



CITY OF
PORTLAND, OREGON

**OFFICIAL
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 21ST DAY OF JUNE, 1995 AT 9:30 A.M.

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

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

Agenda Nos. 985, 986, 997, 1008 and 1011 were pulled from Consent. On a Y-4 roll call, the balance of the Consent Agenda was adopted as follows:

CONSENT AGENDA - NO DISCUSSION

- 977** Accept bid of Leed, Inc. for ornamental street light project in Old Town area for \$468,933 (Purchasing Report - Re-Bid 160)
- Disposition:** Accepted; prepare contract.
- 978** Accept bid of Tice Electric for 1995 traffic signal replacment project for \$765,690 (Purchasing Report - Bid 165)
- Disposition:** Accepted; prepare contract.
- 979** Accept bid of Portland Freightliner, Inc. for furnishing one 50,000 GVW cab and chassis with flatbed and hydraulic crane for \$147,131 (Purchasing Report - Bid 171)
- Disposition:** Accepted; prepare contract.
- 980** Accept bid of Portland Freightliner, Inc. for furnishing one 50,000 GVW cab and chassis with flatbed and hydraulic articulating crane for \$99,942 (Purchasing Report - Bid 173)
- Disposition:** Accepted; prepare contract.
- 981** Accept bid of JASCO for remodel of the printing and distribution division for \$494,068 (Purchasing Report - Bid 176)
- Disposition:** Accepted; prepare contract.

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982 Readopt the Airport Way Secondary Infrastructure Plan, with amendments, as an administrative guide to extending public infrastructure in certain portions of Columbia South Shore (Resolution introduced by Mayor Katz and Commissioner Blumenauer; repeal Resolution No. 35395)

Disposition: Resolution No. 35405. (Y-4)

Mayor Vera Katz

983 Confirm appointment of William Hart to the Portland Historic Landmarks Commission (Report)

Disposition: Confirmed.

984 Authorize City Attorney to pursue legal action against T.D.I., Inc. (Resolution)

Disposition: Resolution No. 35406. (Y-4)

***987** Intergovernmental Agreement with Multnomah County for Multi-Agency DUII enforcement (Ordinance)

Disposition: Ordinance No. 168951. (Y-4)

***988** Authorize contract with Luella Nelson for Hearings Officer services for the City of Portland Civil Service Board (Ordinance)

Disposition: Ordinance No. 168952. (Y-4)

***989** Amend contract with Sylvia Gillpatrick for IBIS project management services (Ordinance; amend Contract No. 28170)

Disposition: Ordinance No. 168953. (Y-4)

***990** Pay claim of Jeanne L. Pottratz (Ordinance)

Disposition: Ordinance No. 168954. (Y-4)

Commissioner Earl Blumenauer

991 Set hearing date for Wednesday, 9:30 a.m., July 26, 1995, for the vacation of a portion of SW Taylors Ferry Road at SW 40th Avenue in connection with the future expansion of an existing building (Resolution; C-9885)

Disposition: Resolution No. 35407. (Y-4)

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***992** Call for bids for 1995/96 Fiscal Year annual supply contracts for City bureaus and departments, authorize contracts and provide for payment (Ordinance)

Disposition: Ordinance No. 168955. (Y-4)

***993** Authorize the purchase of furniture and accessories for the Bureau of Environmental Services through an Oregon State Price Agreement for a total of approximately \$350,000 and provide for payment (Ordinance)

Disposition: Ordinance No. 168956. (Y-4)

***994** Revocable permit to West Coast Hotel, Inc./The Benson Hotel to close SW Broadway between SW Stark and Oak Streets on July 16, 1995 (Ordinance)

Disposition: Ordinance No. 168957. (Y-4)

***995** Intergovernmental agreement between the City and the Port of Portland to share in certain costs to design and construct transportation improvements located at the Rivergate industrial area (Ordinance)

Disposition: Ordinance No. 168958. (Y-4)

***996** Agreement with R. W. Beck to provide utility rate analysis to the Bureau of Traffic Management (Ordinance)

Disposition: Ordinance No. 168959. (Y-4)

Commissioner Charlie Hales

998 Accept contract with Hydro-Temp Mechanical, Inc. for HVAC upgrade of Station 1 as complete and make final payment (Report; Contract No. 29221)

Disposition: Accepted.

999 Accept completion of contract with Jasco Construction for remodel of staff room at Peninsula Park, make final payment and release retainage (Report; Contract No. 29817)

Disposition: Accepted.

***1000** Grant a revocable permit with conditions to Peter and Alene D. Garcia for non-park use of a portion of Terwilliger Boulevard Parkway under certain terms and conditions (Ordinance)

Disposition: Ordinance No. 168960. (Y-4)

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- *1001** Authorize reciprocal fire protection agreement with the United States of America and the State of Oregon, acting through the State Adjutant General (Ordinance)

Disposition: Ordinance No. 168961. (Y-4)

Commissioner Gretchen Kafoury

- *1002** Enter into a lease addendum for additional space for the Fire Bureau at 10 SW Ash (Ordinance)

Disposition: Ordinance No. 168962. (Y-4)

- *1003** Modify agreement with SERA Architects for City Hall renovation for an additional fee not to exceed \$35,550 for a total contract amount of \$797,600 (Ordinance; amend Contract No. 29088)

Disposition: Ordinance No. 168963. (Y-4)

- *1004** Contract with Transition Projects, Inc. to provide funding under the Non-profit Housing Development Operating Support Program to support strategic planning activities in the amount of \$10,000 and provide for payment (Ordinance)

Disposition: Ordinance No. 168964. (Y-4)

Commissioner Mike Lindberg

- 1005** Accept completion of the Columbia Boulevard Wastewater Treatment Plant PCB transformer reclassification construction project and authorize final payment to ENSR Corporation (Report; Contract No. 26219)

Disposition: Accepted.

- 1006** Accept completion of the 13th Avenue Basin CSO sump Unit 17 construction project and authorize final payment to Brundidge Construction, Inc. (Report; Contract No. 29530)

Disposition: Accepted.

- 1007** Accept completion of the Sullivan Basin CSO sump project Unit 1 construction project and authorize final payment to S-2 Contractors, Inc. (Report; Contract No. 29631)

Disposition: Accepted.

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- *1009** Authorize the continuance of negotiations for the purchase of one permanent sewer easement required for construction of the NE 158th Avenue south of NE Airport Way sanitary sewer project, authorize the City Attorney to commence condemnation proceedings and authorize the City Attorney to obtain early possession (Ordinance)

Disposition: Ordinance No. 168965. (Y-4)

- *1010** Extend duration of contract with Woodward-Clyde Consultants to assist with the Johnson Creek Resources Management Plan (Ordinance; amend Contract No. 27619)

Disposition: Ordinance No. 168966. (Y-4)

- 1012** Authorize an Intergovernmental Agreement with Portland State University for \$173,999 for professional services in setting up and evaluating recycling systems in multifamily residences (Second Reading Agenda 950)

Disposition: Ordinance No. 168967. (Y-4)

- 1013** Enter into a five year Intergovernmental Agreement with the East Multnomah Soil and Water Conservation District for public involvement and education services on comprehensive and holistic landscape practices for \$161,106 (Second Reading Agenda 951)

Disposition: Ordinance No. 168968. (Y-4)

City Auditor Barbara Clark

- 1014** Declare the purpose and intention of the City to construct street and storm sewer improvements in the SW Dolph Street Local Improvement District (Resolution; C-9872)

Disposition: Resolution No. 35408. (Y-4)

REGULAR AGENDA

- 985** Authorize the City Attorney to file an action in Multnomah County Circuit Court for a judgment reversing the order of the Multnomah County District Attorney and declaring a photograph of a Portland Police Officer to be exempt from public disclosure (Resolution)

Discussion: Lars Larson, KPTV News, asked for the Council's support to keep the public's business public and said that on May 5th his station formally requested a photograph of Officer Erickson from the Police Bureau, and was denied. A formal petition was made under Oregon's Public Record laws, which was granted by the District Attorney, who ordered the Police Bureau to disclose the photograph, which the Bureau

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refused to do. On May 24th, the Bureau notified KPTV that it planned to sue the station and the District Attorney to prevent release of the photograph. However, the Bureau missed the deadline called for in the Oregon Public Records law, which states that unless the petitioner is notified within seven days of the District Attorney's order to disclose, and the parties go to court, the Bureau has to pay both sides' court costs, win or lose. Mr. Larson said that on June 6th, the Police Bureau filed a lawsuit--the same lawsuit they are asking permission to file with this resolution. He asked that Council consider this as not just a matter of a photograph, but a public policy matter.

Commissioner Lindberg asked, if KPTV won the suit, would this apply to all police officers and bureau personnel.

Mr. Larson said, in general, they would be able to get photos of most police officers. He said if they had photos and were told publication of them would endanger an officer or operation, the photo would not be used. He thought that would be true of most press organizations. He said if this were taken to court, for the definitive judgment on this matter, the court may tell the City that all photos are fair game and there may be people who will not hold to the same standards that his station voluntarily does.

Commissioner Lindberg asked, if the judgment were in KPTV's favor, would any citizen be able to get a picture of any police officer.

Mr. Larson responded that the Oregon Public Records law is not just aimed at the press--it applies to everyone, so the definitive judgment may not be what the Police Bureau wants.

Mayor Katz said the timing of these issues is rather delicate and there are times when a suit is filed and then the issue comes to the Council. She asked the City Attorney's office what would happen if the Council was to vote no and was told the case would be dismissed.

