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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 15TH DAY OF MARCH, 1995 AT 9:30 A.M.

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

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

Agenda Nos. 350, 351, 355 and 373 were continued to the 2 p.m. session. On a Y-5 roll call, the Consent Agenda was adopted as follows:

**CONSENT AGENDA - NO DISCUSSION**

**346** Accept bid of Portland Habilitation Center for janitorial services at Southeast/East Precinct for \$21,189 annually for two years (Purchasing Report)

**Disposition:** Accepted; prepare contract.

**347** Accept bid of John Arnold Co. for 8-inch, 6-inch and 4-inch water mains in SE Flavel District for \$575,839 (Purchasing Report - Bid No. 90)

**Disposition:** Accepted; prepare contract.

**348** Accept bid of Brattain International Trucks for one 18,000 GVW tire service truck for \$64,667 (Purchasing Report - Bid 102)

**Disposition:** Accepted; prepare contract.

**349** Vacate a certain portion of SW Pennoyer Street west of SW Kelly Avenue, under certain conditions (Ordinance by Order of Council; C-9865)

**Disposition:** Passed to Second Reading March 22, 1995 at 9:30 a.m.

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**Commissioner Earl Blumenauer**

**352** Accept completion of Phase X Residential and Arterial Conversion street light project and make final payment to Henkels & McCoy, Inc. (Report; Contract No. 29443)

**Disposition:** Accepted.

**353** Accept completion by Parker-Northwest Paving of the LID street improvement project for SW Caraway Court from 33rd Avenue to 500 feet east and release retainage (Report; C-9835)

**Disposition:** Accepted.

**\*354** Authorize the appointment of Sherrill Whitemore to Bureau of Emergency Communications Director at a rate of pay above entry (Ordinance)

**Disposition:** Ordinance No. 168594. (Y-5)

**\*356** Increase contract with DKS Associates, Inc. for transportation study services and provide for payment (Ordinance; amend Contract No. 29325)

**Disposition:** Ordinance No. 168595. (Y-5)

**\*357** Revise City Code Chapter on Contract Completion-Remonstrances (Ordinance; amend Chapter 17.08.140)

**Disposition:** Ordinance No. 168596. (Y-5)

**\*358** Agreement with Tri-Met for transit shelter electrification on NE Multnomah (Ordinance)

**Disposition:** Ordinance No. 168597. (Y-5)

**\*359** Amend Agreement with the Oregon Department of Transportation to provide for air-quality monitoring, Steel Bridge project (Ordinance; amend Contract No. 50171)

**Disposition:** Ordinance No. 168598. (Y-5)

**Commissioner Charlie Hales**

**360** Accept completion of roofing at various sites by Oak Hills Roofing and release retainage (Report; Contract No. 29531)

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**Disposition:** Accepted.

- \*361** Authorize the Director of Portland Parks and Recreation to appoint Richard Bosch and Janet Bebb at the fourth step of the Architect (3134C) salary scale (Ordinance)

**Disposition:** Ordinance No. 168599. (Y-5)

- \*362** Approve North Portland Trust Fund grant offers totaling \$26,578 and authorize agreement (Ordinance)

**Disposition:** Ordinance No. 168600. (Y-5)

**Commissioner Gretchen Kafoury**

- \*363** Authorize application to the State of Oregon Criminal Justice Services Division for Edward Byrne Memorial State and Local Law Enforcement Assistance program funds in the amount of \$251,571 (Ordinance)

**Disposition:** Ordinance No. 168601. (Y-5)

- \*364** Contract with Home Gardening Project, Inc. for \$16,900 to construct 35 raised bed garden plots and provide for payment (Ordinance)

**Disposition:** Ordinance No. 168602. (Y-5)

**Commissioner Mike Lindberg**

- 365** Accept completion of the Fiske Basin CSO sump Units 2-3 construction project and authorize final payment to Moore Excavation, Inc. (Report; Contract No. 29262)

**Disposition:** Accepted.

- 366** Accept contract with A.C. Schommer & Sons, Inc. for construction of Headworks disinfection improvements as complete and authorize final payment (Report; Contract No. 28920)

**Disposition:** Accepted.

- 367** Accept contract with A.C. Schommer & Sons, Inc. for construction of Mt. Tabor and Washington Park hypochlorite facilities as complete and authorize final payment (Report; Contract No. 29037)

**Disposition:** Accepted.

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- \*368** Authorize the Mayor to submit a proposal to the Urban Consortium Energy Task Force for a \$75,000 grant to implement the project "Energy Efficiency and Pollution Prevention: Model Specifications and a Model City Facility" (Ordinance)
- Disposition:** Ordinance No. 168603. (Y-5)
- \*369** Authorize the Mayor to submit a proposal to the Urban Consortium Energy Task Force for a \$25,000 grant to implement an "Alternative Fuel Vehicle Show and Fleet Managers Conference" (Ordinance)
- Disposition:** Ordinance No. 168604. (Y-5)
- \*370** Authorize the Mayor to submit a proposal to the Urban Consortium Energy Task Force for a \$75,000 grant to implement the project "Aggregating Energy Purchases" (Ordinance)
- Disposition:** Ordinance No. 168605. (Y-5)
- \*371** Authorize a contract and provide for payment for the Stark Basin CSO sump project, Unit 3 (Ordinance)
- Disposition:** Ordinance No. 168606. (Y-5)
- \*372** Increase the Bureau of Environmental Services discretionary change-order authority for the Guild's Lake industrial site to 34 percent of the original contract amount (not to exceed \$366,180) to complete required remedial action and render the site usable (Ordinance; Contract No. 29549)
- Disposition:** Ordinance No. 168607. (Y-5)
- 374** Call for bids for the construction of 8-inch, 6-inch and 4-inch water mains in SW Fulton Park Blvd., SW Idaho Street, SW 18th Drive and SW Ormandy (Ordinance)
- Disposition:** Passed to Second Reading March 22, 1995 at 9:30 a.m.
- 375** Call for bids for the replacement of Dam 2 log boom in the Bull Run watershed, authorize a contract and provide for payment (Ordinance)
- Disposition:** Passed to Second Reading March 22, 1995 at 9:30 a.m.
- \*376** Contract with the U.S. Geological Survey for streamflow and water quality monitoring without advertising for bids (Ordinance)
- Disposition:** Ordinance No. 168608. (Y-5)

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- \*377** Agreement with ACE Consultants, Inc. for \$151,000 for engineering services to prepare plans and specifications for the Capitol Highway pump station project and provide for payment (Ordinance)
- Disposition:** Ordinance No. 168609. (Y-5)
- \*378** Agreement with HARZA Northwest, Inc. for \$75,762 for hydraulic and structural analysis of the Water Bureau's three supply conduits and provide for payment (Ordinance)
- Disposition:** Ordinance No. 168610. (Y-5)
- \*379** Set hearing on withdrawal of territory from Rockwood Water District at 9:30 a.m., March 29, 1995 (Ordinance)
- Disposition:** Ordinance No. 168611. (Y-5)
- \*380** Increase contract with Gabriele Development Services to \$111,397 for additional technical services (Ordinance; amend Contract No. 29073)
- Disposition:** Ordinance No. 168612. (Y-5)

## REGULAR AGENDA

- 340** **TIME CERTAIN: 9:30 AM** - Endorse the proposed SE Johnson Creek Blvd., 32nd to 45th Avenues street improvement project (Resolution introduced by Commissioner Blumenauer)

**Discussion:** Commissioner Blumenauer said part of the problem in this area is there are no good, East-West connectors. He highlighted the safety improvements which are appropriate to the low-density residential needs adjacent to this segment, noting that great attention has been given to make this a multi-modal facility and to provide an important access point to the Springwater corridor.

