



CITY OF

PORTLAND, OREGON

**OFFICIAL
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 1ST DAY OF MARCH, 1995 AT 9:30 A.M.

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

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

The Consent Agenda was adopted as follows:

CONSENT AGENDA - NO DISCUSSION

- 258** Accept bid of Copenhagen Utilities & Construction, Inc. for street and sewer improvements in SW Palatine St. for \$106,397 (Purchasing Report - Bid C-9831)

Disposition: Accepted; prepare contract.

- 259** Accept bid of Larson, Inc. for SE 45th and Harney sanitary sewer for \$1,076,943 (Purchasing Report - Re-Bid 81)

Disposition: Accepted; prepare contract.

- 260** Accept bid of MicroDevice, Inc., dba Ford Graphics for annual supply furnishing reprographic services and supplies for \$47,027 for two years (Purchasing Report - Bid 87-A)

Disposition: Accepted; prepare contract.

Mayor Vera Katz

- *261** Establish one Electrician position, one Automotive Equipment Operator II position, two Automotive Equipment Operator III/Sweeper positions and two Utility Worker positions in the Bureau of Maintenance in accordance with the Personnel Rules adopted by the City Council (Ordinance)

Disposition: Ordinance No. 168556. (Y-4)

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***262** Pay claim of Thomas Egli (Ordinance)

Disposition: Ordinance No. 168557. (Y-4)

***263** Application to U.S. Economic Development Administration for a third year planning grant not to exceed \$125,000 (Ordinance)

Disposition: Ordinance No. 168558. (Y-4)

Commissioner Earl Blumenauer

264 Accept completion, Change Order Nos. 1 and 2, final payment for the improvement of SE Harold Neighborhood Traffic Management Project (Report; Contract No. 29314)

Disposition: Accepted.

***265** Contract with Murase Associates for design services for the design and production of a draft Pedestrian Design Guidelines notebook (Ordinance)

Disposition: Ordinance No. 168559. (Y-4)

***266** Agreements with the Oregon Department of Transportation to provide for installation of bridge railing on the North Lombard and North Fessenden Streets bridges (Ordinance)

Disposition: Ordinance No. 168560. (Y-4)

Commissioner Charlie Hales

267 Approve amendment of Articles of Incorporation of Pioneer Courthouse Square of Portland, Inc. (Resolution)

Disposition: Resolution No. 35366. (Y-4)

268 Establish \$111,600 as the maximum price for a newly constructed single family house eligible for limited property tax exemption in a distressed area (Resolution)

Disposition: Ordinance No. 35367. (Y-4)

***269** Contract with Tee Time, Inc. for management information and provide for payment (Ordinance)

Disposition: Ordinance No. 168561. (Y-4)

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- 270** Contract with Van Domelen, Looijenga, McGarrigle and Knauf to prepare seismic upgrade plans for fire stations in the amount of \$93,000 (Ordinance)

Disposition: Passed to Second Reading March 8, 1995 at 9:30 a.m.

- 271** Accept donation of a trailer to the Bureau of Fire, Rescue and Emergency Services (Second Reading Agenda 232)

Disposition: Ordinance No. 168562. (Y-4)

- 272** Authorize addendum to the Agreement with the Maritime Fire and Safety Association (Second Reading Agenda 233; amend Contract No. 22884)

Disposition: Ordinance No. 168563. (Y-4)

Commissioner Gretchen Kafoury

- *273** Contract with Kimbro Kidds for \$12,000 for the Kidpreneur Program and provide for payment (Ordinance)

Disposition: Ordinance No. 168564. (Y-4)

- *274** Application to the U.S. Department of Housing and Urban Development for an Innovative Homeless Initiatives Demonstration Program grant in the amount of \$639,063 (Ordinance)

Disposition: Ordinance No. 168565. (Y-4)

Commissioner Mike Lindberg

- *275** Call for bids for the Windmere sanitary sewer system, authorize a contract and provide for payment (Ordinance)

Disposition: Ordinance No. 168566. (Y-4)

City Auditor Barbara Clark

- *276** Increase contract with The Wyatt Company to provide additional audit services (Ordinance; amend Contract No. 29364)

Disposition: Ordinance No. 168567. (Y-4)

REGULAR AGENDA

- 255** **TIME CERTAIN: 9:30 AM** - Energy Office final report of the City's Telework Pilot (Report introduced by Commissioner Lindberg)

Discussion: Commissioner Lindberg said last spring the City received

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grants allowing the Energy Office to do a pilot project on telework to see how it affected productivity and to identify other management issues. Many cities which use it report increased employee morale and productivity as well as decreases in traffic impacts and energy use. The Energy Office's report shows tremendous opportunities for improving City government through telecommuting and also includes a draft policy addressing eligibility, performance evaluation, cost benefit considerations, etc. He said those participating in the pilot project generally telecommuted one or two days a week.