Chief of Police Charles Moose said the Police Bureau had worked diligently over the past several years to be a more open organization and work with the community. At the same time, it has been Bureau policy to not release employee photographs. He said they did not want to make case-by-case decisions to release a photo and so they really need a definitive ruling. Chief Moose noted that Police Bureau rank and file have an expectation of privacy. Officer Erickson, although his name was in the media for a long time, has no sustained complaint against him so to publish his photograph is a vindictive media effort against an individual who has been exonerated. He said they cannot operate on the possible promise to not publish photos of undercover officers--it does not ensure their safety. Depending on what mission needs to be accomplished for the City or what crime issue is being addressed, potentially anyone in the Bureau could be asked to work undercover. It would put these people at risk to have their photos open to

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the public. He noted that police officers have self-defense training and expect to be threatened, but there are many non-sworn employees who are also threatened, such as a building inspector or someone installing a stop sign.

Commissioner Hales asked why the Police Bureau preferred to have a court ruling, rather than adopting a Bureau policy, by General Order or by the Council, when the ruling could turn out as Mr. Larson described.

Chief Moose said he feels, despite the District Attorney's ruling, that going to the next level will clarify the argument. He noted that although police business is public business, personnel records and photographs are not public business. There have been many, many rulings to confirm this.

Commissioner Hales asked if, prior to case law being laid down for the City, a set of procedures could be developed to satisfy the Oregon Public Records law.

Chief Moose said his desire for the values of community policing is to somehow remove personalities, which probably cannot happen on a case-by-case basis. A definitive ruling will help, instead of who has the most attorneys, or the size of the organization.

Commissioner Kafoury asked if the Bureau or Council had ever tried to draw up a policy in the past as, obviously, this is not a new issue.

Chief Moose said an officer can be contacted for permission to release his/her photograph, such as for publicity. Otherwise, the policy is not to release photos.

Commissioner Kafoury asked if that were a written policy.

Chief Moose said yes, and that policy is what is being challenged.

Mayor Katz emphasized that whether there is a policy, in writing or not, there will be a challenge. The question is if it is in violation of the open records law.

Jeff Barker, Portland Police Association, 1313 NW 19th, said his concern was for the personal privacy of the Association's 1,000 members. There have been past cases where policemen's children have been taunted at school. The expectation of privacy needs to be balanced with the fact that it is a public job, but an officer ought to be able to shop at a local store without being harassed. He said that the Association attorney will get in touch with the City Attorney's office to do an amicus brief. They will spend their resources to help defend this. He is worried about possible stalking, especially for the female officers. Also, a gang member could obtain a gang officer's picture and have someone from Los Angeles come

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here to shoot him.

C. W. Jensen, Police Bureau Public Information Officer, reiterated that he was the public, not the press, information officer and the records given out to the press are given out to the public. If they gave a photograph to KPTV, they would give it to anyone.

Paul Richmond, PO Box 454, 97207, said he was puzzled about this in light of the spirit of the recent reports on the Police Internal Investigation Auditing Committee (PIIAC) talking about more accountability and openness. He said many people, the Council and himself included, are public figures and have made enemies. He noted that Bureau officers are just now being televised and asked if, following the letter of this law, the cameras would be capped for officer testimony. He said the Police Bureau has taken and released pictures of him.

Commissioner Lindberg asked, if the Council approves this, would it be appealed through various courts if it initially lost.

Linda Meng, Chief Deputy City Attorney, answered that it was certainly an option, to be considered at each stage.

Commissioner Lindberg asked if the City would have to pay attorneys' fees for both sides during that process.

Ms. Meng said she was not sure, but that could be determined as it went on to appeal.

Commissioner Lindberg also asked if someone could ask for any City employee's picture.

Ms. Meng said, as it stands now, it applies to all employees.

Commissioner Hales said even though he was uncomfortable voting on this after the suit has been filed, the point the Chief made about the personnel records is important. Considering the private lives and even the personal safety of the people who do a different kind of work than others in city government, he supports this. He said the Legislature should determine the stopping points for media and public review but, until then, the privacy of personnel records is the rationale.

Commissioner Kafoury said that with the same facts, she comes down on the other side. This was a clear case of where there should have been a clearly-stated policy -- done proactively. She would be happy to work with the Bureau to develop a policy, but is unable to support this resolution.

Commissioner Lindberg said it was difficult to deny access to records within the effort to achieve open government, but it should be done if there

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is good, solid cause.

Mayor Katz said, as a member of the Legislature that dealt with open meetings and records, she erred on the side of openness. She also expects a higher standard of behavior and level of accountability, and thinks the City has it, from police officers. There is also a need for some protection for those doing undercover work. There has been a policy and it is the policy today to not release the records--that is what this is all about. Until there is a definitive court ruling, the policy will be challenged.

Disposition: Resolution No. 35409. (Y-3; N-1, Kafoury)

***986** Authorize Reserve Equivalent for Urban Renewal and Redevelopment Refunding Bonds, Downtown Waterfront, Series L (Ordinance)

Discussion: Harry Auerbach, Deputy City Attorney, said the amendment authorized the Director to negotiate the final terms of timing and interest payments in a form acceptable to the City Attorney.

Commissioner Hales moved the amendment and Commissioner Kafoury seconded.

Disposition: Ordinance No. 168969 as amended. (Y-4)

997 Agreement between the City of Portland, Bureau of Maintenance and the City of Vancouver, Public Works Department for disaster assistance (Ordinance)

Disposition: Passed to Second Reading June 28, 1995 at 9:30 a.m.

969 **TIME CERTAIN: 9:30 AM** - Adopt Portland's Urban Forestry Management Plan (Ordinance introduced by Commissioner Hales)

Discussion: Commissioner Hales said that the community has a history of making big plans, such as civic leader Thomas Lamb Eliot did in the beginning of this century when Frederick Olmstead's sons were invited to sketch out a park system that we are still following. The Downtown Plan, developed 20 years ago, and the more recent community plans are being followed today. It is hoped that the Urban Forestry plan will have that kind of life and history years from now, as well. He emphasized that this was an interdisciplinary effort involving a spectrum of City bureaus and people from the community. He said that we cannot take our Urban Forest for granted or, in future years, the Portland we love will not be with us.

Charles Jordan, Director of Parks and Recreation, said the City departments worked very well together, sharing and collaborating more than he had ever seen before. He noted this report is not bureau-specific

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and will demand the same collaborative effort to succeed, along with citizens coming on board. He said some have the opinion that nothing should be done until the cost is known, but asked what the cost would be if nothing were begun at this time. Also, we may never know the full cost, as citizens may make so many good things happen that do not take financial resources. Mr. Jordan said the new Urban Forestry Commission seems to have a new commitment and is more focused and determined to be a good steward.

Nancy Gronowski, Parks and Recreation, said she was presenting Portland's first comprehensive urban forestry management plan and cited the hundreds of volunteer hours that had gone into it. She said the planning began over a year ago at a fortuitous junction of funding, enthusiasm and the need for a plan. It is needed because of the development that will be occurring in the next 10 to 20 years and because many existing trees are aging and dying out. Ms. Gronowski noted that the Bureau of Environmental Services (BES) had a strong awareness of the value of the urban forest on water management issues and it had funding to do the project management for the plan. The public was involved on a lot of different levels, from the technical advisory committee to neighborhood coalitions. She said this report was not a detailed inventory or more regulations, but was the necessary first step.

During her slide presentation, Ms. Gronowski said the urban forest was all the vegetation in the City, including lawns, gardens, street trees, and the woods and plants in stream corridors. An urban forest has many benefits: increasing the resale value of residential property from six to 15 percent; energy savings in reducing heating/cooling costs; improving the water quality; reducing air pollution; providing wildlife habitat; and promoting a more comfortable environment for humans. She noted that not all the benefits can be measured in money, as the beauty inspires and the recreation refreshes. She enumerated some problems, such as small- and large-scale development, uneven distribution throughout the City and non-native, invasive plants. Ms. Gronowski said the urban forest was literally worth billions of dollars and that development and trees can coexist to the benefit of both.

For the future, Ms. Gronowski said street trees need to be planted; the public, developers and City bureaus need to be educated; the established coordination needs to be maintained; and one funded position to implement this plan for the next few years should be authorized.

Mayor Katz asked those speaking what their top priority would be on moving ahead on this.

Bill Naito, Urban Forestry Commission Chair, answered that the City needed to hire an urban forestry management coordinator to carry out the plan. He commented that he has found that people care very much about

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trees.

Barbara Underwood-Scharff, President of the Board of Directors of Friends of Trees, said this plan lays out a comprehensive strategy for protecting and enhancing the urban forest. She noted that Friends of Trees is planning a huge, five-year tree planting and education campaign, which would be the largest tree planting effort in Portland history. This will help implement goals listed in the management plan. The City does not have the available resources to implement this on its own, but in partnership with Friends of Trees the process becomes workable, although some City funds are necessary to make the plantings possible. This will leverage a high return in volunteer participation and private funding. She said this plan also needs an urban forest coordinator, to be hired for one year. That person will develop the funding strategy and partnerships to ensure the management plan implementation. Ms. Underwood-Scharff said trees were a crucial component for safe and livable neighborhoods, adding that education is all-important to make people aware of the value of trees.

Pamela Brown, Chair of Sustainable Portland, said that in 1994 the City adopted a set of principles to promote a sustainable future that meets today's needs without compromising the ability of future generations to meet their needs. Some of those principles were particularly applicable to the Urban Forestry Plan. This Plan is also related to the carbon dioxide reduction strategy adopted by the City in 1993. Ms. Brown said she also thinks hiring a coordinator is a top priority, along with pulling the existing City resources together from the different bureaus.

Mayor Katz said they would try to deal with that during the budget process, to keep this plan alive. She recommended that, if someone is hired, they be called an integrator rather than coordinator.