Mulvey Johnson, Transportation Engineering and Development Project Manager, said that SE Johnson Creek Boulevard from 32nd to 45th is a 1.9 mile section passing through the Ardenwald neighborhood and about four percent of it is in the City of Milwaukie. He said most of the existing right-of-way within the project is only 40 feet wide with gravel shoulders and no curbs, sidewalks or storm drainage. This section is part of the direct route between Johnson Creek, I-205, the Tacoma/McLoughlin interchanges and the Sellwood Bridge crossing and has volumes of 12,000 cars per day. The early effort to stay within the existing 40-foot right-of-way had to be expanded to 44 feet to meet current multi-modal and ADA design guidelines for sidewalks and bike lanes. He noted the proposed section includes a 32-foot curb-to-curb

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roadway with 11-foot travel lanes and five-foot bike lanes and 6 1/2 foot sidewalks on the south side. An optional 5 1/2 foot sidewalk is planned for the north side where many homes have short front yard set-backs and the Johnson Creek basin at the back yards. Other related improvements include driveways on both sides, storm sewer systems, transit stop improvements, upgraded street lighting where needed and upgrading the traffic signal at 45th. Mr. Johnson said the proposed plan will require the purchase of a four-foot wide strip of property along most of the project and that the south side was best suited for this to minimize the right-of-way impacts for owners as well being advantageous to the road's alignment. Careful consideration was given to the sometimes-competing design requirements and recommendations, including the Metro design, the existing narrow right-of-way, adjacent environmental and land use conditions and concerns of adjacent property owners and other Ardenwald residents. The current estimated cost for this project is \$2.5 million, leaving a \$1.4 million short-fall from the current \$1.1 million allocation. To utilize available funds for this project it will proceed on a phase basis. Phase 1 expenditures would benefit both Portland and Milwaukie and could also stand alone until funds became available to complete Phase II in segments or in one contract. As City arterial projects go, this has been a good example of an ongoing effort in multi-jurisdictional cooperation between Portland, Milwaukie, Clackamas County, Metro and the Oregon Department of Transportation (ODOT). Several transportation and related infrastructure projects interface with this project, including proposed or completed street improvements linking the project ends, storm and sanitary sewers, water lines interconnecting with Milwaukie and the important Springwater corridor trailhead connection near SE 45th.

Maggie Collins, Director of Community Development, City of Milwaukie, said they passed their resolution of support on February 7, 1995 for this project design and are committed to completing both phases. As public involvement was Milwaukie's responsibility, they set up a series of Ardenwald transportation meetings and neighborhood comments were incorporated in this design. These and other meetings took place from December 10, 1991 through January, 1995. Ms. Collins emphasized that this was a safety improvement project to bring this stretch of an east-west collector for the region up to urban design standards. She said this was both city's best attempt to balance the needs of sidewalk improvements, ADA standards, bike lanes and decent travel lanes in a constrained situation.

Ms. Collins brought two concerns from the Milwaukie Council. First is a need to continue to treat this segment of Johnson Creek Boulevard as a neighborhood collector, so continued prohibition of truck traffic and continued use of stop signs is a must. Second, in response to Milwaukie Council's direction, Milwaukie will request that Phase II be funded

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through the Metro \$27 million reserve fund. If the request is successful, the entire project could be completed in a very timely manner.

Commissioner Hales asked, with the 6 1/2 foot sidewalk, if the street tree standard will be met by having 3x3 foot tree wells.

Mr. M. Johnson said the restricted right-of-way back edge of the sidewalk will be right against the new property line -- after acquiring four feet of property. First, they do not have trees budgeted and the 6 1/2 foot sidewalk would allow for that. However, many trees will have to be removed from the four foot acquisition so property owners will be able to replace trees.

Commissioner Hales said the trees could not be replaced without sidewalk wells and there were many situations in the City of a six-foot wide sidewalks which have a three-foot street tree wells.

Mr. M. Johnson said it pushed the ADA requirements to only have three feet cleared around the tree wells. This was considered, but it would be cost prohibitive to go to a wider sidewalk and the bureau standards call for at least eight feet or a parking strip to put trees in residential or commercial areas.

Commissioner Hales asked about the City meeting its own design standard, one that private developers are held to for either parking strips or wells behind the curb for the inclusion of street trees.

Mr. M. Johnson said on the south side, within the four-foot acquisition, hedges and trees will be removed and the owners will be compensated. Many have expressed interest in replanting trees on the back side of the sidewalk.

Commissioner Blumenauer said this was a recommendation to proceed with final design and construction, adding that this was a unique street in terms of the extant vegetation and conformation to the creek. He will see what the costs and consequences of ADA requirements will be and form a response for Council to include them in the project.

Commissioner Hales reiterated his concern, noting a recent traffic management project where the City's street tree design standard was not taken into account.

Commissioner Blumenauer said he understood that this had been reviewed but there were problems in doing it within this segment. This is a constricted right-of-way in an awkward situation and compromises have been made. They will get a report back to Council on the costs

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and consequences of meeting ADA standards and neighborhood impact. He said that trees were not an afterthought.

Commissioner Hales said that the City could flex its eight-foot standard in order to have a street tree well, as there are other situations in the City that have narrow sidewalks and also have street trees or where sidewalks have been narrowed to get around an existing tree. He thought the ADA and City street tree standards could be met without changing the rest of the design.

Mayor Katz said the point was well made and Council would have an opportunity to review it again.

Commissioner Hales asked what the future sidewalk on the north side meant.

Mr. M. Johnson responded that many of the north side houses have very short setbacks and property owners were concerned about adding a sidewalk to their front lawns which were in the right-of-way. Also, a good stretch of the road has no houses and runs along the top of the fragile slope of the Johnson Creek basin. They did want to leave sidewalks as a future option, however.

Roger Haas, 8618 SE 36th Ave., Board member of Ardenwald/Johnson Creek Neighborhood Association, said the Johnson Creek street improvement from 32nd to 45th, Phases I and II, is not acceptable to the neighborhood association and never has been. Last Tuesday, the association overwhelmingly voted in opposition to the project. He is also concerned about the required five-foot bike lanes from 32nd to 45th. The Tacoma Street overpass and street improvement from 27th to 32nd which connects to this project does not have bike lanes. Also, the streets, just completed this past year, from Johnson Creek to Harrison have no provision for bike lanes. He noted that Tri-Met is not staying within the 11-foot lanes, especially on the curves. To keep the current parking lanes, now proposed for bicycles, would make it easier for large vehicles to stay in the lanes. Mr. Haas said the 100-foot wide Springwater corridor was the most appropriate and direct route from the Tacoma Street overpass to 45th, but it was converted from rails to trails. The trails will be surfaced this year and utilized by bicyclists, walkers and others, eliminating the need for a partial bike route between 32nd and 45th, which has no connecting links. Mr. Haas said this resolution applies a different standard for this segment than, for instance, from 27th to 32nd and argued that the bikers have been provided for, so the travel lanes should be widened for safety as well as reducing the right-of-way. He said this project will hurt the neighborhood livability. Since completion of the Johnson Creek and Tacoma overpasses, traffic has increased and become more dangerous,

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and even though this project calls this a collector street with the improvements and alignment it will become an arterial. The neighborhood would prefer to leave it as a cow trail--it does not want increased traffic, right-of-way incursion or on-street parking.

