 20

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years before they would be included in a project. She said there are no failed septic systems on Harney Drive and residents do not want to be a part of this project. No one on the street will need sewers for at least 20 years. Two years ago Harney Drive was repaved and it seems a waste of money to tear up the street again when there are so many bad streets in Brentwood Darlington. Harney Drive is adjacent to Clackamas County and because of that not everyone across the street is coming into the system. The bill for the project will be between \$1.25 and \$1.4 million, which they believe is too much for a project they will not need for 20 years, during which time new techniques for moving sewage may be developed.

Commissioner Blumenauer asked why they assumed there would be no customers there for the next 20 years.

Ms. Lucero said they went to every house on SE Harney and only one had a problem, with the owners spending \$5,000 to improve their system. She said residents were assured by septic people that their septic systems were in good condition.

Commissioner Hales asked how the street came to be paved.

Ms. Lucero said they were not privy to that information.

Ms. Dartsch said under DEQ regulations people within 300 feet of an existing sewer who need their cesspool replaced cannot get a permit and must connect to the sewer.

Commissioner Lindberg asked if it was correct that people would not have to connect until they had a problem and would also not have to pay until then.

Mr. Dartsch said people could lock into the existing rates or wait. Another advantage of going to the CIP is that it allows BES to draw boundaries that make sense from an engineering standpoint.

Commissioner Hales asked if financial assistance programs would be available in the future if someone with a failing system suddenly were required to connect.

Commissioner Blumenauer said the City got into this mess in the first place because people maintained they had systems that would not fail. He said if the neighbors are right and their systems do not fail for 20 years, then they do not have to pay.

Ms. Lucero said there are no guarantees about what future Councils might do.

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Commissioner Blumenauer said the only guarantee is by having people sign agreements with the City now. He said having the City go into an area and do the sewers right seems better than waiting for a system failure and then seeing what the status of the fund is or what the new regulations are. He said if Council had done this 30 years ago the City would have saved a lot of money. He said in terms of on-site disposal it is unlikely that new techniques will be found in the next 20 years that magically take care of sewage. Perhaps this Council should be more specific about its commitment in terms of how the program operates so that people do not feel they have to depend on the whim of a new Council 10 or 15 years from now.

Ms. Lucero asked why the City would come into an area that has no failed systems when there are so many failed systems elsewhere.

Commissioner Blumenauer said part of the project is to take care of them so there will be no failed systems.

Ms. Dartsch said they expect the process of providing sewers for those in the remaining pockets to take about ten years.

Mr. Miller said there is a priority list to deal with failing systems first.

Commissioner Blumenauer said what staff is saying is that it does not want to do a project and leave one street out of it and then have to deal with it later.

Commissioner Hales asked what is being done regarding Clackamas County residents.

Mr. Miller said the City has agreements with surrounding sewer districts, adding that there is only one property in Clackamas County that will be served by this sewer. They are not being subsidized.

Ms. Lucero said Clackamas County residents were involved in only one meeting. She said Harney Drive residents were notified of a meeting on the same day the meeting was held so those at work did not know about it. She said residents believe they did not have enough input or information about this project and would like more time to talk about it.

Commissioner Lindberg said he has a chronology of the meetings that were held.

Commissioner Hales asked what happens after Council approval in terms of informing people affected by this project.

Commissioner Lindberg said BES staff would not concur with the

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charge that people were not aware of this or did not have a chance to discuss it. He suggested sending a special letter to further inform those affected.

Commissioner Blumenauer said the point raised about people knowing where they really stand in five or 10 years is a good one. Sending a letter to Harney Drive residents clarifying the built-in protections would be helpful in case any changes are made in the future. He said he feels comfortable moving ahead, however.

Commissioner Hales said a letter is important for building a clear record to give neighbors more certainty and make them less dependent on future Council members.

Commissioner Kafoury said part of the reason Council has to do this is because past Council members did not want to make people mad.

**Disposition:** Ordinance No. 168450. (Y-4)

At 11:30 a.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 18TH DAY OF JANUARY, 1995 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; Kathryn Imperati, Senior Deputy City Attorney; and Officer Chuck Bolliger, Sergeant at Arms.