Cathryn Collis, Manager of the Surface Water Quality Program, Bureau of Environment Services, said the urban forest is extremely important to BES, especially as they try to restore the City's waterways. Trees and associated vegetation play an important role in managing surface and groundwater resources. Urban areas create stormwater management problems, but a healthy urban forest landscape can significantly and cost-effectively mitigate them. She said that in addition to capturing stormwater, recharging underground aquifers, shading streams to protect aquatic life and prevent oxygen-depleting algae growth, trees and vegetation trap air-borne pollutants.

Commissioner Lindberg said he knew there were trees planted along the slough and in stormwater management projects and asked if the Combined Sewer Overflow (CSO) guidelines called for trees.

Ms. Collis said she was not sure it was part of the CSO plan, but would check. She noted that the term "green infrastructure" certainly applied to

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the stormwater management program.

Catherine Lawson said she was appearing on behalf of Brian Chase, Director of Facilities, Portland State University (PSU), in order to go on record that PSU was in full support of this plan. She said that in addition to what had already been stated by previous speakers, the plan relates directly to PSU as it deals with a number of themes in the University District Plan. PSU also supports this plan by providing assistance and developing geographic system maps, performing tree inventories and developing displays and presentations that represent the urban forest issues.

Kristin Ramstad, Urban Forester for the Oregon Department of Forestry, said she was there to speak in support of this plan. Ms. Ramstad said some communities see their trees as assets, liabilities, or not at all. Those that see them as liabilities deal with them on a crisis-by-crisis basis, while the former have developed plans. She found that this Urban Forestry Plan was comprehensive in scope, realistic and visionary.

Mayor Katz asked what the State was doing to plant in and around the freeways running through the City.

Ms. Ramstad responded that her department's situation with the Oregon Department of Transportation (ODOT) has fluctuated, but now when citizens contact ODOT, it contacts the Forestry Department. She added that other states have plans for sustainable harvesting of trees planted on and around highways.

Commissioner Lindberg mentioned that private utilities were going to plant thousands of trees to absorb emissions.

Jane Hart, Metro Regional Parks and Greenspaces Department, said this plan was consistent with many of the Greenspaces Master Plan policies and is an excellent reference tool for the ongoing implementation of the Master Plan. The green infrastructure is an important part of the City's and region's livability, especially as densities will increase in future growth.

Jane Glazer, Urban Forestry Commission, said this plan was a solid, foundational guide. She said there is a future need for funds to support a blanket policy for the City's green infrastructure and suggested a bond measure or front footage assessment. Her priority would be to preserve the older trees that we have now.

Myra Schultz, 3257 SE Ankeny, said she organized the Laurelhurst Friends of Trees neighborhood tree planting and volunteers have planted over 220 trees. She said a number of old trees have not been properly maintained and are being lost at an alarming rate. She noted that the

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voluntary planting cannot keep up with the current rate of disease and destruction.

Nancy Haulth, 1327 NE Beech, said she helped organize a tree planting in the Sabin Community and since then, as it was community-driven, the neighbors know each other better, have developed a neighborhood watch, and some have become interested in gardening. She said trees create a safer-feeling neighborhood and a sense of place and, in communities struggling with livability issues, can be a catalyst for positive change.

Dick Hermann, Downtown Community Association, said he was a professional forester for more than forty years and finds this plan comprehensive and realistic.

Rian Hamby, Eliot Neighborhood Association, said in his extensive traveling he has seen deforested areas. He emphasized Mexico City's defoliation and serious pollution problems.

Commissioner Hales was struck that Mr. Hamby, a police officer in and a resident of inner Northeast, and Ms. Haulth both said that the act of getting together and planting trees connects people in ways that pay off in being aware of each other as neighbors.

Mayor Katz said that in Northwest, where the canopies are thick, auto theft is the number one crime and some police officers have said cut and/or trim the trees. She suggested that perhaps the street lighting needs rethinking in order to have the trees and safety.

John Alland, Southwest Neighborhood Urban Forest Management Plan technical advisory committee, said an urban forest is part of the infrastructure of a city and as important as roads, sewers and the health of the rivers and streams. And, of course, the latter two depend on a healthy urban forest. He said it is time to adopt an urban forest plan. He said the plan starts the process of keeping Portland livable and it is in the best interest of everyone that it be widely promoted, supported and actively implemented.

Kay Durtschi, Multnomah Neighborhood Association, said this was a red-letter day that is very green. She recalled that when chain saws were operating in Southwest three years ago, there was no definitive ordinance to protect the trees. She also believes that education is most important and should include the real estate industry.

Paul Richmond, PO Box 454, 97207, said that although he likes trees, the report's computation for a tree's economic value seems inaccurate. He stated his reservations about two prominent corporations' role in the report--Portland General Electric and Pacific Power and Light.

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Commissioner Hales said the resolution should also be continued one week. He said this has been a successful collaborative effort. Three key words he kept hearing during testimony were integration, infrastructure and volunteerism.

Disposition: Passed to Second Reading June 28, 1995 at 9:30 a.m.

970 Establish a Task Force to implement the Urban Forestry Management Plan (Resolution introduced by Commissioner Hales)

Disposition: Continued to June 28, 1995 at 9:30 a.m.

971 **TIME CERTAIN: 10:00 AM** - Accept recommendation for expenditure of the State Revenue Sharing Revenues in FY 1995-96 (Report introduced by Mayor Katz)

Discussion: Mayor Katz announced that the hearing was being held by the City Council of the City of Portland in compliance with the provisions of the State revenue sharing regulations to allow citizens to comment on the probable use of these funds in conjunction with their annual budget process. The Fiscal Year 1995-96 budget anticipates receipts totaling \$2,709,653 from State revenue sharing. As has been the case in prior years, it is proposed that this revenue be allocated in equal parts to support fire prevention and police patrol services and is already built into the budget.

Disposition: Accepted. (Y-4)

972 Certify that certain services are provided by the City of Portland for eligibility of State Shared Revenues (Resolution introduced by Mayor Katz)

Disposition: Resolution No. 35410. (Y-4)

***973** Elect to accept funds from the State of Oregon under the State Revenue Sharing Program for FY 1995-96 (Ordinance introduced by Mayor Katz)

Disposition: Ordinance No. 168970. (Y-4)

S-*974 Adopt the annual budget of the City of Portland and establish appropriations for the fiscal year beginning July 1, 1995 (Ordinance introduced by Mayor Katz)

Discussion: Commissioner Hales moved the substitute and Commissioner Lindberg seconded.

Tim Grewe, Director of the Office of Finance and Administration, said this substitution had to do with the passage of House Bill 3349, requiring the

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reimbursement of PERS and Fire/Police and Disability retirees for taxation of their benefits, mandating a 9.89 percent increase in those benefits for that purpose. The substitute increases the levy for Fire/Police and Disability Retirement Fund in order to cover the added costs within that fund. The most recent analysis indicates that it can be accomplished without exceeding our proportion of the intergovernmental share of property taxes and the County has been apprised of this. With this adjustment, the City will fully comply with HB 3349 insofar as it applies to the above fund and will avoid a spike in property taxes the following fiscal year. The City will come off compression a little in the next fiscal year and more so in the following fiscal year.

Mr. Grewe footnoted that the final determination of how much levy capacity there is and therefore how much tax increment there will be is contingent upon final assessed value estimates.

Mayor Katz asked, knowing what we know today, what will be available to place in the trust fund.

Mr. Grewe said they anticipated an estimated tax increment of about \$2.5 million which probably will drop to about \$1 million next fiscal year. This could go up or down depending on final tax assessments. In the following year, it is expected that the increment will grow.

Commissioner Kafoury said they had teased Tim about stealing the housing money away, but it would not be a good public policy to use the general fund to make the payment now. She said they were still scrambling and looking for other resources, besides the general fund, to fund the affordable housing agenda.

Mr. Grewe said the City was in receipt of the Tax Supervising Conservation Commission budget certification. For some time now, the Commission has been working closely with them on the Fire and Police issue and, in fact, recommended in the certification that Council take this action.

Mayor Katz said that Commissioner Hales and she were really hard-nosed at the State Legislature with a legislator who wanted to continually increase the benefits and opportunities for the Fire/Police fund. Their arguments were that the City would find itself in the exact situation as it is in now. With the help of Intergovernmental Affairs, that activity was stopped at the Legislature, but this issue was resolved in the courts. This is the reason the City is so conservative in its efforts on the other measures, as it would have ended up with general fund allocations to this fund.

Disposition: Substitute Ordinance No. 168971. (Y-4)

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S-*975 Levy taxes for the City of Portland for the fiscal year beginning July 1, 1995 and direct the Director of Financial Planning to submit said tax levy and other certifications to the County Assessors of Multnomah, Clackamas and Washington Counties (Ordinance introduced by Mayor Katz)

Discussion: Commissioner Kafoury moved the substitution and Commissioner Hales seconded.

Tim Grewe, Director of the Office of Finance and Administration, said this was the same action -- adjusting the Fire/Police fund levy upwards in order to cover costs associated with HB 3349.

Disposition: Substitute Ordinance No. 168972. (Y-4)

***976** Create two new funds in FY 1995-96, close four City funds and transfer the remaining balances effective June 30, 1995 (Ordinance introduced by Mayor Katz)

Discussion: Tim Grewe, Director of the Office of Finance and Administration, said this was a technical aspect of State budget law. The City is required, any time a fund is opened or closed, to have Council take action.

Disposition: Ordinance No. 168973. (Y-4)

***1008** Accept professional service contract with CITE for development and presentation of school assembly program for education on critical water quality issues for \$13,020 (Ordinance)

Discussion: Lynn Vanderkamp, Communications Department of the Bureau of Environmental Services, said this was to promote environmental education and protection of the natural waterways.

Commissioner Lindberg said this is one of the many partnerships with the public schools and will teach environmental education, reaching thousands of students.

Mayor Katz observed that one of the City's key industries is environmental services. We need to begin to build on what is going on in the community with industry opportunities for a lot of young people as they move into environmental service professional and technical education.