Gene Hatlelid, 4277 SE Johnson Creek Blvd., said he had recently become involved and tried to get an overview. He found the only current document governing the project, dated 1988, was the McLoughlin corridor improvement program which refers to the Johnson Creek phase within it. He agreed that with the Springwater corridor there is no need for bike lanes. He thought Phases I and II were misleading in that Phase I affects the whole length, tearing it up for the sewers, and neither has much to do with safety. The major changes will increase traffic and the running of stop signs. Mr. Hatlelid said the residents have not been involved enough although the reports indicate implied consent.

Steve Johnson, 3707 SE Johnson Creek Blvd., said with 1,000 feet of footage, his family has more to lose or gain than anyone else in the project. The family has been advocates for neighborhood livability for four generations now, including land donations, and helped to start the Ardenwald Neighborhood Association. He said the issue was if this project will indeed maintain the street as a neighborhood collector rather than a connector. The original intent, back to the Tacoma overpass, was that the I-205 and McLoughlin connectors would not make this a thoroughfare. Although the neighborhood has some valid concerns, Mr. Johnson contended that there would be an increase in danger if they do not invest in the road now, in this way, and that becoming pedestrian-friendly will enhance the neighborhood. He also advocated no sidewalk on the north side because of the fragile slope and the spring headwaters.

Commissioner Lindberg asked about traffic accidents, when cars even came up on the properties.

Mr. Johnson said that increasing the lanes would encourage speed but that pedestrian and bike lanes will positively alter the motorists' attitude.

Mayor Katz asked what the Milwaukie City Council's vote was.

Ms. Collins answered four to one.

Paul Munsell, 3405 SE Johnson Creek Blvd., said his home has been in the family for 33 years and verified the many accidents. He is in support of the entire project. While overall street improvement is essential, Mr. Munsell said his prime concern was sanitation, as the

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area is on septic tanks or cess pools.

Arnold Hatlelid, 4277 SE Johnson Creek Blvd., said that from the first the Ardenwald Neighborhood tried to convince the City to take advantage of geography and put the extension in the gulch. He said there was a lot of rhetoric about the wetlands, birds and bees but it is rats that come out of there. Mr. Hatlelid noted that calling the street a collector will not stop motorists from using it as a through street between I-205 and the bridge. He noted that the neighborhood was promised that the State would never connect Johnson Creek Blvd. to I-205; nevertheless it has happened. He likened the changes to cutting off an arm an inch at a time and added that this was only a bandaid as the bridge and I-205 will need to be connected, but not by the crooked Johnson Creek route. He urged Council to read the material he and his family had submitted.

Bud Boyer, 12797 SE Vernie Road, Milwaukie, 97222, said the bike lanes were as necessary as car lanes as some people do use that "vehicle" as primary transportation. The Springwater trail, in this area especially, has limited access and itself needs to be accessed by Johnson Creek. He said it is important that bike lanes be on both sides of the road.

Mayor Katz said there was a request that this come back to Council with costs and analyses to provide for street trees.

Commissioner Blumenauer proposed that the bureau and the City of Milwaukie respond to Commissioner Hales in terms of the costs and practical implications to integrate street trees. He thought they could proceed with the project, with Council's approval, and get the report back before the final design and construction in order to catch the construction cycle and get into the Metro funding cycle.

Mayor Katz asked Commissioner Hales if he wanted to delay this.

Commissioner Hales, accepting the argument that the bike lanes in the proposed improvement are a transportation rather than recreation facility, said the question is what does this section connect to in the bicycle master plan.

Mulvey Johnson responded that it was an established bike route from the Sellwood Bridge over the Tacoma overpass through the project area to 45th and then onto Harney to the east.

Commissioner Hales requested clarification on whether or not these are bike lanes to nowhere.

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Jeff Smith, Bureau of Traffic Management Bicycle Program, said future improvements on the collector streets will include bike lanes.

Mulvey Johnson added that, due to the topography, Johnson Creek is really the only east/west access for quite awhile.

Mayor Katz asked staff to come back with the requested design elements.

Commissioner Blumenauer asked that the street tree piece be done in advance and supplied to the Council in written form before they get into the final design.

**Disposition:** Resolution No. 35373. (Y-5)

**341**

**TIME CERTAIN: 10:00 AM** - Accept Interim Report of the Task Force on the Seismic Strengthening of Existing Buildings and adopt ordinances amending building regulations relating to dangerous buildings and seismic strengthening of existing buildings (Report introduced by Commissioner Kafoury)

**Discussion:** Commissioner Kafoury said it was unusual to introduce Task Force members at the interim report level, but they had been asked to work for a year and it has now been a year and a half. The members were introduced and she said the Task Force had worked very hard and that this was a very expensive issue for everyone.

Margaret Mahoney, Director of the Bureau of Buildings, said the genesis of this study is the adoption of the 1993 revision of the State Building Code. It created several concerns: 1) how to apply that change to existing buildings as they were remodeled or their use was changed and 2) how it would affect the City's Dangerous Buildings Code--a locally adopted code. Not every Oregon municipality has such a code, but Portland has since 1914. It addresses a variety of conditions in buildings and allows the City to deal with truly derelict, dangerous buildings. Of the 12 triggers in that portion of the City Code, one uses the State Building Code to define one characteristic of danger which requires an existing building to have 66 percent of the lateral strength required of a new building. As the State Building Code has been changed over the years, the City's threshold, because of the linkage, was changed. The net result of those changes is that about 95 percent of existing buildings could be declared dangerous. This is a difficult definitional problem.

Ms. Mahoney said the other concerns the Task Force was asked to look at in addition to the two Code concerns were how to encourage owners to upgrade their buildings, what financial incentives could assist them

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and how to educate people about these issues. In its initial work, the Task Force chose to take a long-range approach and suggested severing the relationship between the City's Dangerous Building Code and the State Building Code and in its place consider a long-term, community-wide effort to upgrade City buildings. These buildings are significant economic and historic assets and they provide a sense of the community's fabric. The Task Force developed an extensive matrix that addressed most of the different types of buildings, established priorities and looked at phasing an improvement program. To require improvements across the board generated many questions about the financial impact. A firm was hired to do a detailed cost analysis on the existing building stock and it is about 90 percent complete. The Task Force determined that the presentation of that report and further consideration of long-term options will entail lengthy debate, so they thought it was important to come to Council in the meantime with interim recommendations to clarify the rules while the long-term retrofit approach is crafted.

Ms. Mahoney briefly noted the report's recommendations: 1) separate the seismic provisions in the Dangerous Buildings Code from the State Building Code for a two-year period or when final recommendations are brought back, whichever is soonest; 2) adopt interim (for a two-year period) regulations to require improvements to unreinforced masonry buildings when they are brought in for other remodeling projects; 3) use Federal Emergency Management Association (FEMA) 178 (which is not now used), the handbook for the evaluation of existing buildings, as a design standard for improvements to unreinforced masonry buildings which would be triggered under these interim provisions; 4) provide some guidance on how State Building Code is applied to other buildings being remodeled, which has several parts--a) clarify when a change of occupancy is to a higher hazard and ought to require full upgrade, b) clarify that when change of occupancy affects less than 15 percent of the building's floor area, it would not trigger an upgrade, and c) allow limited additions to an existing building when they do not degrade it--5) reduce permit fees on some retrofit projects as an incentive for owners to proceed; and 6) seek legislative approval for some tax incentives. She said another recommendation heavily debated but not included in the interim recommendations was to require owners remodeling non-masonry buildings to have a study done of their building which would just be filed with the Bureau. This issue may be addressed by the State legislature.