Susan Anderson, Director, Portland Energy Office, said the three major benefits of telecommuting are: 1) improved productivity; 2) better employee morale; and 3) less energy use. A small grant from the Oregon Department of Energy got the program going and eleven different bureaus participated. Criteria were given for determining which employees and which jobs were best suited for telework and agreements as to the ground rules were negotiated between participating employees and their managers. One rule was that no child care would be going on when working in the home. Among the findings, Ms. Anderson said, was agreement that participation should be an employee privilege and completely voluntary. Participants also found they did not need a lot of fancy computer equipment and that agreements about schedules and communications needed to be reached right up front. Finally, they found that, rather than making non-participating employees envious, they liked teleworking because in many cases it improved communications overall. All participants would like to continue the program and the next step is to work with Personnel on developing a policy.

Mayor Katz said she hoped that Personnel would not add a lot of bells and whistles and make it a management nightmare. The more informal it is kept, the more positive it will be.

Kirk Berger, Interim Personnel Director, said three of his employees participated in the pilot program and he is very pleased with its success. As for policy, this clearly helps create a better work environment and increase flexibility. He said while they will be happy to help coordinate this, a lot of central control should not be needed.

Commissioner Lindberg asked when the draft policy might come to Council.

Ms. Anderson said by July, 1995. They view it as similar to the flex time policy which each bureau implements in a way that makes sense to them.

Gorran Sparman, Director Bureau of Traffic Management, said telework can not only help employees do a better job but can also be a very important tool for dealing with traffic impacts.

Nelda Skidmore, Bureau of Personnel, described the benefits both to her work and the public from her voluntary participation in the program. She

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said during the one day she telecommutes she is able to do analytical work with fewer interruptions and yet stay in close contact with co-workers and respond to the needs of her customers at only minimal cost to the City.

Mayor Katz asked if there were other people at home when she worked.

Ms. Skidmore said no.

Mayor Katz noted that when children are in the home, the whole issue of trust is raised.

Jim Carlton, Bureau of Environmental Services, a quadriplegic, said he telecommutes full time which saves him from having to find accessible parking downtown. He said his work requires little personal contact, except by telephone, and is very conducive to variable hours and locations.

Suzanne Dillard, Oregon Department of Energy, Metro area coordinator for telework programs, said they believe that telecommuting is an effective strategy for reducing transportation fuel use, reducing congestion and improving air quality. Forty percent of the State's energy use is in the area of transportation and for every 25 miles not travelled, one gallon of gasoline is saved and one pound of pollutants is prevented from being released in the atmosphere. The need to cut private vehicle trips is critical throughout the State and telecommuting is a proven strategy to help cut back on the drive-alone commute. Right now about 3.5 percent of the Multnomah County workforce works out of their homes and there is a large potential to increase that through such programs. In the future, the Department will focus on a two year telecommuting program in the Portland metropolitan area, funded with federal ISTEA dollars. One key partnership will be with the City's Energy Office. She urged the City to adopt a permanent telecommuting program for all eligible employees.

Commissioner Lindberg asked about the potential for reducing vehicle miles travelled through telecommuting.

Ms. Dillard said they hope to raise the percentage of those telecommuting, pointing OUT that right now only 3.5 percent of the people in this area work at home while the national average is about six percent.

Commissioner Lindberg asked if the 3.5 percent is for all people working in their homes, not just telecommuters.

Ms. Dillard said yes.

Mayor Katz asked if the City was looking into the possibility of offering "deals" to City employees on computers to telecommute.

Ms. Anderson said participants in the pilot program felt the City should not

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have to buy computers for use at home. She said they are investigating the potential of offering them at special prices.

Mayor Katz said, in her experience at Portland Community College, telecommuting worked beautifully. The only problem was bringing the telecommuter into the communication network. The other important piece is that you need to know exactly what you expect an employee to accomplish by the end of the week. Otherwise the issue of trust is raised. Finally, as the City begins planning for space in City Hall, there are certain job categories that are excellent candidates for telecommuting. She said the City could save considerable resources by expanding opportunities for people to work at home and space planners need to add this into their formula.