Disposition: Ordinance No. 168974. (Y-4)

***1011** Intergovernmental agreement with Multnomah County Department of Juvenile Justice to hire at-risk youth in work experience positions in the Water Bureau and provide for payment of \$48,000 (Ordinance)

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Discussion: Commissioner Lindberg said this was the sixth summer of a good example of intergovernmental cooperation addressing several important needs at once. This contract provides summer crews of juvenile offenders to do outdoor work at Water Bureau facilities, such as blackberry removal and other grounds maintenance in difficult areas. It would probably cost a lot more to go out for bids and offers an option of consequences for the offenders. It also offers some restitution to the victims for their loss, as the money goes to the County's Project Payback which distributes it to the victims. He noted that this was an innovative and creative program.

Paul Richmond, PO Box 454, 97207, said that some years ago managers in the Water Bureau, Joe Glicker, Bruce Niss and Doug Bloem, were involved in a highly illegal action, forcing the City to pay \$70,000 in penalties to Dr. Douglas Larson. Those managers tried to keep Dr. Larson from publicizing what the Water Bureau was doing. He thinks this contract is a cynical example and shows these at-risk youth that more can be made robbing with the pen than the gun.

Disposition: Ordinance No. 168975. (Y-4)

Mayor Vera Katz

***1015** Adopt a Supplemental Budget for FY 1994-95 of \$33,448,248 and make budget adjustments in various funds (Ordinance)

Discussion: Tim Grewe, Director of the Office of Finance and Administration, said this is filed every year about this time to update the funds in terms of new resources and requirements -- a technical action.

Disposition: Ordinance No. 168976. (Y-4)

Commissioner Charlie Hales

***1016** Contract with Multnomah County for \$9,000 to provide landlord/tenant mediation services for the period July 1, 1994 through June 30, 1995 (Ordinance)

Disposition: Ordinance No. 168977. (Y-4)

Commissioner Gretchen Kafoury

1018 Accept American Planning Association and Oregon APA Awards to Strategies for Fair Housing (Resolution)

Discussion: Ruth Scott, Association for Portland Progress, said that as co-chair of the committee that put together the Fair Housing Strategy under Commissioner Kafoury's leadership, she was proud to have the City

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receive this award. She thinks this will be a useful strategy for the future, but added a caution that this was a policy and the City has many other competing policies. This issue addresses human need and is dead center in taking care of those with the greatest needs. Ms. Scott said the issue of the concentration of people in need is a challenge. Council has the challenge to implement this strategy in a way to take us ahead with the shelter reconfiguration program.

Peter Fry, 722 SW 2nd, Suite 330, member of the American Planning Association, said that he was in San Francisco last week to present Portland's Fair Housing to their staff people and several neighborhood non-profit activists. He said they were excited about Portland's process and plan and he referred them to the City's Planning and other bureaus.

Disposition: Resolution No. 35411. (Y-4)

1017

Report to Council on Recovery Inn replacement plan (Report)

Discussion: Commissioner Kafoury reminded Council where it had been with the issue of shelter reconfiguration, as it has been a year and one half since its adoption. At that time, the need for the singles population to have four smaller facilities to meet emergency shelter needs, two for men, one for women and one for chronically mentally ill, was outlined. Council recently took a major step to approve the siting of the Royal Palm for the chronically mentally ill. A women's shelter may be coming under the siting policy so they wouldn't have to go through a conditional use to site it. The women's shelter is underway and a federal grant to help with it has been received. It has been assumed all along that Transition Projects, which has recently been remodeled, would be one of the male shelters.

Commissioner Kafoury said what remains and what has been the most difficult issue, has been a second shelter. Three or more years ago, Council approved an emergency contract with the Salvation Army to operate Recovery Inn. It was done reluctantly and a goal of one year was set at which time the facility would close. Obviously, it did not happen. As always, there was trouble with siting this type of facility, even with the new guidelines. There has been an extensive search for another site, although the Federal money to allow us to aggressively proceed has yet to be received. A way to fund a permanent shelter, once it is sited, will be found. The goal has been to reduce the emergency beds, eliminate the warehousing and move to transitional and permanent housing. Until May 10, when intake was closed, 120 people a night were housed at Recovery Inn. At this time there are about 40 people there. The City has done an extensive process with the County trying to move these people to other, permanent locations. It was encouraging to find that some people did have marginal incomes. Finally, however, there is still a community need for a basic shelter. As several advocates have articulated, it would be a tragedy for Portland to be one of the few cities in the country that did not have an

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emergency shelter. The Transition Project shelter requires that a person be in case management, i.e. people are not just taken there by the police.

After a year-long quest, Commissioner Kafoury said the best option was to take a City-owned piece of property and site a temporary facility with a manufactured building to be used later. Then, the goal is to have a permanent, 50-bed shelter in two years. There were three City-owned, appropriate properties: by the Convention Center in Northeast (but services are downtown); by the Greyhound Bus Terminal (but that does not have outright use and the conditional use process would take several months); and the site by the horse barns, which has no immediate neighbors. This is the best that can be done at this time and keeps the process moving toward a permanent, desirable location in a smaller facility and does not leave the City vulnerable to lawsuits and camping ordinance challenges. She noted that Police Chief Moose agrees to this use. His real concern is to have no emergency shelter as well as the anti-camping ordinance.

Ruth Scott, Association for Portland Progress, asked why a new temporary facility is being built, rather than keeping Recovery Inn open a little longer until a permanent facility is built.

Commissioner Kafoury responded that Recovery Inn had been kept open for three years when, originally, it was to have been one year. She said she never found it to be an acceptable site.

Mayor Katz said this was one of the issues she heard yesterday at the Central City 2000 meeting as well as elsewhere.

Chuck Currie, Burnside Advocates Coordinator, 1236 SW Salmon, asked if Council members had been through Recovery Inn in the last few years, noting that the Inn's 10th anniversary was in 1990. He said the building is dilapidated, smells like urine and is structurally unsound. He thinks that a Bureau of Buildings inspection would close it down in a heartbeat. It is not an appropriate place to house people. A temporary facility would be a better place to keep people safe and sheltered and is an important part of the plan. Even though everyone agrees that mass shelters should be closed down, the only way it will happen is if money is spent. The City and County will need to up their partnership in this and not rely on the hope that the Federal government will somehow come through with funds--that will not happen anytime soon. To be consistent with the shelter reconfiguration plans adopted in 1993 and the Fair Housing Strategies adopted at the same time, this plan should be adopted.

Commissioner Hales said this was a sound location for a temporary solution and agreed that Recovery Inn should be closed, but he is troubled about where the operating money is going to come from. It seems that when there is one public agency, such as the City, that is visible, effective

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and activist in its approach and the other partners are not all three of those things, it puts that agency in the position to fill the void that rightly and responsibly should be filled by other public agencies. Even though it is all right for the City to pay for the capital costs to provide this shelter, what can be done about this problem.

Commissioner Kafoury said the reconfiguration plan refers to one of the shelters as privately-operated. When the plan was devised, there was hope that one of the charitable agencies would still be operating a men's shelter. Now, the Union Gospel Mission has closed unexpectedly and the Salvation Army cannot continue to operate their shelter. She said the community, not just the City, needs to come up with the money. The City is working with the County to find further money and the County is now spending about \$200,000 on the relocation of the 120 Recovery Inn people. In a perfect world, this money would have gone to the operation of a shelter.

Mayor Katz said it lessens the accountability when someone builds and someone else manages the facility.

Mr. Currie said the Community Action Commission, the anti-poverty body within the County, has a seat for the Mayor's office. It is good to have a representative go to the meetings and also sit on the Homeless Advisory Committee. That would build those bridges and partnerships.

Michael McLafferty, President of the Pearl District Neighborhood Association, 405 NW 9th Avenue, 97209, said that Commissioner Kafoury attended their planning meeting this week and quieted some of the Association's immediate fears that arose from press reports. They now understand the problems with the other two sites. The District acknowledges the civic obligation to share in this pervasive community problem and he is authorized to say that the affected neighborhood is cautiously receptive to this temporary shelter and will not oppose it. That is with the important condition that they have full and prompt participation in the shelter certification program. They will develop a good neighbor plan with specific, enforceable requirements on the operator. At this time, they definitely are not approving this site for a permanent shelter. Mr. McLafferty asked that his association be put in line for possible future use of the temporary building.

Greg Wentworth, 107 SE Grand Avenue, Board member of the Central Eastside Industrial Council, said this issue is more about a long-range plan to better serve the homeless than it is about a shelter. In working with the districts and the neighborhoods a plan has been developed through the County and City that will better serve the population for years to come. This shelter is just one very important step in the process.

Robert Wong, Chinese Consolidated Benevolent Association, 3210 SE Risley Avenue, 97267, said he knew there would be opposition to whatever

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site was selected, but asked if the money to be spent on a temporary shelter could be used to renovate the Recovery Inn.

Commissioner Kafoury said that intake has already closed down there. She noted, as an example, that over one half a million dollars was spent two years ago on the Glisan Street facility, which was in far better structural condition. In addition, the City does not own the Recovery Inn building. She emphasized that the goal is to not warehouse people in a shelter, but move them into permanent housing.

Julie Ann, no address given, said she thought the site was not convenient enough to buses.

Mayor Katz said, while this is a report, several issues have come up, one being the operational and construction costs and how to pay for them. Additional County property may be available and that needs to be analyzed in terms of potential cost. She sees the three-year timeline as much too long and there will be activity in the River District close to this site: the Agricultural Marketing Center and the housing, beginning this year. She has asked Tim Grewe, Director of Finance and Administration, to work with Commissioner Kafoury, the Bureau of General Services and Portland Development Commission on cost analysis.