Ms. Mahoney noted that one of these ordinances was drafted by staff to take care of two housekeeping problems. It would extend the time period for design and repair of large multi-family, commercial or industrial buildings. Code now states that when a building is declared dangerous, the owner has 210 days to fix it--to do all the studies, get

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permits and complete the work. This time period came about historically, in dealing with one and two family buildings. They suggest up to 30 months for larger buildings, with the Bureau having some discretion to set the time period based on the size of the building and complexity of design. A second suggested amendment would allow the Bureau to make better use of existing warehousing provisions in the Dangerous Building Code. The provisions would allow the owner to maintain the building after the Bureau sets specific standards on how it is to be maintained while financing is secured. This was strongly supported by the Landmarks Commission during seismic discussions.

A question was raised during the latter stages of these deliberations about the City's authority to adopt these recommendations, Ms. Mahoney said. In particular, the use of a different design standard other than the State Building Code was questioned in requiring improvements. This was directed to the City Attorney's office. Bill Manlove, Deputy City Attorney, said there was a specific provision in ORS 455.040 that allows local municipalities to make the case with the State Building Code Administrator for amendments particular to an individual municipality which do not result in a change to the State Building Code. Ms. Mahoney said they are recommending adoption of the ordinances and, to resolve the question on authority, to also present them to the State Building Code Administrator.

Ms. Mahoney said the interim recommendations will reduce some of the uncertainty of the past year and one half about what rules apply and how they are applied. Then they can get on with the cost-benefit analysis and what will probably be a lengthy and involved debate on long-term retrofit proposals. The Task Force wanted sunset provisions in the two ordinances so there will be a target.

Don Eggleston, Chair of City of Portland Seismic Task Force on Reinforcing Existing Buildings, said the seismic issues for existing building are enormously complicated, ranging from financial to public safety. The Task Force used a common sense approach to strike a balance between protecting lives and the economic vitality of Portland. The current Code, in effect since 1993, has three applicable triggers; change of a building's use or occupancy, change in mass/weight and the Dangerous Building Code. The seismic changes seen in the last 20 years were not part of the 1914 Dangerous Building Code. This Code is good for public safety but it does create a serious economic situation, such as bank financing and insurance, for building owners. There has been a cooperative effort between the City, Bureau of Buildings, engineers, architects, building owners and managers, hospitals, the school district, insurance, banking and attorneys. Efforts have been made to educate the community about the immense implications of this issue. These interim provisions allow the opportunity to clarify the

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rules and concentrate on the long-term provisions. The reason for the incentive packages was to gain the State Legislature's understanding of the economics involved.

Roger McGarrigle, 0305 SW Montgomery, F-206, 97201, Chair Oregon Seismic Safety Policy Advisory Commission, said an understanding of the history of earthquakes and codes is essential. In 1956 Portland adopted a building design code that considered earthquakes. At that time, two percent of the building weight as an earthquake force was state of the art. He said that contrasts to today, with designs of 20 percent and more. People have learned from significant earthquakes. Mr. McGarrigle showed pictures of the Kobe, Japan recent earthquake's building damage, pointing out that the least damaged buildings were built to newer codes. He said the Dangerous Building Code is incredibly important to the public. It seems the problem was created because they went to Zone 3 and the Dangerous Building Code is tied to that change. A simple, interim solution would be to have an exception that the overstress provisions be based on Zone 2b. Mr. McGarrigle thought it was misleading to think the Dangerous Building Code was not in the public interest. It is, but just not in the building owners' or realtors' best interest.

Commissioner Kafoury said the Task Force, Ms. Mahoney and others have met with Mr. McGarrigle several times and continue to value the Commission's opinion and input into the process.

Sherry Patterson, Director of Oregon Earthquake Preparedness Network, said they appreciated the Task Force's attempt to increase seismic safety while balancing financial impacts but found that the present proposal falls short of assuring seismic safety and is misleading. She noted that tenants help finance capital improvements, while property owners are running to the legislature to obtain legal liability immunity from seismic risk disclosure. Financial incentives for owners to obtain retrofitting relief are in effect subsidized by taxpayers and at the least there should be full disclosure but the interim report ignores the disclosure issues. She said a FEMA 178 study should be initiated by property owners in the three top highest-hazard building categories. This proposal only retrofits for life safety, without creating a long-term, stable tax base. It would be more beneficial if property owners who acquired cost benefit analyses were allowed a 50-75 percent reduction in permit fees and 15 years to retrofit.

James Bela, President of Oregon Earthquake Awareness, said we are literally looking down the barrel of a magnitude 9.5 earthquake on the Cascadia subduction zone off the coast. There is an unknown period of time before the event occurs when the outcome can actually be changed and the cost of picking up the pieces afterward is far more than doing

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something now. He said these ordinances favored building owners' perceived economics at the expense of the occupants' lives and safety and the true economic vitality of the community. Mr. Bela said the decoupling of the Dangerous Building Code from the current State Building Code would deprive residents of the only course to literally save their lives.

Robert Butler, 824 SW 18th Ave., 97205, said the problem's magnitude required rethinking. The Oregon Building Code agency should publicize, at least, an economic and fiscal impact statement of the standards required. He said that instead of the mandated seismic roof upgrading, the City should set a cost cap. He noted that prior repairs were not calculated in the \$15 trigger and made the point that there should not be a one-size-fits-all standard. Materials such as brick, terra cotta and concrete as well as size, height, age and quality of construction should be taken into account.

Chris Kopca, Downtown Development Group, 715 SW Morrison, Suite 423, 97205, said the solutions are well-balanced and appropriate. He did recommend a 10-year phased solution that recognizes the economic realities of older buildings and the abilities of the property owner to address those issues, keeping in mind the needs of public health and welfare. He agreed that the issue of insurance was left on the table and hopes it will be addressed in the final work. The Task Force momentum and understanding have come together nicely in the past two months and he observed how hard it was to keep a large working group together. Mr. Kopca said the final process, scheduled to take about two years, should not be speeded up so there is some time to see how the new system works.

John Tess, Heritage Investment Corporation, 123 NW 2nd, a Task Force member, said his role specifically had to do with historic buildings and to come up with incentives to help kick-start the seismic upgrade. Importantly, as a result of the Task Force, they have begun to make inroads into other groups such as the Historic Preservation League of Oregon which recently introduced a bill in the legislature to amend State tax incentives for historic properties that has a specific provision for seismic upgrades. The element of common sense through the entire process has been the overlying factor in the decision making, he said. Bill Naito asked Mr. Tess to mention his support and suggest that a "common sense" clause be added to the appeals process.

Commissioner Lindberg said it had been stated what a good job the Task Force did in reaching out to the people affected, described as the building owners. He asked if the committee had also reached out to the public, those occupying the buildings and using the streets.

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Mr. Tess said there had been a strong approach through the media and realtors and tenants have been talked to. It will start to become part of lease agreements.

Jim Atkinson, Business Development Committee of the Association of Portland Progress (APP), said APP developed a five-year strategic plan in 1990 to identify critical downtown issues. One issue that surfaced a few years ago was the upgrade to Seismic Zone 3, which caused great consternation to property owners and tenants. Because of the high concentration of older and historic buildings in downtown, the enforcement of the new Code requirements would create severe economic problems. Older and historic buildings have faced the loss of the tax abatement, ADA compliance and increased building maintenance costs, to name a few. APP believes the interim seismic ordinance is a first step to help resolve the impact of the upgrade to Seismic Zone 3. He said currently the Code presents a problem for both City staff and property owners due to case-by-case interpretation which creates uncertainty and frustration for both parties. Mr. Atkinson said the interim ordinance is a reasonable short-term plan that will ease the financial burden for building owners by stretching any seismic retrofit over a period of time.