Ms. Anderson said as the State expands its program, the City's Energy Office role will be to work with hundreds of downtown businesses to set up their own telecommuting plans.

Commissioner Blumenauer said this could save office space and lead to enhanced productivity and employee satisfaction if done right. This is not an idle issue for Transportation staff as, if commuting miles can be reduced, there is the potential for eliminating thousands of trips through neighborhoods and thousands of pounds of pollution.

Commissioner Lindberg said it would be helpful to have periodic reports back to Council about the status of the project.

Mayor Katz said she wholeheartedly supports this and wants it expanded and incorporated into City space planning efforts. Telecommuting also assists families with child care needs and that should be recognized. This is okay as long as there are very clear performance measurements on a weekly basis. She said she hopes this does not get bogged down in a lot of regulations which make it a nightmare for the workforce and the managers.

Disposition: Accepted. (Y-4)

256 TIME CERTAIN: 10:00 AM - Superior performance on the part of City workers in response to severe storm conditions (Resolution introduced by Commissioner Blumenauer)

Discussion: Commissioner Blumenauer acknowledged the outstanding contributions made by Transportation during the last snow storm. He said too often difficult work under difficult circumstances is taken for granted.

Toby Widmer, Bureau of Maintenance, said they appreciate this recognition of their hard work and thanked other bureaus for their cooperation as well.

Disposition: Resolution No. 35368. (Y-4)

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257 **TIME CERTAIN: 10:05 AM** - Accept Report and Observations from the Reclaiming Our Streets Implementation Team (Report introduced by Commissioner Blumenauer)

Discussion: Commissioner Blumenauer said last spring Council adopted a report setting in motion the Reclaiming Our Streets Community Action Plan which started with the Neighborhood Traffic Congress held in 1991. Over 300 participants in the Congress helped develop the goals and mission and over 100 volunteers worked on getting out the informational booklet. The Implementation Team was to help prioritize strategies, advocate for their implementation and take the lead on at least one activity. They were also to present an evaluation on the community's progress in implementing the program.

Nancy Christie, Chair, Reclaiming Our Streets Implementation Team, introduced members of the Team. She described some of their projects, including adding bus routes to all holiday events listed in the Oregonian and a pilot radar project. She said unfortunately, because of budget cuts, it appears that they will lose staff support making the future of the Implementation Team uncertain.

Richard Stein, Reclaiming Our Streets Implementation Team member, said they are working with Tri-Met and U.S. West to add an icon to business listings in the yellow pages indicating the appropriate bus number to take. A major goal is to reduce the number of single-occupied vehicles on City streets and it will take a variety of ideas to change behavior patterns and get people out of their cars. He said he is distressed about possible cuts in Transportation funds as one of the key elements in livability is decreased traffic through City neighborhoods. He asked Council to take a look at all means and creative ways to solve these problems.

Mayor Katz asked the Team to send Council members a sample letter they could use to urge support from Tri-Met and U.S. West for its icon program.

Ms. Christie said the Team recommends that the City always hold its meetings in bus-accessible locations and include the bus routes in its notices.

Commissioner Hales said that is now being done with land-use notices but not generally otherwise.

Mayor Katz said some grant money ought to be available from the Department of Energy to continue this work.

Commissioner Blumenauer said that is how this project was started and staff will continue to pursue that source. He suggested that Council pass a resolution in support of the icon concept rather than sending letters to Tri-Met and U.S. West.

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Ms. Christie concluded by noting that they have quite a few other projects in the works, including a Car Free Day, which they hope to see implemented.

Disposition: Accepted. (Y-4)

Commissioner Earl Blumenauer

- 277** Consider vacating a portion of SW Pennoyer Street west of SW Kelly Avenue at the request of Mike Adair (Hearing; Report; C-9865)

Disposition: Approved. City Engineer prepare ordinance.

- 278** Approve model Good Faith construction specification for implementation in accordance with "Phase Two" initiatives (Resolution)

Discussion: Commissioner Blumenauer said this continues Council's accelerated efforts to make good on its commitment to work with minorities, women and emerging small businesses.