**\*63**

**TIME CERTAIN: 2:00 PM** - Adopt interim amendments to Environmental zones and clarify Economic, Social, Environmental and Energy (ESEE) analyses in three natural resource plans (Ordinance introduced by Commissioner Hales; amend Title 33)

**Discussion:** Commissioner Hales explained why this and the following ordinance are before Council. He said the City has initiated, on its own, a review of its environmental regulations and has come up with some recommendations through a citizens committee about how to streamline them. Secondly, they have been involved in a saber-rattling process with the Land Conservation and Development Commission (LCDC) over those regulations. Third, the situation at Powell Butte requires immediate action in regard to tree cutting in an area not mapped for environmental zoning.

David Knowles, Director, Bureau of Planning, said they are asking that this agenda item be withdrawn and that the following one be referred back to Commissioner Hales for further work. He noted that the City implements the State's Goal 5 resource protection statute through its environmental zoning regulations. As part of the State's periodic review of those regulations for compliance, LCDC staff recommended that the City correct some deficiencies in them, based on its concern that they were not clear and objective. The legal effect of that recommendation, if adopted by the Commission, would be to prevent the City from enforcing its environmental zones. He said he convinced the Commission to give the City a postponement until January 20 to negotiate with LCDC staff about its findings and try to find some common ground with the homebuilders, who object to the periodic review. Staff also prepared some interim protection measures so that the City would not be left naked if the Commission did adopt this order. LCDC staff has now agreed to recommend to the Commission that it give the City until May 29 to rework its regulations to correct the deficiencies that have been identified. So the City is essentially postponing the threat for a few months.

Mr. Knowles said the ordinance presented today, now being withdrawn,



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was a quick attempt to correct the regulations and would have required suspending the Code regulation that calls for Planning Commission review. That is not something staff wanted to do but felt they had to because of the threat of losing the environmental zones. They now believe, however, there will be time for consideration of a new ordinance by the Planning Commission.

**Disposition:** Tabled.

**\*64**

Amend City Code to create new Chapter 20.42, Tree Cutting (Ordinance introduced by Commissioner Hales; amend Chapter 20)

**Discussion:** David Knowles, Planning Bureau Director, said this was an interim protection measure to provide a safety net in the event the City lost its environmental zoning. Again they believe this can be postponed to give all the affected bureaus additional time to work out the details. He believes Commissioner Hales still wants to bring this to Council, however, because of the Powell Butte situation.

Mr. Knowles said between now and May 29, the City will focus on the recommendations of the environmental streamlining committee which, if implemented, will address the LCDC concerns. The Planning Commission will hold hearings on the recommendations in February and then make a recommendation to Council for action prior to the deadline.

Commissioner Hales said if the tree ordinance was adopted in its present form it would apply only in areas where environmental zoning is not in effect. What remains, now that LCDC has postponed the effective date of its order, are the areas annexed to the City but not yet mapped for environmental zoning. Some of those areas were protected by the slope area ordinance adopted several months ago but the City does not know how much of that area has slopes of less than 25 percent and is therefore subject to logging such as occurred on Powell Butte.

Mike Bercutt, 8610 SW 59th Avenue, said this is a knee-jerk reaction, and said the City should not need a 14 page ordinance in order to protect a tree. He also objected to language stating that it is not a land use ordinance, noting that the ordinance is being presented by David Knowles, the Planning Director. It should be rewritten so it is clear with regard to developed properties which have a residence on them or can be subdivided. He said he has a fair number of lots in the R10 zone with an R7 overlay which have been through the Title 34 process twice. He said he would have to spend his time proving, in a non-land use situation, that he had non-subdividable land despite the fact that under the Code he can legally subdivide, even though he chooses not to. He said he has fought long and hard to show that the key to the City is not

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density but livability and ordinances should be written to reflect that.