Grant Davis, Task Force member and structural engineer, said that from his perspective the Zone 3 change made by technical people at the State level was valid, borne out by geological evidence. However, the impact on existing buildings was misunderstood or underestimated. Given the City's population and the 95 percent of non-residential (i.e. school and office) square footage, he estimated the conservative cost to upgrade at \$10 per foot would be \$1 billion. That is one side of the equation and the other is that an earthquake today would cause a lot of damage. A consensus, which the Task Force represents, is necessary. Mr. Davis said the cost benefit analysis is the right thing to do and will help prioritize the most dangerous building types and allocate resources in the most logical manner.

David Bugni, President of the Structural Engineers Association of Oregon, said the association agrees with the draft in general, with a couple of exceptions. First, the FEMA 178 document is really an evaluation document and its use in the rehabilitation of existing buildings after evaluation has occurred may not be technically appropriate. Additional language should be added in Section 030 to make sure engineers understand what is required from a seismic load standpoint. That is, the FEMA 178 loadings should be used if the building is rehabilitated but the Oregon Speciality Code designed for amateurs should also be evaluated. Second, the Association thinks changes of occupancy within the same relative hazard classification should still be seismically evaluated. Third, the Association feels that

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the 15 percent for occupancy changes may not be prudent based on experiences regarding hazardous occupancies being situated within lower-occupancy classification. Perhaps the section could be restated to limit this exclusion to changes strictly within the same occupancy. Lastly, the document seems to primarily pertain to unreinforced masonry buildings, but the Association feels it should extend to all buildings that are a potential seismic risk which, for the sake of argument, they limited to all buildings constructed prior to 1974. They understand that this was bantered about at length but they feel it is a very critical issue.

Robin White, Executive Vice President of Portland Association of Building Owners and Managers (BOMA) and a Task Force member, said BOMA has not taken a formal position on these ordinances but they urge the Council's support. This is a responsible attempt to get a handle on the buildings' condition and the cost of retrofitting. Without the ordinances, building owners are facing a disconcerting grey area. Legally, by State law and the Dangerous Building Code, buildings need to be retrofitted if certain things are done. Liability would be bad without these ordinances. Financially, owners will not be able to sell, get financing or, possibly, not even lease their buildings. The interim ordinance is a step in the right direction even though it does not alleviate the problems. BOMA is joining with the City in co-requesting the incentive issues. They are not trying to sidestep their responsibility as building owners to provide safe buildings for tenants and the community, but are trying to find a balance between community safety and financial reality.

Robin Boyce, Housing Partners, Inc., spoke to seismic issues related to affordable housing in the downtown central city area. She previously worked with the Portland Development Commission on developing affordable housing and has gone through several seismic rehabilitations of existing buildings. There are thousands of existing, affordable housing units in the downtown, eastside and northwest areas. These areas seem to be particularly vulnerable seismically, being on flood plains and on the river. The cost to retrofit these units now approaches that of new construction. The danger to unreinforced buildings is real, but the final ordinance should be specific to certain areas and certain types of buildings, which may be politically difficult. If this is not addressed, buildings will be closed rather than rehabilitated.

Mayor Katz said it is good to be reminded of this.

Commissioner Blumenauer said this is not a final answer and highlights the difficulty we have as a city to focus on priorities. He is troubled about how to translate this to the community, as it impacts many millions of dollars and yet is not just about money.

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Commissioner Hales said this was a tough charge for the Task Force. He supported the recommendation to approach the State Building Code agency with an exception and noted that the Fire Bureau is preparing a similar request for an exception for fire preventative materials for homes in the northwest hills. He thinks that both requests for the particular circumstances the City has, a big downtown with many old buildings and a wildland interface situation along Skyline Boulevard, are appropriate exceptions.

Commissioner Kafoury underscored that this is an interim report and that she appreciates the time people have put into it. Regarding the unreinforced masonry buildings, it was agreed to wait for the cost benefit information, so there will be an opportunity to discuss some of this later. She is glad that Council is heeding its own advice and moving ahead with City Hall renovations.

Commissioner Lindberg said this issue has inherent dynamic tension and conflict. On the one hand, a desire to protect people and on the other, the extraordinary retrofitting costs which can affect jobs, the economy and housing availability. It is important to proceed responsibly and use common sense as well as to target the specific cases that present the most hazards and public danger.

Mayor Katz said this was a delicate balance between what needs to be done and available financing. She hopes the final form will be back in less than two years and agreed that this information needs to get out to the public.

**Disposition:** Accepted. (Y-5)

- 342** Amend Building Regulations relating to dangerous buildings (Ordinance introduced by Commissioner Kafoury; amend Code Section 24.15.060(12))

**Disposition:** Passed to Second Reading March 22, 1995 at 9:30 a.m.

- 343** Provide interim seismic design standards for existing buildings (Ordinance introduced by Commissioner Kafoury; add Code Section 24.85)

**Disposition:** Passed to Second Reading March 22, 1995 at 9:30 a.m.

- 344** Revise the time periods allowed for repair of commercial buildings which have been declared dangerous (Ordinance introduced by Commissioner Kafoury; amend Code Section 24.55)

**Disposition:** Passed to Second Reading March 22, 1995 at 9:30 a.m.

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**345**

**TIME CERTAIN: 11:00 AM** - Reaffirm City Council support for the South/North light rail project and commit to working with regional partners and citizens to make the project a reality (Resolution introduced by Commissioner Blumenauer)

**Discussion:** Commissioner Blumenauer said that the State Legislature may make its decision on the funding issues by next week. He noted there may be some understandable confusion after the defeat of the Clark County, Washington South/North light rail measure, but we are in the home stretch in the next 16-18 months of the Draft Environmental Impact Assessment (DEIS) project and it is important to send clear signals.

Don Ambrula, 815 SW Vista, said the highways between Vancouver and Portland are already at an unacceptable capacity level. Clark County growth will increase significantly in the next century and create virtual gridlock on I-5 and I-205. The third bridge option was defeated in 1989 because of its obvious shortcomings. He advocated extending the north terminus as far north as possible, into downtown Vancouver or, at a minimum, to the North Portland Kenton area.

Becky Belangy, Public Affairs Manager of Kaiser Permanente, conveyed their support of this project, especially as a major employer and provider of health care in the proposed corridor with facilities in North Portland and the Clackamas County area of the proposed south terminus. She said Kaiser staff has been in the planning meetings and looks forward to continuing to work collaboratively with all the agencies involved in this important transportation project.

Stephanie White, Senior Vice President for Administration for Emanuel Hospital, said the hospital, a major employer in North Portland, is eager to be served by this project. They already embody transit-oriented development through programs such as the Emanuel Home Ownership Program.

Ingrid Stevens, Southeast Community Group I, said they were strongly committed to this project, despite some disagreement about the specific alignment.

Larry Mills, Chair of Kenton Neighborhood Association, said they strongly support this project. He said that a vote for the entire light rail alignment was not linked to the passage of measures in Clark County. He said implementing this project in segments would take liberty with the voters' intent. He noted that the neighborhood favored an Interstate Avenue alignment and they have a business community willing and able to prove this.

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Frank Howat, Director of the Hayden Island neighborhood network High Noon, said he was speaking as an individual as High Noon had not yet taken a position. He observed that some people, thinking the project was a done deal, were dejected about the Clark County vote.

Molly O'Reilly, President of Sensible Transportation Actions for People, said the resurgence of the third bridge proposal was partially responsible for the Clark County light rail defeat. She said we need to tell our friends in Vancouver that we do want to meet them in the middle of the Columbia, but not with the third highway bridge.