Carleton Chayer, Purchasing Agent, said one of the recommendations in the Fair Contracting and Employment Initiative adopted February 1 was to include a good faith efforts agreement in all construction specifications. He said this resolution implements these provisions Citywide so there is consistency on all City construction contracts. The resolution establishes the Purchasing Agent as overseer of this process. Concerning the issue of flexibility, his office intends to work with all City departments on new approaches and ideas in contracting so that it is not a rigid system.

Mayor Katz said she is very pleased that Council has identified this goal as so important that a uniform policy is needed.

Disposition: Resolution No. 35369. (Y-4)

Commissioner Mike Lindberg

- 279** Amend Code to reflect transition of Metropolitan Arts Commission to Regional Arts and Cultural Council (Ordinance; amend Code Chapter 5.74)

Disposition: Passed to Second Reading March 8, 1995 at 9:30 a.m.

- 280** Repeal Code Chapter 3.120, Metropolitan Arts Commission (Ordinance)

Disposition: Passed to Second Reading March 8, 1995 at 9:30 a.m.

- *281** Accept a grant from the Environmental Protection Agency in the amount of \$10 million for Columbia Slough Revitalization (Ordinance)

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Discussion: Commissioner Lindberg noted Council's interest in knowing how these grant funds are being used.

Leeann Scull, Manager, Water Quality Program, Columbia Slough said the Bureau of Environmental Services (BES) is under federal and state mandates to clean up the Columbia Slough and part of this grant will be used to improve water quality. This will get water moving through it at a faster rate. The projects are all multi-objective, including enhanced water quality, wildlife habitat, flood control, etc.

Dean Marriott, Director, BES, said they are very excited to have secured this grant and that, thanks to hard work by the staff, the federal government has not rescinded the money. He said they are also pursuing some opportunities not included here, such as working with the Army Corps of Engineers on an environmental remediation program since they are responsible for much of the detrimental impact on the Slough over the last 75 years. There is also the potential for involvement by Metro and the City of Fairview.

Commissioner Hales asked about the local match.

Ms. Scull said EPA has agreed to take as the match a portion of some of the design projects for the Columbia Slough, the Combined Sewer Overflow program and Mid-County Sewer project.

Disposition: Ordinance No. 168568. (Y-4)

City Auditor Barbara Clark

282 Report on remonstrances to proposed assessment of the NE Airport Way water and sanitary sewer Local Improvement District (Report; Hearing; C-9704)

Discussion: Dan Vizzini, Assessments Manager, Auditor's Office, said this project would have been assessed two years ago but because of a failure in the sewer system requiring major repairs, they were unable to assess property owners until the system was made whole again. That has now been done and they are ready to move to final assessment. The Auditor's Office held a meeting with property owners in February to discuss the proposed assessments. He said they received four written remonstrances and, since the notices were mailed, have reviewed additional information provided by the property owners about their assessments. As a result they would like to make additional revisions to the roll. He asked that Council conduct the hearing and then send the proposed assessment back to the Auditor's Office for additional work. New assessments will then be mailed and another hearing will be scheduled in about two weeks.

Art Spada, representing the Spada family, said their original assessment

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was \$68,000 and they were then surprised several weeks ago with a new one for \$112,000, a 65 percent increase. He said Mr. Vizzini has informed them this was due to an error in the original calculations on the sewer portion. However, they question the water line assessment because there is an access problem to that line that poses a risk to the highway and could result in a sand cave-in. That part of the assessment should not be made.

Commissioner Hales asked if that portion of his property was not buildable.

Mr. Spada said no, the water line would be unaccessible because you could not dig through the sand fill, which is the base for the road, to get down to the pipe.

Mr. Vizzini said he talked to Mike Saling in the Water Bureau and the water line in Airport Way is uniformly three to five feet deep and is not buried as deep as the sewer line. In assessing water lines there is no need to worry about gravity feed service, as they do with sewer line assessments, so the policy has been that if you abut the improvement and can gain access to the water line, the elevations are irrelevant.

Commissioner Lindberg asked if people can get access to hookup without it collapsing.

Mr. Vizzini said the real issue is that the Spada property is at the big curve of 181st and Airport Way. Mr. Spada has access to his property lower down although it may be more difficult for him to access it further up on Airport Way as it climbs to pass over the railroad. The question for the Auditor's Office was did his property have access within the bounds of the district; they determined that it did have access at the curve. He explained how the assessment was calculated, adding that his Office believes the property has sufficient access to the water line even though it may not have easy access to it at all points along the line. He recommended overruling the remonstrance, noting that some adjustments have been made in the assessable area for the sewer but that his office believes the assessable area for the water line is correct.