Tim Grewe, Director of the Office of Finance and Administration, said they would take any issues that Council offers and move as quickly as possible to generate a cost analysis. They are well aware of the time pressure and as much staff time as possible will be dedicated to it.

Mayor Katz said, without her knowing it would happen, the Central City 2000 Task Force moved to recommend that Council withhold the temporary shelter decision until all options are fully explored, including continuing to operate the shelter in the current location until a permanent facility is open.

Commissioner Kafoury said the point of bringing the report today was that David Kish, Director of General Services, is ready to order the trailers and have them custom-designed and set up. It will take 120 days to do this, if approved today. She said other projects have been adopted, approved and the contract awarded without having the money in place, while the money is there for the trailers and construction.

Mayor Katz asked Mr. Grewe about his conversation with Commissioner Kafoury about doing a cost analysis.

Mr. Grewe said he had a conversation with Commissioner Kafoury's staff pertaining to OFA's review, the work staff had already done and any other options Council might want OFA to look at. The concern about the time issue was raised then, as well.

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Mayor Katz said other questions have been raised and other community groups are in opposition to this. There has been no review, as a Council, of what the other options are, such as the cost of maintaining the Recovery Inn. If this is a temporary facility and the City is looking for a permanent shelter, there are other pieces of property that belong to the County that could be moved on more quickly. She added that there are other bureaus that need to be involved in this.

Mr. Grewe suggested that there may be a parallel route to be taken. The available shelter money will be available in next year's budget, effective in about a week. In the next week or so, while the process is moving forward, OFA can complete its analysis and come back to Council.

Erik Sten, Executive Assistant to Commissioner Kafoury, said he had worked with the County Chair's office, looking at all County property and there is no other piece of property in the Central City that would work for this.

Mayor Katz said that was not her understanding and this point needs to be further explored. She also recognized that this cannot be delayed.

Commissioner Kafoury said they had been meeting with people--Greg Wentworth, Don McClave, Dorothy Hall--in May. Don McClave said he would call members of the River District. She personally called Bob Ames and he called back on June 1st, when he got back in town. She asked him about both this issue and any potential piece of Port property. She called Pat Prendergast and Homer Williams. She pointed out that Central City 2000 had not invited her office or anyone from the homeless advocacy community to make a presentation. It seems premature of them to adopt a resolution to keep Recovery Inn open.

Mayor Katz said the resolution stated "to look at all other options." Regarding the issue of delay, which no one wants, is Mr. Grewe's suggestion a possibility?

Mr. Grewe said he would have to check with David Kish about the timeline on the trailers.

Commissioner Lindberg pointed out that the 120 days between Council's decision and having the trailers in place would bring it to October and the beginning of cold weather. Because of the sensitivity about shelters, even a temporary shelter, looking for a perfect or good site will be challenging. He said this was a fairly good site if there is a commitment that it be an interim site.

Commissioner Hales said the site was adequate and the portable building could be moved if the site became problematical. He is willing to support this, but is most concerned about the operational issue of getting stuck

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with the check. The City needs to have good faith from the other partners in this. He referenced the City's commitment to after-school recreation that was made through the golf program and asked how to get out of that commitment if, someday, it is necessary to do so.

Commissioner Kafoury said she would be glad to bring more information in. She said they do not have an operator, but wanted Council approval that this is on the right track. The County would do a Request for Proposal (RFP) process and is ready to do it quickly.

Mayor Katz said since David Kish, Director of General Services, was not in the meeting to address the question of the real cost of this facility, using the coming week or so to get some sense of where this is financially would not delay the work.

Mr. Grewe said that he, David Kish and Erik Sten would meet today to work out an action timeline and provide more information on the issues raised in this meeting.

Commissioner Hales clarified that what this vote will mean is that the City takes responsibility to provide the physical facility to meet the short-term need and that more work needs to be done. Also, this will not be a commitment to operate the shelter and the City will continue to negotiate with its partners about that.

Commissioner Lindberg said he supported having the facility, that a process should be set up to have this in place by late October and the site, as an interim site, is satisfactory. He noted that the City was vulnerable for lawsuits when there is no shelter along with the no-camping ordinance.

Mayor Katz said they need a clearer understanding of the financial implications, where the City's partners stand on the operation of the facility, who is going to operate it and for how long. She also has no problem with the site as long as it is temporary and they must be diligent about finding a permanent facility and work further with the County.

Disposition: Adopted. (Y-4)

City Auditor Barbara Clark

1019

Assess property for sidewalk maintenance for the period July 1993
(Hearing; Ordinance; Y0509)

Disposition: Passed to Second Reading June 28, 1995 at 9:30 a.m.

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1020 Assess property for sewer connection contracts processed through the Private Plumbing Loan Program for the period ending May 30, 1995 (Hearing; Ordinance; P0010)

Disposition: Passed to Second Reading June 28, 1995 at 9:30 a.m.

1021 Assess property for sewer system development contracts of the Mid-County Sewer Project for the period ending May 30, 1995 and Non Mid-County for the period ending May 30, 1995 (Hearing; Ordinance; Z0604 through Z0607)

Disposition: Passed to Second Reading June 28, 1995 at 9:30 a.m.

At 12:50 p.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 21ST DAY OF JUNE, 1995 AT 2:00 P.M.

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

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

REGULAR AGENDA

Commissioner Charlie Hales

1023

Consider the LUBA remand of the application by Babler Brothers for deletion of a street improvement condition of approval from a past zone change at 8100 NE Grand Avenue (Previous Agenda 967; 93-00833 CU)

Discussion: Al Burns, Planning Bureau, said that this was on remand from the Land Use Board of Appeals (LUBA). The last time testimony was heard, Mr. & Mrs. Lamm's attorney stated that Transportation Policies 6.5, 6.22 and 6.25 were applicable to this decision. At the opponents' request, the record was left open until June 7, during which time one letter was received from the Babler Brothers' attorney alleging that the Supreme Court case Dolan vs. City of Tigard was applicable and, if the City required the Grand Avenue improvements, it would not be reasonably proportional to the development on the Babler Brothers/Pacific Pipe site. Staff's interpretation of the Supreme Court decision is that the City, when it requires an improvement, must say why it is reasonably proportionable. When the City decides not to require an improvement, there is no obligation under Dolan to say why it would have been reasonably proportionable if required. No negative obligation is established and it does not need to be addressed in Council findings.

Mark McCulloch, Attorney representing Mr. and Mrs. Lamm, said the LUBA decision requires Council to consider how the transportation policies apply to the proposal, which is to eliminate certain requirements for the Babler Brothers to make improvements. And, if the policies do apply, how they are satisfied by the proposal. While the Babler Brothers' letter suggests that the Dolan decision applies, it clearly does not because this proposal is not the type of land-use action that imposes a condition upon the landowner, but an action where the landowner is requesting elimination of the condition. In the previous four land-use actions that required improvements by Babler Brothers, there was a relationship between the condition imposed and the improvement and land-use action. For the past 20 years, Babler Brothers had a direct need for this access.

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In addition to the three goals mentioned by Mr. Burns, three additional policies are cited at the beginning of Goal 6, Transportation, all of which relate to transportation matters--accessibility, safety, efficiency and maintaining the infrastructure, which includes roadways in good condition. This proposal to eliminate the improvement of clear transportation-related matters--the condition that requires the paving of the street and curbs and improved parking--does not promote those transportation goals. He requested Council to address the proposal in that context, as required by LUBA, and deny the proposal.

Commissioner Hales asked if they were affirming the tentative decision.

Mr. Burns said Council had discussed making a tentative decision, but then decided it would be better to have the record completed.

Commissioner Hales said they were on remand. He moved to affirm the prior decision and adopt new findings to reflect that decision. Commissioner Kafoury seconded.

Mike Holstun, Senior Deputy Attorney, said that would be a tentative decision at this point and the attorney for the prevailing party, Mr. Cox, should prepare findings and review them with staff.

Disposition: Tentatively approve prior decision; applicant prepare findings for July 12, 1995 at 2:00 p.m.

1022

TIME CERTAIN: 2:00 PM - Appeal of Rosemarie Opp and Lawrence Hudetz against Hearings Officer's decision to approve application of Portland Parks and Recreation and Multnomah County Library for a conditional use with adjustments to demolish and replace the existing Midland Public Library with a new library at 805 SE 122nd Avenue (Hearing; 95-00039 CU AD)

Discussion: Mike Holstun, Senior Deputy Attorney, announced the guidelines, established by both the zoning code and State Statute, to be followed.

Mayor Katz asked for any conflict of interest or ex parte contacts.

Commissioner Hales noted that, although not as a traditional conflict of interest or ex parte contact, he is in charge of the Parks Bureau and Parks Bureau staff negotiated the issues involving the land exchange with the County for this property. He said he was briefed and apprised of that negotiation as it occurred. He regards that as separate from this land-use decision.

Mayor Katz noted that she holds almost weekly meetings with citizens who come into her office. At one of them, long before this became an issue,

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citizens talked about it and she basically listened to that discussion and will give the City Attorney's office the date of that meeting.

Steve Gerber, Planning Bureau, said staff received the specifics of the appellants' challenge to the Hearings Officer's decision only yesterday and he had not had an opportunity to prepare a written response to that, but was prepared to orally respond to all of the challenges today.