Paul Richmond, PO 454, 97207, said a different factor in Portland than in Clark County is that Portland had so many measures of intense interest on the ballot. If not, it would have been voted down, too.

Ernie Munch, Red Lion Hotels and Inns, 111 SW Oak St., 97204, said they are concerned, as were many businesses and residents of Hayden Island, about the South/North line. As the island essentially has one access point, construction impacts would be considerable. Mr. Munch submitted plan copies of the alignment that Red Lion and the community would prefer and he noted that they do not think a third bridge is an option.

Commissioner Blumenauer said it was important that they send a clear signal that they support the entire project and, if they work cooperatively, achieve it.

Commissioner Hales said the alternative to a successful regional transportation system is the death of the area's livability.

**Disposition:** Resolution No. 35374. (Y-5)

**Commissioner Earl Blumenauer**

**381** Acknowledge March as National Purchasing Month and recognize the accomplishments of the Bureau of Purchases and of Carlton Chayer, City of Portland Purchasing Agent (Resolution)

**Discussion:** Commissioner Blumenauer acknowledged Mr. Chayer and his staff for their outstanding achievements.

**Disposition:** Resolution No. 35375. (Y-5)

**\*382** Agreement with Geographic Resources Solutions for cartography services (Ordinance)

**Disposition:** Ordinance No. 168613. (Y-5)

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**Commissioner Charlie Hales**

**\*383** Authorize the Bureau of Planning to receive periodic review grant funds from the State Department of Land Conservation and Development (Ordinance)

**Disposition:** Ordinance No. 168614. (Y-5)

**\*384** Authorize the Bureau of Planning to receive additional funds through an Intergovernmental Agreement between the City and Metro for Westside light rail station area planning project (Ordinance; amend Contract No. 50156)

**Disposition:** Ordinance No. 168615. (Y-5)

**Commissioner Mike Lindberg**

**\*385** Contract with Davis & Hibbits, Inc. for focus groups and survey research for Bureaus of Environmental Services and Water Works (Ordinance)

**Disposition:** Ordinance No. 168616. (Y-5)

**City Auditor Barbara Clark**

**386** Assess property for sidewalk maintenance for accounting period 8, ending January 31, 1995 (Second Reading Agenda 326; Sidewalks Y1002, Y1003)

**Disposition:** Ordinance No. 168617. (Y-5)

**387** Assess property for private plumbing contracts through February 1995 (Second Reading Agenda 327; P0007)

**Disposition:** Ordinance No. 168618. (Y-5)

**388** Assess property for sewer system development charges through February 1995 (Second Reading Agenda 328; Sewer System Development Charges Z0596 through Z0598)

**Disposition:** Ordinance No. 168619. (Y-5)

**389** Assess property for large lot deferral contracts through February 1995 (Second Reading Agenda Large Lot Deferral Program L0049)

**Disposition:** Ordinance No. 168620. (Y-5)

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Commissioner Hales moved and Commissioner Lindberg seconded accepting the Four-Fifths Agenda.

**FOUR-FIFTHS AGENDA**

**389-1** Request from Trace Skeen to address Council on a report from Arthur Andersen on emergency medical services (Report)

**Discussion:** Trace Skeen, President of American Medical Response Northwest (AMR), said that AMR is the operating company for Buck Medical Services and AA Ambulance.

Rick Ostiller, Arthur Andersen Professional Services' San Jose office, said the purpose of their study was to provide full costs for the Fire Bureau to perform ambulance transport services in Multnomah County. It has three main conclusions: 1) if the Fire Bureau took over the ambulance transport services in Multnomah County, the City would face a \$28.6 million shortfall over the first five years between the revenues collected and expenses; 2) to make up the shortfall, the City would have to charge \$992 per transport; and 3) labor costs alone--salaries, fringe benefits and continuing education--will exceed the revenues the Fire Bureau can expect to collect. Another point he made was the concept of risk which, by contracting out with private providers, the City and County have managed effectively. He said if the Bureau took over that role, the risk would fall on the City. There is also an operational risk of being able to do this work successfully in an environment that is clearly changing.

Mayor Katz asked what the average cost for transport was now.

Mr. Skeen answered that Multnomah County's average is \$700.

Commissioner Kafoury asked if it the average wage cost drives the Fire Bureau cost to the \$992 and also if the \$700 is what is reimbursed.

Mr. Skeen said the County does not reimburse anything, it is third party insurance or the private consumers.

Mr. Ostiller said their findings indicated gross revenues based on transport fees charged, however there would be a significant amount of uncollectible receivables due to indigence.

Commissioner Kafoury asked if the \$992 reflected the indigent transport.

Mr. Ostiller said their study used the figures the Fire Bureau cited in public testimony before the Gresham City Council--as to what they

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would charge for transport and then looked at the costs involved. Those figures indicated the \$28.6 million shortfall. The \$992 for transport is what they would need to charge to recover the costs.

Commissioner Kafoury noted that the Fire Bureau's bid was not in as yet.

Commissioner Lindberg observed that there were not as many fire as emergency medical calls, which left time for firefighters, and asked if the study had taken that into account.

Mr. Ostiller said they did and there was no excess capacity in the Fire Bureau. He said the Fire Bureau may indicate they can use existing resources to perform some of the activities under this service. If that is the case, it is an indication that either there are excess resources on the payroll right now or that they would be reducing their fire suppression capability by taking on this entirely new business.

Commissioner Blumenauer asked if the first response that goes on now was factored into the study.

Mr. Ostiller said they looked at the full costs to perform the additional service and recognized the Bureau is doing first response.

Commissioner Blumenauer asked if the \$992 assumes they will continue to do first response and will it cost the Fire Bureau this much more in addition to first response.

Mr. Ostiller said yes, factoring in the non-collectible transports.

Mr. Skeen said a workload study showed that currently there is 68 hours of productive, on-call work conducted by the Fire Bureau; including fire suppression and first response. The addition of the medical transport component doubles the amount of productivity workload--another 68 hours spent on medical transportation.

Mayor Katz asked about the medicaid/medicare cap repayment.

Mr. Skeen said Medicaid is about \$130 but is still being debated since the Oregon Health Plan came into effect. Medicare, with the base rate and mileage, is about \$550.

Mr. Ostiller said they did not try to go into the details of the different payers. The Fire Bureau indicated it would be charging a certain amount for transport and the Request for Proposal (RFP) indicates how many transports there would be, which generated the total revenue figure. It was factored down to provide for uncollectible accounts. The

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net collection/revenues was the number compared to costs.

Commissioner Hales asked if, in doing their analysis, they were familiar with the Tri Data, Inc. report that analyzed Portland fire services.

Mr. Skeen said yes.

Commissioner Hales noted that AMR did not take into account the findings of Tri Data, Inc. in respect to minimum staffing levels and distribution around the City of personnel necessary to meet the response times. It was assumed that those people are fully utilized at all hours regardless of the geographical problem.

Mr. Skeen said the utilization was exactly AMR's argument. Those resources are necessary to meet the response time standards the Fire Bureau has for their primary mission of fire service and an assumed mission of first responder. To duplicate that in the medical transportation arena requires additional resources. That is the position they are taking. They did look at the Tri Data, Inc. study and their workload assessments.

Commissioner Hales emphasized that they segregated those costs completely.

Mr. Skeen said they believe it is a separate function.

**Disposition:** Placed on File.

At 12:10 p.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 15TH DAY OF MARCH, 1995 AT 2 P.M.