Commissioner Blumenauer asked if it the assessment was \$68,000 or \$112,000.

Mr. Vizzini said his office made an error in their calculations and duplicated the discount offered all property owners in environmental zones. This drove down the estimate substantially and they did not pick up this error until later. Once he realized the significance of the error, he contacted Mr. Spada about how the accessible areas are laid out. Staff also took a look at how this property will be affected by future development as it will be served by other road and structural improvements in the future. They wanted to make sure the assessment for Airport Way was appropriate given these future assessments. He said he feels badly that they provided an inappropriate

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expectation at the start of the project but believes the current calculation is now correct.

Don Turner, 14970 NE Rose Parkway, said he felt the assessment area on his four-acre piece of property was in error but has been advised there will be an adjustment. Also, in looking at the assessment list, he noted several properties that are not being assessed, including Tax Lot 83. He said that lot receives the same benefit but is not being asked to contribute to the sewer. He said he was advised that because that property had hooked to a sewer previously it was not expected to contribute to this one. However, this sewer is one he put in to service two of his buildings at 143rd off Sandy Boulevard in 1980; it was meant to be a temporary system. He said it seems unfair to have some property owners get the same benefits but not pay their share.

Mr. Vizzini said Mr. Turner gave them additional survey maps which are more accurate than those his office was working from and they have agreed to recalculate his assessable area based on the additional information provided. He said there were several properties that had existing sewer services and the project team (composed of BES, Water Bureau and PDC staff members) recommended that they be given a zero assessment for the sewer portion of the project. In the case of the property adjacent to Mr. Turner, the owner was required to pay for a sewer branch costing about \$7,700 but, based on the direction Council gave upon formation of the district, the assessable area for the property was not included in the distribution of sewer line construction costs. The Auditor's Office felt that was a settled issue and it would be inappropriate to change the rules of the game at the time of final assesment. At the beginning of the project they took a look at these properties and found they currently receive sewer service and therefore should not be assessed. He said this is consistent with other policies.

Mr. Turner said he had 50 acres when he put the sewer system in to serve the property and still has part of it. He asked if, by that logic, he should not be assessed.

Mayor Katz asked that he meet with Mr. Vizzini separately to hold that discussion. She said she is not sure the dollar amount has been identified for the record.

Mr. Vizzini said there will be another hearing on this.

Commissioner Hales said this is the first time he has run into this kind of policy exception where we say if you already have sewer service you will not be assessed. He asked if this took into account whether the property has been fully developed or not.

Mr. Vizzini said the sewer assessment is only for the capital costs of bringing

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the line and branch to the property. Trunk lines are paid for through the connection charges. He said when properties are developed to their full potential under the zone, then they pay for the demand they generate on the system. He said the cost of bringing the line to the property is picked up through this assessment and is a one time cost. The uses on the property are irrelevant.

Bernard Galitzki, Vitel Investment Company, congratulated Mr. Vizzini on his efforts to allocate the charges even though he believes his are too much.

Dick Weyhrich, 5131 NE 148th, said he is the owner of tax lots 76 and 83 with the zero assessments. He said in 1978 he paid upwards of \$30,000 for a water main and in 1980, along with Don Turner, he spent \$5,000 for the sewer plus \$40,000 to maintain it. He said he believes it is just for him not to be further assessed.

Mr. Vizzini said they received four remonstrances, including one from Wagner Mining which is a repeat of an earlier one which Council overruled. Winmar Pacific also filed a remonstrance and his office is working with them to identify all the wetlands on their property which will result in a permanent conservation easement for an additional 93,000 square feet. When that comes through, further adjustments will be made to their assessment. He asked Council to overrule the remonstrances and allow his office to recalculate the assessments, taking into account the information given them by Mr. Turner, Mr. Galitzki and others.

Commissioner Blumenauer moved to overrule the remonstrances and refer this back to the Auditor's Office for renotification and reassessment.

Disposition: Remonstrances overruled; referred to City Auditor. (Y-4)

At 11:10, Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD 1ST FIRST DAY OF MARCH, 1995 AT 2:00 P.M.