Mr. Gerber stated the applicable Approval Criteria and noted the existing Midland Public Library and the proposed site for the new, larger library, are at the intersection of SE 122nd and Morrison. Both the existing and proposed libraries are wholly within R3 zoning. In its entirety, this proposal is for a new, 23,770 square foot library--the existing library is 8,625 square feet. A 117-space parking lot is also proposed, which is the main point of contention, and would occupy CO1, or Commercial Office zoning, immediately south of the proposed building. The parking lot configuration also includes 23 feet of the eastern edge of Midland Park, which is Open Space, and would not result in the loss of any of the larger evergreen trees. The existing library entrance is on Morrison Street and the proposed library's main entrance will be on the south side with a good physical and visual connection to 122nd Avenue, adjacent to the east. There is now significant use of on-street parking, a major concern of the area neighbors. Because Morrison is so convenient to the existing front entrance, the parking lot is often underutilized. The new proposal converts the existing parking lot to a landscaped area, providing a transition to the park and additional, usable green space. Its access will be off 122nd Avenue only. There is a single-family neighborhood to the west of the library which is connected by sidewalks and to the north is a commercial retail area. The existing transition from the parking and library to the park is abrupt and unscreened. The applicant has proposed to continue this parking lot situation, a subject of one of the adjustment requests--to eliminate the screening normally required at the west edge of the parking lot.

Mr. Gerber said the library proposal is in compliance with the applicable criteria for approval. It will provide a related resource to several area schools as well as the general public. It will not have significant impact on the nearby residential uses. It is also designed to accommodate and encourage use of transit. It will also provide for a ten-foot sidewalk along the frontage and bicycle parking facilities. The proposed parking lot is in conformance with use and development standards with the exception of the adjustment request to eliminate the required perimeter landscaping on its west end only--the end adjacent to the park. In part, this request is to allow easy access to the park and not create a separation between the park and library and to allow the police and others to observe the park through the parking lot. There have been concerns about transients camping in the park. Objections have been raised regarding use of the existing parkland for the parking lot both because it eliminates existing, open green space

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and because the number of parking spaces is felt by some to be excessive. Regarding the green space, the configuration of development will result in more green space than presently exists. Conversion of the existing parking lot to a landscaped area as proposed will add 8,000 square feet to the green space and create a transition between the library building and the park in a manner complementary to each. Regarding the amount of parking proposed, the Bureau of Traffic Management has analyzed a similar situation at the Beaverton library and concluded the 117 space parking lot is appropriate for this use at this location. Lastly, two adjustments have been proposed: 1) reduction of the required building setback from the SE Morrison right-of-way; and 2) elimination of the required perimeter parking lot landscaping at the west (park) end of the parking lot. The latter is approved with modification; the Hearings Officer found that, instead of sight-obscuring hedges and trees, as required by the Code, trees only will meet the intent of the Code in this situation. Staff recommends that Council uphold the Hearings Officer's report and decision, including conditions of approval.

Mr. Gerber, responding specifically to the appellants' challenges to the Hearings Officer's decision, said the appellant noted that parking is not consistent with a park use and contends there is no demonstrated need for 117 parking spaces. The appellant suggested that the strip of parkland that would be used for parking is an integral part of Midland Park. Staff does not believe this is an integral part of the bird sanctuary as it consists almost exclusively of lawn grass and arborvitae which are neither native or valuable to the native birds. Four trees, complementary to the existing park trees, will be required along this west edge. The appellant states that the Code criteria have not been met for the two adjustments. However, the Code does not require that the parking lot's appearance must be improved and softened from the perspective of the Open Space. The Code does not say there is an obligation to provide the vegetative buffer to protect the adjacent park or other property from the potential pollutants created by the parking lot. The Code does say there is a purpose to decrease air- and water-borne pollution. Water pollution will decrease because of the lawn grass between the parking and the park and the four trees will help decrease air pollution. Safety concerns brought the request for increased visibility into the park. The Code assumes that this parking lot stands in isolation. The adjustment process allows a reality check. The intent of the Code, the Purpose Statement, does not include an obligation to protect the adjacent property, it requires a decrease in air- and water-borne pollution.

Mr. Gerber said the appellant contends that the Hearings Officer did not comply with the intent of the policy regarding reduced reliance on automobiles. This challenge relies largely on a figure of 150 percent maximum parking allowance. This figure has been discussed in the Bureau of Planning, but there is no such 150 percent requirement in the City Code.

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Mayor Katz asked if the parking allowance was dealt with in any adopted policy, and noted that they had been in this grey area before--between policy and Code language.

Mr. Gerber said they essentially have a policy to provide no more parking than is necessary. The Comprehensive Plan has no policies that give a specific percentage figure for a maximum parking allowance, outside the Central City. He pointed out that the 117 spaces are dependent upon a proposed library that will be three times larger than the existing one, including an enhanced park, bird watching and meeting rooms. The appellant also referred to a deed with the legal configuration as a bird sanctuary and park and recreation purposes only. Access into the park, including trails, benches, informational plaques, or even parking, constitutes park and recreation purpose.

Mayor Katz asked how many bicycle racks were included and if the community, when planning this, looked at the use of adjacent lots.

Mr. Gerber could not remember how many racks there were and said there had been discussion of consolidated or shared-use parking, but there were the same liability issues.

Mayor Katz asked if there were parking lots in the area, or would neighboring streets be impacted.

Mr. Gerber said there were some lots in the area. In concluding, he noted that an inaccurate site plan had been attached to the Hearings Officer's report and was now corrected.

Peggy Hennessy, Attorney for the appellants, said the applicants proposed to convert publicly-owned Open Space used as a bird sanctuary to a parking lot. The appellants do not challenge the library replacement or the 99 parking spaces on land zoned for commercial use. However, the additional 18 parking spaces will be gained by converting 23 feet of the existing park. Under the minimum parking space requirements of one space for each 500 square feet of building, that would be 48 spaces. While there is no concrete policy for maximum parking, the American Planning Association working group draft recommends a 150 percent figure which, applied to the 48 spaces, would be 72 spaces. The appellants consider that 99 spaces is considerably above the recommended maximum. The Hearings Officer found the proposed 117 spaces were justified based on the Beaverton Library study, but the study itself cites the service area as much broader and has more than twice the transactions as the Midland Library. Consistent with reduced reliance on automobiles under the State Transportation Planning Rule (TPR), parking spaces are defined to include both on- and off-street parking and on-street parking is available. The Beaverton study also cited 10 to 15 on-street spaces. The applicants have requested a no setback and no landscaping variance on the west side of the

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parking lot, which would result in parked cars abutting the bird sanctuary. The parking lot perimeter landscaping is intended to improve and soften the appearance of parking areas, reduce visual impacts and decrease pollutants and the adjustments would not serve any of those purposes. The deed conveying the Open Space states it is restricted to park purposes and Federal funds were used to create the bird sanctuary. According to the Land and Water Conservation fund grant criteria, the property cannot be converted without prior approval of the National Park Service and applicants have not received that approval.

Mayor Katz asked for clarification regarding whether or not the park is or is not a bird sanctuary.

David Yamashita, Bureau of Parks and Recreation, said the National Park Service regulations do state that when Land and Water Conservation funding is received, a park or part of a park cannot be converted to non-park use. There are exceptions, such as the conversion process, and the City and the County are proposing that. It essentially means that if a part of a park is converted to non-park use, it can be done if replaced by property of equal or greater fair market value and the same functional value. The National Park Service and the State have been consulted and it is feasible, but the Park Bureau will not apply for it until this hearing is concluded. Mr. Yamashita said this park was developed in the 1980s with Land and Conservation money, owned by the County and passed to the City through annexation.

Commissioner Hales noted this was the same Land and Conservation fund program used for Willamette Park improvements, Powell Butte and Pioneer Courthouse Square, for example, and that these funds are not restricted to natural areas but used for park and recreation improvements in general.

Mayor Katz asked about the bird sanctuary status.

Mr. Yamashita said there was no formal designation in the City's park system for a bird sanctuary. When the original application to Land and Water Conservation was presented in the 1980s, it was to maintain it as a sanctuary for birds and wildlife, with a focus on birds.

Mayor Katz asked for confirmation that although the fund can be used for a variety of purposes, the request for the money and the basis for its receipt was as a bird sanctuary.

Mr. Yamashita said that was the basis and the Parks Bureau will keep it as a bird sanctuary.

Rosemarie Opp, appellant, 11135 SE Yamhill Street, 97216, said she was there to address the issue of why the City seemingly is ignoring some

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guidelines to accommodate the project and the question of how secure is the stewardship of the natural Open Space under present City government. She said the appellants were not against the library, but the excessive demand for parking. She noted there was onstreet parking. She said that the spirit embodied in the Outer Southeast Plan is being ignored. Ms. Opp said the Fred Meyer Credit Union has a parking lot nearby that they may consider sharing.

Lawrence Hudetz, appellant, 11135 SE Yamhill Street, 97216, said that park space was precious. He said that the proposal does add 8,000 square feet, but it also subtracts 4,000 square feet for the parking. He said the Oregon State parks list has this park entitled "Songbird Sanctuary." He had talked to the National Park Service, which said they do not rubber stamp anything and the process can take up to one year, with four criteria to be met, one of which is to hold hearings with those affected and gain neighborhood approval for the conversion. Mr. Hudetz said he had 100 signatures to leave it alone. He emphasized that there was sufficient onstreet parking for access to the park.

Commissioner Kafoury asked Ms. Hennessy for clarification on the Beaverton Library comparability study.

Claudia Morad, 13916 NE Knott, said the Midland Library parking study was done over a two-day period in the same week, December 8 and 10, and did not include actual parked cars. She said Ms. Opp's study of 17 days over a two-month period, February 7 to March 29, counted actual parked cars and found an average of 30 cars. Peak demand is on Saturday, and architect Casey Jurgens' Beaverton Library report states that 80 to 85 parking spaces are needed at that time. This estimate would be high for Midland, given the difference in size and circulation.

Roland Kwee, 12830 SE Lincoln Street, 97233, said Midland Park was very small and if it were made a little bit smaller, not much will be left. The parking lot should be made as small as possible.