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

OFFICERS IN ATTENDANCE: Britta Olson, Acting Clerk of the Council; Pete Kasting, Senior Deputy City Attorney; and Chuck Bolliger, Sergeant at Arms.

**REGULAR AGENDA**

**Mayor Vera Katz**

- \*350** Apply for a \$21,000 grant funded by the U.S. Department of Justice, COPS MORE Grant program (Ordinance)

**Disposition:** Ordinance No. 168621 as amended. (Y-5)

- \*351** Apply for a \$30,000 grant funded by the U.S. Department of Justice, COPS MORE Grant program (Ordinance)

**Disposition:** Ordinance No. 168622 as amended. (Y-5)

- \*355** Accept grants from the Oregon Department of Transportation in the amount of \$90,000 to provide critical bicycle lane connections to the Broadway, Hawthorne and Burnside bridges (Ordinance)

**Disposition:** Ordinance No. 168623. (Y-5)

- \*373** Consent to transfer of TDI, Inc. solid waste and recycling franchise to Portland Disposal & Recycling, Inc. (Ordinance)

**Disposition:** Ordinance No. 168624. (Y-5)

- 390** **TIME CERTAIN: 2:00 PM** - Appeal of McCall Oil Company of Hearing Officer's denial of a Comprehensive Plan and Zone Map Amendment from R2 to CG and approval of a Zone Map Amendment from CN2 to CG on property located at 7550 SW Garden Home Road in order to rebuild an existing service station (Hearing; 94-00760 CP ZC)

**Discussion:** Pete Kasting, Senior Deputy City Attorney, outlined the hearing and appellate procedures to be followed.

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Steve Gerber, Planning Bureau, showed slides of the site, describing the Tax Lots. He said the proposal was due largely to the planned intersection improvements on Garden Home and Oleson Roads. Additional right-of-way will be obtained by Washington County, reducing the size of the site of the service station. This is in a mixed-use area and to the west of the site, along SW Oleson, are multi-family apartment units. The apartment development lies adjacent to the area of the Comprehensive Plan and Zone Map amendment request and is presently zoned and designated for R2, low density, multi-family development and is proposed for CN2, neighborhood commercial. The proposal originally included a request to subtract housing units from the housing pool but, as the application progressed through review, it now includes a proposal to include housing on this site instead. Mr. Gerber noted the important element that Washington County has indicated that a full, in-and-out, right-or-left access to this site is allowed only at a certain point and it would not allow full access closer to the Garden Home and Oleson intersection. As the intersection plans include a right turn lane from Garden Home to Oleson, any access farther to the east would be a right-in, right-out only. Because of the potential access limitations, the applicant has proposed including Tax Lots 200 and 300 in the reconstruction of the service station. The additional land also affords them the opportunity to provide more than a service station. The applicant has also asked the City if shared access, between commercial and residential parking, would be allowed. Given that mixed use, residential and commercial, is allowed and that shared access is not specifically mentioned in Title 33, the conclusion must be that shared access would be allowed by the Zoning Code. The only other critical factor in shared access would be Washington County.

More recently, Mr. Gerber said, the applicant has proposed dwelling units within the mixed use and several specific site plans have been formed to include housing. Despite the addition of housing on this site, the Hearings Officer still found the proposal insufficient to warrant the requested Comprehensive Plan Map amendment. Also entering into the decision to recommend denial for this proposal is the proposed auto-oriented zoning, which is incongruous with the planned future main street area reflected in the Metro 2040 plan. The proposed intersection improvements will include sidewalks and street trees which will support a more pedestrian-oriented area. The newest proposal is also not as supportive of the Comprehensive Plan overall as is the present R2 multi-family zoning because they have requested auto-oriented commercial.

Mr. Gerber said there was a proposal for a zone change in compliance with the Comprehensive Plan for Tax Lot 301. To be approved it must show that sufficient services exist to support the potential uses of the up-zone or, in this case, the CG general commercial zone. The

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Hearings Officer approved of this part of the proposal because reconstruction of the intersection will provide the necessary transportation facilities and all other required facilities--water, sewer, police and fire. The reason for the appeal was that this part of the proposal would have been approved and become separate from the entire proposal. Given the recommendation for denial of the Comprehensive Plan amendment, the applicant wanted the whole proposal before Council at one time.

Mr. Gerber said, as with the development of the retail center nearby, staff has recommended that sidewalks constructed along the site frontage on both Garden Home and Oleson be at least 10 feet wide, regardless of the exact type of development.

Mr. Gerber said the proposal was and is being reviewed against Code Sections 33.810.050 and 33.855.050 and all applicable goals and policies of the Comprehensive Plan in terms of the Comprehensive Plan Map amendment and zone change requested for Tax Lots 200 and 300. The zone change and compliance for Tax Lot 301 was and is being reviewed against Section 33.855.050. All aspects of the case are reviewed against the applicable criteria of the State Transportation Planning Bureau.

Mr. Gerber said the Hearings Officer and Planning staff both recommended denial of the requested Comprehensive Plan amendment and zone change from R2 to CN2 for Tax Lots 200 and 300, and approval of the zone change in compliance with the Comprehensive Plan from CN to CG for Tax Lot 301. The Hearings Officer based her denial on inappropriate expansion of commercial use into a residential neighborhood. She held that the benefit of increased job opportunities is outweighed by the detriment to the immediate neighborhood and that reconstruction of and access to the gas station does not require the Comprehensive Plan and Zone Map amendment for Tax Lots 200 and 300. Access limitations imposed by Washington County do not prevent development of Tax Lots 200 and 300 independently of Tax Lot 100 or in conjunction with adjacent multi-family property. The applicant's desire to maximize his profit from this property does not provide a substantial reason for allowing the Comprehensive Plan amendment. There is no evidence to support any need for additional commercial development at this site, but there are reasons to promote residential growth. The adopted Metro 2040 Plan identifies this area as appropriate for mixed uses and higher residential densities with an emphasis on transit and pedestrian modes of transportation. That plan provides policy direction for competing interests expressed in the City's Comprehensive Plan. The Hearings Officer also found that the proposed CN2 auto-oriented zone is not appropriate here and that Tax Lots 200 and 300 provide a buffer between the existing commercial uses and the residential uses to the west. Future residential

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development could maintain that buffer. The Hearings Officer approved the zone change in compliance with the Comprehensive Plan with one condition; that the public sidewalks adjacent to Tax Lots 100 and 301 be at least 10 feet wide. It is an invalid assumption that the most important function of the access off Garden Home Road is to provide access to a service station. There are and should be other considerations, particularly if access is to be limited.

Mike Pruett, Harper Righellis, Inc., 5200 SW Macadam, Suite 580, 97201, planning consultant for the applicant, said Garden Home and Oleson Roads are minor, arterial streets under Washington County's jurisdiction. He noted that the applicants are not required to redevelop the gas station because the improvements that have been approved for the intersections take out the pump islands and a portion of the building. They could simply accept compensation from Washington County and walk away from the site for the value of the improvements. However, Washington County approached them so the applicants moved ahead with this redevelopment concept. The original application submitted in September requested a zone change from CN to CG on Tax Lot 301 and a Comprehensive Plan amendment and zone change from R2 to CG on Tax Lots 200 and 300. The original application, instead of providing housing on the site, requested they be allowed to dip into the housing pool to make up for the nine units of housing potential lost on Tax Lots 300 and 200, which are currently vacant. The staff report recommended denial based on the housing pool issue, so applicants revised their proposal and designed nine housing units on top of the proposed commercial facility. That was the concept the Hearings Officer reviewed. The applicants have again modified their concept to help reduce some site impacts. Mr. Pruett recapped the main issues raised by the Hearings Officer about the previous proposal. The primary reason the Hearings Officer recommended denial of the Comp Plan change proposed for Tax Lots 200 and 300 was the potential instability to the neighborhood based on expanding commercial zoning in the area and also the potential negative impact to the adjacent Scotsboro Square apartments, just west of Tax Lot 300. In addition, both City staff and the Hearings Officer referred to the Metro 2040 Plan during their decisions and recommendations. This application was submitted prior to the adoption of the 2040 Plan, which has not been implemented by the Comp Plan and zoning to date and has no authority in local land use decision making. The Hearings Officer, in her balancing analysis, consistently referred to the 2040 Plan.