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

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

REGULAR AGENDA

Commissioner Charlie Hales

- 283** Tentatively approve Hearings Officer's recommendation to approve a modification to Condition A of CU 99-89/S 37-89 regarding medium-density areas of the Forest Heights PUD (Previous Agenda 216; Findings; 93-00901 PU)
- Disposition:** Continued to March 8, 1995 at 2:00 p.m.
- 284** Approve modification of the Preliminary Development Plan for Forest Heights approved in CU 68-81, at NW Miller Road and NW Cornell Road (Second Reading Agenda 217; Findings; LUR 93-00901 PU)
- Disposition:** Continued to March 8, 1995 at 2:00 p.m.
- 285** Tentatively deny appeal of Forest Park Neighborhood Association and uphold Hearings Officer's decision to approve modification to the street circulation plan for Phase 7 of the Forest Heights PUD (Previous Agenda 218; Findings; 93-00902 PU)
- Disposition:** Continued to March 8, 1995 at 2:00 p.m.
- 286** Tentatively deny appeal of Forest Park Neighborhood Association and uphold Hearings Officer's decision to approve Phase 4 of the Forest Heights PUD (Previous Agenda 219; Findings; 93-00898 PU SU IR)
- Disposition:** Continued to March 8, 1995 at 2:00 p.m.
- 287** Tentatively deny appeal of Forest Park Neighborhood Association and uphold Hearings Officer's decision to approve Phase 5 of the Forest Heights PUD (Previous Agenda 220; Findings; 93-00899 PU SU IR)
- Disposition:** Continued to March 8, 1995 at 2:00 p.m.

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- 288** Tentatively deny appeal of Forest Park Neighborhood Association and uphold Hearings Officer's decision to approve Phase 7 of the Forest Heights PUD (Previous Agenda 221; Findings; 93-00900 PU SU IR)

Disposition: Continued to March 8, 1995 at 2:00 p.m.

- 289** Tentatively deny appeal of Nauru Phosphate Royalties, applicant, and uphold Hearings Officer's decision to impose Condition I in approving application for Phase 5 of the Forest Park PUD (Previous Agenda 222; Findings; 93-00899 PU SU IR)

Disposition: Continued to March 8, 1995 at 2:00 p.m.

Commissioner Gretchen Kafoury

- 290** Liquor license application for Cooper, Hospodar, Wilson and Scales, dba Pot Belly Deli & the Eclectic Eatery, 2327 NW Kearney Street, restaurant liquor license (renewal); Favorable recommendation with restrictions (Report)

Discussion: Mike Sanderson, License Bureau staff, said staff and the neighborhood association were unable to reach an agreement with the licensee to voluntarily impose a last call on liquor service at 1:00 a.m. The Bureau recommends that Council request the OLCC to impose such a restriction because the outlet is located off a commercial street. He noted that Council recommended in 1993 that the license not be granted at all as the area has a documented history of late night noise. Unrestricted hours would undermine neighborhood efforts to secure voluntary agreements with other outlets in the area.

Marilyn Wilson, Eclectic Eatery, co-applicant, requested that the restriction be denied. She said she serves only beer and wine and current alcohol sales constitute less than one percent of overall sales. While she understands the neighborhood association's concern with alcohol, she questions their policy of saying no to everyone as it seems to take a "scorched earth" approach. She argued that even this policy is not applied consistency, contending that the Santa Fe, no more than 50 feet away, has no such restrictions. She said the neighborhood association should take each individual business on a case-by-case basis. She said she offered to sign a good neighbor agreement to restrict hours voluntarily but wanted to clearly establish what constituted a problem prior to signing it. She said that offer was refused. She noted that the OLCC has been out twice and has not found a single complaint, arguing that if the neighborhood association has difficulties with the OLCC regulations they need to deal with that rather than taking it out on small, individual businesses.

Kimberly Cooper, Pot Belly Deli, co-applicant, said they were restricted heavily during their first year of operation but did not receive a single

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complaint from anyone. She said they believe they are being singled out again without just cause. Their beer and wine sales are less than one percent and she does not see the reason for the restrictions.

Steve Hospodar, Pot Belly Deli, said nearby residents have nothing but praise for Pot Belly Deli.

Mayor Katz noted a September 7, 1994 letter stating that the restrictions placed on this facility had been removed.