Lindsay Slater, Oregonians in Action, said their purpose is to curb excessive land use regulations and a major goal is to elevate the fundamental importance of property rights. He said the tree cutting ordinance is unfair because it benefits those who have already built homes at the expense of those who have not. It is also unnecessary because the City already has erosion control laws. They believe this constitutes a taking of private property without just compensation. They also believe this is an attempt to prevent a single group of land owners from using their property. He argued that trees and aesthetics are Goal 5 resources and, as a land use regulation, this must be accompanied by Goal 5 findings, which are not included. He said the City must inventory the trees it wants to protect, identify which are significant and determine if conflicting uses exist for each particular tree. Until it satisfies the ESEE balancing process, it cannot enact such an ordinance.

Jim Worthington, Centennial Community Group, said Powell Butte did have protection for its trees under Ordinance 161500 but it was not enforced when this area came into the City in July, 1994. He invited the previous speakers to come and witness the debacle on Powell Butte so they can see why a tree ordinance is needed as soon as possible. He said this ordinance does not completely stop someone from cutting a tree but simply gets rid of the commercial aspect. He said even though he does not consider himself a true environmentalist (because he favors a Westside bypass), these protection zones are needed.

Commissioner Lindberg asked if testimony would be allowed next week, too.

Commissioner Hales said yes, since they will be bringing back an amended ordinance.

Arnold Rochlin, PO Box 83645, 97283, said he is concerned that trees under 12 inches can be cut without any limitations and recommended that the limit be reduced to 10 inches. He said the purported deficiencies identified by LCDC are due to the political situation in Salem and not because staff has been deficient.

Logan Ramsey, 3026 NW Skyline Blvd., 97229, said this certainly seems like a land use ordinance and appears to circumvent Goal 5 requirements. He said it is aimed primarily at undeveloped land, noting that it would apply to developed lots only in special circumstances. He called the standards for getting a tree-cutting permit imprecise and arbitrary. While Commissioner Hales stated it was aimed at Powell Butte, it would have an economic impact on other

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property owners as well. Since the City will have Goal 5 protection until the end of May, an emergency ordinance now does not seem necessary.

Liz Callison, 6039 SW Knightsbridge Dr., 97219, sought clarification about the erosion control ordinance passed in November, 1994, and the proposed tree cutting ordinance. While the Bureau of Planning has been under heavy pressure from the development community to relax regulations, that community should not decide the rules. She said environmental protection is needed as well as adequate provisions for enforcement. The erosion control ordinance lacks any budget provision for site inspections or enforcement. She noted that the proposed tree ordinance is modeled on that of Lake Oswego, which just passed a new ordinance requiring that any tree five inches or larger be under permit, while the Portland ordinance exempts all those under 12 inches. Lake Oswego also requires enforcement measures.

John Alland, Urban Forest Management Plan (UFMP) Technical Advisory Committee, supported the ordinance but said it is imperative that it fit into the goals of the UFMP. The ordinance must not become a burden but be part of a holistic approach, dovetailing into the UFMP, which would supersede this temporary ordinance. He asked that this be sent to Urban Forest Commission and the UFMP technical advisory committee for refinement. He asked for a two week delay to allow this review.

Commissioner Hales said since the immediate pressure has been abated, a two week delay would be appropriate to determine if an ordinance is needed and, if so, what would best do the job.

**Disposition:** Continued to February 1, 1995 at 2:00 p.m.

Commissioner Hales moved to hear the Four-Fifths Agenda. Commissioner Lindberg seconded and, hearing no objection, the Mayor so ordered.

### **Four-Fifths Agenda**

**\*65**

Contract with Port of Portland to dredge Fire Boat Dock for Fire Boat No. 6, 3660 NW Front Avenue (Ordinance introduced by Commissioner Hales)

**Discussion:** Commissioner Hales said dredging is underway in this area anyway and if the City is to participate it needs to do so right away.

Mayor Katz asked why they waited until today.

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Tom Feely, Fire Bureau, said the City is basically tagging along with the ongoing dredging at Terminal 2. Originally, the Bureau thought the Commissioner could sign the contract but were then told an ordinance was needed.

**Disposition:** Ordinance No. 168451. (Y-5)

At 2:45 p.m., Council adjourned.

BARBARA CLARK  
Auditor of the City of Portland

*Cay Kershner*

By Cay Kershner  
Clerk of the Council