Dr. Steven Bailey, 2738 SE 19th Ave., 97202, said the Beaverton Library's reliance on the automobile is in direct contradiction with longterm environmental and transportation needs of this city. Preservation of open green spaces is a most important issue. He said the statement that the park will benefit by 4,000 additional square feet of habitat is incorrect and that the park property that will be paved over is approximately 45,000 square feet, two-thirds of which is undeveloped land with old trees as well as shrubs, grass and brambles. Inspection reveals that current habitation of birds and other natural resources on this block will be reduced by 20 to 30,000 square feet with this entire project. He noted that landscapes and regulated parks involve the normal use of toxic chemicals.

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Frank Shields, 10932 SE Salmon Street, said his testimony would be for the birds. He said he was the representative for House District 16, which includes Midland Library and the park, but he was testifying because neighbors had asked him to attend. He encouraged Council to support the appeal, as the 117 instead of the 99 spaces comes at the birds' expense. Library use should be supported, but should also serve as an example of appropriate and far-sighted public planning. He said to reduce the sanctuary for the sake of a few parking spaces defies the spirit of Portland's transportation and greenspace plans. He did not think that an extra 18 spaces was necessary and the extra spaces had not been clearly addressed.

Arnold Rochlin, PO Box 83645, 97283, said the first criterion for conditional use in the Open Space zone is that the proposed use is consistent with the intended character of the specific Open Space zoned area. He read the Open Space purpose from Chapter 33.100.010 and said this was not satisfied by a proposal to pave the Open Space. He added that even the 99 spaces was overkill.

John Biemer, 7912 SE Yamhill, 97215, said however legal the variance may be, it does not have clear, public necessity.

Stephen Price, 2606 NE 59th Avenue, 97213, said he enjoyed using the park system and the library and he also liked cars. But, he cautioned against the incremental shrinkage of the park system. He noted that the causes of the disappearance of the salmon and migrating birds was an incremental disappearance of their habitat. He said this is a bird sanctuary and landscaping was not habitat.

Helga Zink, 1125 SE 113th Avenue, said she had seen a great deal of green space and trees disappear in her area since she moved there in 1960. She was very much in favor of the library, enjoyed the park and had never seen the present parking lot filled with cars.

Pat Busch, PO Box 16614, 97216, said she worked across from the bird sanctuary and that her company was approached about the use of their parking lot as an overflow, which it was not willing to do. There does not seem to be a need for an overflow.

Jane Ackerson, PO Box 16614, 97216, said she was also employed at the Fred Meyer Credit Union, used the library and was in favor of the expansion. She said the proposed lot placement was good, but also agreed that 99 spaces would be sufficient.

Ginny Cooper, Director of Libraries for Multnomah County, said they spent a long time looking for a site and decided the one they had was the best, although it was a tight site for their requirements. She said they worked closely with the community advisory committee to identify some of the

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community priorities. One concern was on-street parking and another was people who were not assets to the community using the park. In response, the library parking lot was gated so it would not be used when the library was closed. Presently, the parking lot is on two levels and separates the park from the library so a library visitor may not be aware of the nearby park. The proposed configuration was chosen to change that. Ms. Cooper said they compiled a program to describe what the community needed before the Beaverton study was done and before the bond measure. To apply a factor of 60 percent from the Beaverton study was useful and reached the same conclusion the County did. The present lot has 48 spaces and there are about 17 spaces on the street and she said she had been there many times when the lot was full, particularly when the small meeting room is occupied. The proposed building will be about three times as large, usage is expected to double and there will be a good-sized meeting room. This was factored in when considering the parking spaces. A study of the Gresham library, built in 1990, was used in parking space considerations. It has many nearby lots and onstreet parking and about 120 cars are used during the library's peak operation. About twice the number of bicycle spaces are proposed, with space to expand them. The County has also asked Tri-Met to move the bus stop to coincide with the proposed main entrance and to provide a bus shelter.

Ms. Cooper said the County's goal was not to swap land with the park, but to contain the parking on the tight site. The proposed building has a window wall that looks toward the park and the original plan had parking in that library-owned location. The plan was changed so people in the reading area of the library could look out over the park. That parking land is about twice the area of the piece of the park proposed for a swap. She said the County worked closely with the Park Bureau to mitigate the effect on the park and noted the site plan has an uneven jog to accommodate the major trees and habitat.

Commissioner Hales said many of the older library facilities rely on a mixture of parking lot and on-street parking and asked Ms. Cooper what the County assumed about on-street parking.

Ms. Cooper said the County did not want to encourage on-street parking and the proposed building's entrance is sited so that someone parking on the street would have to walk all the way around the building. They did not want to prohibit on-street parking, just discourage it.

Mayor Katz said she could not understand the argument over 18 parking spaces, pro or con. She asked if the view of the park from the library was what was driving this.

Ms. Cooper said it was. She said the window wall links the library and park--giving more security to the park and making people more aware of the asset of a park there.

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Commissioner Hales said the building itself had not been an issue in this hearing, which was commendable to its design. It has a real value as a community center and does not just "get by." He asked if the County had used the same standard for the parking.

Ms. Cooper said, while the link between the park and library is a real asset, to have a well-used, community library is most important and they do not want parking to be a problem.

Commissioner Hales said the issue of the Park Bureau's, vague or specific, assurances to the Federal government about the particular nature of this park could possibly be appealed and take a year or more to resolve. He asked what the County would do in that case, if Council approved the application today.

Ms. Cooper hoped that at least the County would be allowed to begin on the building. She said, in the planning, they had the option to deal with the parking lot later, but the community advisory committee and neighborhood associations said the money was there to build the library right and to do it now.

Commissioner Hales asked Mr. Yamashita to clarify how this park/bird sanctuary was described to the Land and Water Conservation in terms of seeking federal funds for earlier improvements.

Mr. Yamashita said he found the original application to Land and Water in 1983. There are references to songbirds and he quoted: "the park will be intensively planted with material which will provide a year-round food source and habitat for birds. Special features in the park will be, in addition to the songbird habitat, a hummingbird and butterfly garden. These features will be linked with a pathway system." He said, if the land exchange goes through and the new piece developed, it will be for birds and butterflies. From the beginning, this was discussed as a wildlife, not a horticultural, garden. Mr. Yamashita said, during the process, they checked for a precedent to put in a parking lot and found it had been done at Powell Butte Nature Park, Oaks Bottom Wildlife Refuge and Marquam Nature Park. He said a bigger piece would be gained and developed as genuine wildlife habitat. It would also mean that one agency could manage, maintain and program the whole park with a common theme. In listening to the people at community meetings, the conclusion was reached that there would be a net gain for the parks system.

Marjorie Booton, 750 NE 87th Avenue, 97220, member of the Midland Library Citizens Advisory Committee, said she had been asked by the Committee to read a letter from the Chair, Jolinda Osborn. Ms. Osborn's letter stated that adequate, secure parking to complement and connect the library to the park is a Citizens Advisory Committee concern. The Committee recommended a parking lot three times the present size.

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Sharon Owen, 1307 NE 111th Avenue, 97220, said she was a member of the Midland Library Citizens Advisory Committee and represented the Hazelwood Neighborhood Association. She said members of the Hazelwood N.A. were involved in planting, watering, weeding and building and installing bird boxes in the park. These members are unanimous: to keep the park as a bird sanctuary and be certain it is used. The Hazelwood N.A.'s formal position supports the 117 parking spaces, especially as it will reduced the on-street parking in the surrounding neighborhood. Ms. Owen said the landscaping and planting trees and bushes will attract wildlife. She noted that the proposed parking would increase access to the park by the physically challenged. The parking study found that, with the increased security the new library would bring, park usage will increase which will, in turn, require additional parking.

Commissioner Hales observed that SE Morrison Street was a 40-foot wide, local service street and experience tells that when onstreet parking is removed from a straight, local street, traffic goes faster.

Ken Snider, 26000 SE Stark Street, Gresham, 97030, member of the Midland Library Citizens Advisory Committee, said this was a win-win situation: the park gets more land and the library's esthetics improve.

Dorothy M. Smith, 13230 NE Sacramento Drive, 97230, said she was Director of the Parkrose Community Group, Alternate Director of the East Portland District Coalition and Secretary of the East County Coordinating Committee and also serves on the Midland Library Advisory Committee on Design and Construction. She emphasized that the requested parking for the library was necessary. The public transportation is inadequate and there is no indication it will be improved. People such as mothers with small children and older people cannot bicycle and buses are very inconvenient. She noted that the 2.1 mile bus trip to the library from her home takes 21 minutes and a transfer, with no service after 6:30 p.m. This is a County library for the major part of East Portland and needs adequate parking.

Linda Robinson, 1115 NE 135th Avenue, 97230, said her Hazelwood area is park-deficient so they treasure those they have and do not feel this proposal detracts from the park. She said, from her experience as a volunteer with the Oregon Department of Fish and Wildlife Naturescaping program, there are ways to landscape that are beneficial to wildlife and compatible to the sanctuary.

Mayor Katz clarified that, if 99 parking spaces are accepted, the view from the library will be retained.

Mavis Holt, 1235 SE 115th Avenue, 97216, Millpark Land Use Chair, said she was not an opponent to on-street parking, but perhaps it should be on one side only and a no-left-turn sign installed on SE Morrison. She noted

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that parking was needed for parents to bring their children to Midland Park.

Howard Holt, 1235 SE 115th Avenue, 97216, Vice-Chair of Millpark Neighborhood Association, said the people on Morrison Street wanted no parking on their street.

Ms. Hennessy, in rebuttal, said there was no condition of approval for the 8,000 square foot part of the park to be landscaped and no proposed zone change to make it Open Space. It would simply be the landscaped part of the library which would still be zoned R3. She said the landscaping illustrations are not the same as the bird sanctuary, which is in its natural state. Also, the Hearings Officer's decision incorporates by reference compliance with Exhibit D.2 which shows an encroachment of 43 feet into the sanctuary, rather than the 23 feet in the decision text.