Mr. Pruett showed maps of the applicant's proposals. He indicated that an apartment complex could fit and separate the two uses. Basically, a proposal for nine studio apartments above a commercial facility was submitted to the Hearings Officer. Since then, it was revised and separated the commercial and residential uses again. Because of the

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difficulty of maintaining a full access point to the gas station, they tried to place some sort of residential development on the site. The applicants have discussed buying another parcel and developing some units, hopefully an amount that would satisfy the housing potential of Tax Lots 200 and 300. Instead of having a Comp Plan request from R2 to CG across the entire area of Tax Lots 200 and 300, they have downgraded that to about a 7,000-square-foot area and provided housing units--a buffer between the Scotsboro Square apartments and the commercial activity, one of the Hearings Officer's major concerns. If the applicants and the owners of Scotsboro Square do not come to some sort of agreement, it is possible to access 10 apartment units to satisfy the housing potential. Mr. Pruett said the gas station was at the easterly point of the site and applicants believe that having good visual accessibility is critical to success. In addition, there are full access points to the station and commercial building.

Chris Girard, President of Plaid Pantry stores, said he thought this site would be terrific for a Plaid Pantry store, although he is not in any discussion with McCall Oil about that. Mr. Girard said the gas station was needed and the Comprehensive Plan clearly allows a commercial use there. Regarding access, it could be that the plan did not anticipate the road-taking. He noted that commercial development, such as a convenience store, along with a gas station would actually cut down on trips through the neighborhood.

Nathalia Darcy, Vice Chair of Raleigh Hills Garden Home CPO3, 9355 SW Brooks Bend Lane, 97223, said this plan and zone change was driven by a county road project. The project includes sidewalks and they support the City's recommendation for 10-foot sidewalks. The project includes much-needed safety improvements to this intersection but the capacity improvement has significant impact on the gas station. Specifically, the County is requiring the addition of a 20-foot wide, east bound, right turn lane on Garden Home Road in order to accommodate 18-wheel trucks. Garden Home is not designated as a truck route and the west end of the road is in Beaverton which has it posted for no through trucks. The 20-foot lane plus the 800 square-foot island are an expensive right-of-way acquisition. If the entire corner were to redevelop concurrent with the intersection project, the right-of-way could be dedicated by the developer as a condition of approval and be a significant financial benefit for the intersection project. Another standard is access spacing and within the intersection project boundaries Ms. Darcy counted about 25 access points, not including this site. She found an average spacing of about 120 feet between each one, with some 15 feet apart. None of the accesses come within the 600-foot standard but the gas station will need to meet the standard. The County could allow a variance. The Hearings Officer found that Washington County will allow a temporary access for the reconstructed

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gas station, so access is not that big an issue. The County does not deny a development permit solely on accommodating access. The Hearings Officer mentioned the County's concern that it move forward with the intersection improvement without further delays and without having to purchase the applicant's property. The applicant clearly stated that the gas station can be rebuilt on the remaining part of the lot plus the lot adjacent on Oleson Road and that a Comprehensive Plan and Zone Change on the remaining lots is not needed for construction. Today's issue is the residential lots not needed for the gas station. The plans Ms. Darcy has seen purport to be mixed-use, yet are clearly dominated by auto-oriented, commercial uses. An incremental creep of commercial development destabilizes the residential neighborhood. The auto-oriented use is at cross purposes with the Metro main street designation, which envisions a pedestrian-oriented, transit-supported community. The recent, Council-approved Thriftway diagonally across the street from this site accommodates, promotes and enhances a pedestrian-friendly atmosphere. Ms. Darcy encouraged Council to adopt the Hearings Officer's report.

Allen Moores, 20 Savannah Ave., San Anselmo, CA., owner of the Scotsboro Apartments, said he acquired the property in 1990 and that it had many problems which have been overcome. He is willing to work with the applicants for some reasonable accommodation, but he sees no necessity for a commercial building, which is a new issue. The units added near Mr. Moores' property line would be a detriment to his property and the neighborhood. As a property manager for 23 years, he sees mixed-use as risky.

Bob McCall, 1808 SW Laurel, 97201, said this was a first-class development, not just a service center. The gas station would not be an economically viable project if it is right in and right out. He said he was a third generation Oregonian and his family has been in business for 59 years and they are not about to have a schlocky development.

Duane Schroeder, 8365 SW Woodside Drive, said he owns Tax Lot 401, right next to Tax Lot 301. He was in both opposition and in favor of the project. His opposition is to the zone change as his lot is zoned exactly as lot 301. His concern is the increased building height. Mr. Schroeder said he works at that intersection and there are many 18-wheelers and other trucks making that turn. He said the bonds he voted for, to improve the intersection, are instead going for a six-foot bike path and 10-foot sidewalks.

Mr. Pruett said the proposed right-hand turn lane was not just for trucks. The present standard is perpendicular and the 20-foot wide turn lane is a safety improvement. Regarding the incremental commercial creep, there is a proposal to change an area of 7,000-square

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feet to accommodate the northerly extension of the convenience store, which certainly should not destabilize the neighborhood. He said, in response to Mr. Moores' concern about the class of people, where the residential units are placed would be a better buffer for his apartments. The appeal on Tax Lot 301 was to hold things in abeyance, in order to bring this in as a package.

Commissioner Lindberg asked if the applicants had discussed sitting down with the surrounding property owners and the neighborhood association to get support.

Mr. Pruett said they had several meetings with the CPO3 and concluded that all they wanted was redevelopment of the gas station.

Commissioner Lindberg asked if, no matter what they came up with, it would not be economical to put a gas station on that amount of land.

Mr. Pruett said trying to rebuild the gas station on the residual piece would be limited to right-turn in and right-turn out, making it hard to get to and there may not be enough room for a truck to fill the tanks.

Commissioner Hales said that the most serious land use decision the Council makes on a case-by-case basis is a Comprehensive Plan amendment. He emphasized that it was the responsibility of the applicant to make a case for a zone change according to the criteria, which he has not heard, leaving the Council with no choice but to deny the request. He moved to deny the appeal and uphold the Hearings Officer's decision.

Mr. Gerber clarified that the zone change was appealed for the specific reason of holding it in abeyance.

Commissioner Blumenauer seconded the motion.

Mr. Kasting said the revised findings will take into account the testimony and revised site plan.

Commissioner Blumenauer said although he did not think the McCall development would be negative for the community, there is a serious issue in terms of changing the Comprehensive Plan.

Commissioner Kafoury said for people to want to make money from their development is not necessarily awful. But, she agreed that changing the Comp Plan is serious.

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Mayor Katz said Council had worked with the CPO3 on another project and the outcome was very satisfactory for the applicants and the community.

**Disposition:** Tentatively deny appeal and uphold Hearings Officer's decision: Staff prepare findings for March 29, 1995 at 2 p.m.

At 3:00 p.m., Council adjourned.

BARBARA CLARK  
Auditor of the City of Portland



By Britta Olson  
Acting Council Clerk