Marvin Pohl, President, Northwest District Association (NWDA), said originally severe restrictions were placed on the Pot Belly Deli in 1992 because the Association considers this address to be an aberration in zoning. The rule is that residential zoning begins 100 feet from the end of the commercial area and since the 1980s there has been a debate about whether this property should be zoned commercial or residential. Second, OLCC lifted the restrictions on Pot Belly Deli without informing either the Bureau of Licenses or the neighborhood association. Nor were they notified that an additional partner was being added. He said the Santa Fe, which is open to 2:30 a.m., is not an issue because they do not have the documentation to ask that they close at 1:00 a.m. The Santa Fe is one of only two or three establishments in Northwest open that late and no new establishment, thanks to Council policy, stays open past 1:00 a.m. in Northwest. He said the applicants can stay open until 2:30 a.m. and since only one percent of their sales is from alcohol, cutting it off one o'clock should not hurt their revenue that much. He said the issue is having a consistent policy. Mr. Pohl said they requested an Attorney General review because of the skewed process and OLCC admitted they made a mistake and that what is being done now is what should have been done before the license was granted to Ms. Wilson. He asked that the community not be sacrificed for an OLCC mistake and that Council confirm their continued support of the 1:00 a.m. policy for stopping the sale of alcohol.

Commissioner Hales asked if the 1:00 a.m. restriction was being enforced for renewals in this neighborhood.

Mr. Sanderson yes, when they are able to document that the renewals are in locations identified as having a problem. What is not shown here is that the majority of licensees in the area are voluntarily ceasing alcohol sales at 1:00 a.m.

Commissioner Hales moved to adopt the favorable recommendation, with the restriction.

Commissioner Blumenauer said Council is moving in the right track and any deviation would be harder for everyone. A last call at 1:00 a.m. is fair and realistic.

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Commissioner Hales said because of the net effect on the neighborhood, this restriction is reasonable.

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

Commissioner Mike Lindberg

291 Support nomination of the Columbia River Estuary to the National Estuary Program (Resolution)

Discussion: Commissioner Lindberg said this has been a fairly controversial issue. The Columbia River Estuary is obviously an incredible national resource and both Washington and Oregon have twice before considered nomination of the Columbia River to the program but decided more information was needed. The states created the Lower Columbia Bistate Water Quality program which has indicated the presence of contaminants in water, sediment and fish tissues. Its participants support creation of an interstate management plan focused on water quality. The possibility of federal involvement was explored and the National Estuary Program emerged as the best option. If the Columbia becomes part of that program, a comprehensive conservation and management plan would be developed for the entire Estuary.

Mayor Katz asked what the negatives of doing this are.

Mark Bautista, Bureau of Environmental Services and a member of the Lower Bistate Columbia River Management study, representing Commissioner Lindberg, said there are many stakeholders within the Estuary with many different interests. The Bistate Commission has drawn from a diverse group and port and paper industry representatives have raised issues regarding unfunded mandates and binding participation in a management plan. The worst case scenario would be that these issues would not be addressed and the management plan would not move forward. Currently, however, everyone is at the table addressing these issues.

Commissioner Blumenauer asked whether other federal regulations would come into play, if the Estuary is nominated, which might result in a loss of flexibility.

Mr. Bautista said one of the outcomes of the estuary program is a conference agreement which puts together a structure for organization of the work. There are about 25 programs throughout the states right now and there is a lot of flexibility in how they were put together. It would be the responsibility of the stakeholders to decide what programs to put in place. This gives everyone the opportunity to sit at the same table, even though it may be a messy process.

Commissioner Blumenauer said the City has had regional partners who

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"flaked" on it on several other occasions but the worst case is setting in motion a series of events which might impose things on stakeholders outside their control. Some people get edgy about this, particularly as the stakes are escalating and the consequence of doing nothing are becoming much clearer. On balance, he believes it is better to move forward.

Commissioner Hales asked what the advantages of nomination are if there is no federal funding.


Catherine Collis, BES, said the process implies that an inevitable solution would cause people to change their behavior. That makes people nervous. Because the process offers some flexibility in how those changes are determined, there is less discomfort than in the past. The reality is that the Coastal Zone Management Act is likely to impact Portland as does the NEPDS stormwater permit process. Therefore, even without an estuary program, regulatory efforts will be applied. The benefit of this one is that it offers a process for all players to participate and the potential of federal dollars.

Commissioner Blumenauer said he is pleased that consensus is emerging from the various stakeholders that the River loses unless this framework is used.

Disposition: Resolution No. 35370. (Y-4)

At 2:35 p.m., Council adjourned.

BARBARA CLARK
Auditor of the City of Portland


By Cay Kershner
Clerk of the Council