Mr. Hudetz said social problems are not solved with how the parks are designed, so if there are park-use problems, they need to be dealt with by another method.

Ms. Opp said the issue was to either use onstreet parking or go into sanctuary land.

Ms. Hennessy clarified that the focus of the appeal is the 18 parking space issue and the requested variance to not have a buffer between the parking and the park.

Commissioner Hales said the question for Council was--is the proposed use of the park area to be traded consistent with intended character of the whole area.

Mr. Gerber said there were two questions, one the flip side of the other: 1) are 117 parking spaces excessive; and 2) what is being done to encourage an alternative access to the site. The Bureau of Traffic Management's opinion is that 117 spaces are appropriate.

Commissioner Hales asked whether or not the 99 parking space configuration would require a trade of parkland.

Mr. Gerber responded that 99 spaces would not require any use of parkland for parking.

Ms. Cooper said, if the land trade was not approved, the County would look again to see if there is another way to get more parking.

Commissioner Hales asked Ms. Cooper if there were a process to approve the 99 spaces, construct that amount and then, if necessary, apply for expansion.

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Ms. Cooper said that possibility may be there, but two things kept them from exploring that: 1) the County, in community meetings, has heard support for the additional parking, especially because of the park enhancement; and 2) spending the bond money in the appropriate time. It would be difficult to find the money for parking expansion at a later time.

Commissioner Kafoury said her concern was that construction begin immediately, without appeals and delays. She noted that the City supports alternative transportation.

Commissioner Hales asked about the Park Bureau's schedule for improvements to the park and if a land-use permit would be necessary.

Mr. Yamashita said it would be basic renovation and would be coordinated with the library construction. Parks Bureau is in the design stage now.

Commissioner Hales said Council has authority to consolidate applications and he asked the City Attorney if there was authority to unbundle applications and approve certain segments.

Mr. Holstun said it was clearly within Council authority to amend the Hearings Officer's approval. That approval could be granted in a way that, if parking was inadequate, an additional conditional use permit could be applied for.

Mayor Katz asked how Council could approve the 99 spaces so just that would be appealed or reconsidered, without going through the entire process again.

Commissioner Hales moved to uphold the Hearings Officer's decision, but modify the conditions of approval to reflect the D-1 site plan and give the County the opportunity to ask for reconsideration of the number of parking spaces after the library has been open for some time.

Ms. Hennessy asked if the County does come back requesting reconsideration, would appellants have a role in it.

Mr. Gerber said the 99 space parking lot could be approved with the requirement for the applicants to come in within one or two years with a parking and traffic impact study through a Type II or III review process.

Commissioner Hales said he would prefer that the County, if it found the 99 spaces inadequate, could easily come back.

Commissioner Kafoury said appellants would be notified if the library applied for more spaces.

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Ms. Hennessy asked if they would have access to the entire record at that time, or only to what occurs between now and then.

Mr. Holstun said he understood Council to be asking that the decision be crafted so it would be an appealable event to LUBA.

Disposition: Tentatively uphold Hearings Officer's decision with modification; Prepare findings for July 12, 1995 at 2:00 p.m.

Commissioner Gretchen Kafoury

S-1024

Liquor license application for RDA, Inc., dba Club Ced, 8131 N. Denver Avenue, Dispenser Class "A" (DA) liquor license (change of owner); Unfavorable recommendation (Report)

Discussion: Michael Sanderson, License Bureau, said staff's recommendation was based on two elements: 1) a history of serious and persistent problems; and 2) applicants' failure to demonstrate the level of willingness and ability to address those problems as required by the Oregon Liquor Control Commission (OLCC).

Commander Richard Rictor, Police Bureau, North Precinct, said Club Ced has been a problem for the Kenton neighborhood for some time. Their temporary liquor license was lost because of problems. He emphasized how serious these problems were. Commander Rictor said Roger Paris, in a conversation just last week, denied ever having been told there was a problem outside his establishment. At various times, Mr. Paris and the business have made representations to various regulatory agencies and other bodies indicating a willingness to work with the community and regulatory bodies. At this point, the commitments have not been met. Commander Rictor supported the unfavorable recommendation.

Michael Nesbitt, 2044 N. Kilpatrick #210, Kenton Neighborhood Association (KNA), said his apartment is at the back door of Club Ced. He has taken video tape of traffic problems, drinking in cars and by people walking to a from the club, abusive and loud noise, and evidence of weapons from clubs to guns. These problems have been occurring since the club opened in April. He said consensus is they should not be in business any longer.

Larry Mills, 1406 N. Winchell, 97217, President of KNA, said the neighborhood has been involved in an ambitious neighborhood revitalization and have overcome a number of obstacles. Club Ced presents a formidable problem. He noted that it seemed absurd to be addressing the club's application for a permanent license when their temporary license was revoked within three weeks and subsequent complaints continue as it now operates as an after-hours juice bar. Patrons begin arriving at 1:00 a.m. and by 2:00 a.m. activity dramatically

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increases with loud, offensive behavior, serious littering on streets and homes, public urination, public drinking, drug activity, vandalism and theft, all of which have been documented on a regular basis. There have been occurrences of gunfire and weapons have been confiscated and it is remarkable that no one has been seriously injured or killed to date. The City's Nuisance department has been contacted. Parenthetically, Mr. Mills added that the fact of after-hours juice bars needs to be addressed.

Those speaking in support of the unfavorable recommendation were:

Katherine Brotherson, 2044 N. Kilpatrick, #111
Garland Horner, 8124 N. Denver, 97217, Kenton business owner
Wendy Heckard, 2232 N. Kilpatrick, 97217
Joni Hoffman, 2131 N. Schofield, 97217
Sharon Lubbers, 1734 N. Winchell, 97217
David Myers-Eatwell, 2601 N. Willis, 97217
Doug Heckman, 2306 N. Kilpatrick
Pam Arden, 1817 N. Winchell, 97217
Keith Lubbers, 1734 N. Winchell, 97217

Duane Bean, 2531 N. Farragut, 97217, Vice-Chair, KNA and Chair, Public Safety Committee of the Kenton Action Plan, said he was appalled at the amount of public money being spent to address this situation. Mr. Bean said that 27 neighborhood people put their personal safety in jeopardy to sign a public letter against Club Ced actions. Mr. Bean said Mr. Paris' charge of selective police enforcement was both disingenuous and ridiculous and that his implied claims in a June 19th letter that there was racial prejudice is repugnant and a blatant attempt to distort the truth. Club Ced and its patrons have shown an active contempt for the Kenton community and its safety. He said the community does have a prejudice against people who urinate on lawns, block driveways, offensively disturb sleep and try to break down doors to homes.

Mr. Bean said there is a real problem that, here and throughout the City, lies beyond the immediate closing of Club Ced. There is a substantial loophole for these establishments in litigation--the kinds of crimes or infractions associated with business property are different than those associated with residential. For instance, infractions must occur within 50 feet of the business establishment, but the problems clearly generated by the business also occur well beyond that limitation.

Mayor Katz said she has been trying to see if some of the Codes are usable. If there were a broader net than the 50 feet, problems such as nude dancing could be shut down, but that would involve a Constitutional First Amendment issue. She said Council would have the City Attorney look at a potential change in City Code that might address this problem.

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Vada Grimsrud, 8107 N. Wabash, Kenton resident and multiple-property owner, City Crime Prevention staff, said the chronic nuisance ordinance has four incident categories and, in thirty days, the same complaint can be documented as long as it is a separate incident.

Officer Charlie Brown, North Precinct District Officer, said the City Attorney's office was going to go after the chronic nuisance aspect. On June 9th, Commander Rictor sent a chronic nuisance warning letter to Mr. Cohen with a copy to Roger Paris. He said special details have been dedicated to the area to mitigate possible violence, supplemented by the Gang Enforcement division and the Oregon State Police. He said that it is rare for something this blatantly serious to begin right with the club's opening. It has been a learning experience for the City.

Perry Christensen, Police Bureau Drug and Vice Division, said also on June 9th, Captain Brooks of the Drug and Vice Division issued a letter that was hand-carried by Sergeant Ed Brumfield to Roger Paris and Mr. Cohen. That was the Specified Crime Property ordinance, different than the nuisance ordinance, which deals primarily with manufacture, sale or possession of drugs and/or gambling inside a business or on premises. He said he had been authorized to state at this hearing that a confidential and reliable informant has entered the business on the weekends for some time. Inside there has been open, blatant drug dealing and alcohol sales. He noted that on June 10th Dennis Nelson, License Bureau, denied Club Ced's application for a location permit and directed them to have their pool tables and amusement devices removed.

Mayor Katz said Council needs to know what needs to be done on the chronic nuisance law to help the police, as it ties in with some other issues Council is looking at and, also, what other tools are needed for juice bars.

Commissioner Kafoury moved for an unfavorable recommendation and Commissioner Hales seconded.

Commissioner Hales thanked the patient neighbors for working so effectively with the City agencies and making it clear to Council how bad this is. He added that there should be a tool to stop the extreme decibels coming from cars.

Commissioner Kafoury urged the Kenton neighborhood to keep fighting and noted their resilience.

Mayor Katz said this a very serious problem that could expand through the City as after hours clubs probably make plenty of money. She asked about the property owner and if he realized that the building could be closed.

Officer Christensen said Alan Cohen, the owner, was in Portland and leased the location. The Police Bureau, the neighborhood association and

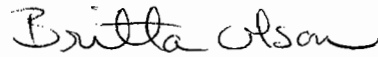
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others have been in contact with Mr. Cohen. He noted that this has been a problem location over multiple licensees and the owner should be diligent about who he rents to.

Disposition: Unfavorably recommended. (Y-3)

At 5:40 p.m., Council adjourned.

BARBARA CLARK
Auditor of the City of Portland



By Britta Olson
Acting Clerk of the Council