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CITY OF  
**PORTLAND, OREGON**

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**OFFICIAL  
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 12TH DAY OF JULY, 1995 AT 9:30 A.M.

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

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

On a Y-4 roll call, the Consent Agenda was adopted as follows:

**CONSENT AGENDA - NO DISCUSSION**

**1127** Cash investment balances June 1 through June 30, 1995 (Report; Treasurer)

**Disposition:** Placed on file.

**1128** Accept bid of B L & B Contractors for N Charleston Avenue south of Leonard Street minor sewer extension for \$45,410 (Purchasing Report - Informal Bid)

**Disposition:** Accepted; prepare contract.

**1129** Accept bid of Marshall Associated Contractors for 16" and 6" water mains in SE Madison, Cooper Street, 87th Avenue and Barbara Welch Road for \$389,837 (Purchasing Report - Bid 177)

**Disposition:** Accepted; prepare contract.

**Mayor Vera Katz**

**1130** Confirm reappointment of Kay Stepp to the Portland Development Commission (Report)

**Disposition:** Confirmed.

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- \*1131** Pay claim of Lisa Jensen (Ordinance)  
**Disposition:** Ordinance No. 169045. (Y-4)
- \*1132** Agreement with the Washington County Department of Public Safety to provide access to the Portland Police Data System (Ordinance)  
**Disposition:** Ordinance No. 169046. (Y-4)
- \*1133** Agreement with the Tigard Police Department to provide access to the Portland Police Data System (Ordinance)  
**Disposition:** Ordinance No. 167047. (Y-4)
- \*1134** Agreement with the Gresham Police Department to provide access to the Portland Police Data System (Ordinance)  
**Disposition:** Ordinance No. 167048. (Y-4)
- \*1135** Agreement with the Oregon Health Sciences University to provide access to the Portland Police Data System (Ordinance)  
**Disposition:** Ordinance No. 167049. (Y-4)

**Commissioner Earl Blumenauer**

- 1136** Set hearing date, 9:30 a.m., Wednesday, August 9, 1995, to vacate a portion of SE Ellis Street to consolidate property for development (Report; Petition; C-9881)  
**Disposition:** Adopted.
- \*1137** Contract with Portland Cable Access to provide capital support for public, educational and government cable access television (Ordinance)  
**Disposition:** Ordinance No. 169050. (Y-4)
- \*1138** Contract with Portland Community College to provide capital support for public, educational and government cable access television (Ordinance)  
**Disposition:** Ordinance No. 169051. (Y-4)
- \*1139** Contract with Portland Public Schools to provide \$49,848 in capital support for public, educational and government cable access television (Ordinance)  
**Disposition:** Ordinance No. 169052. (Y-4)

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**\*1140** Contract with Portland Public Schools to provide \$158,572 in capital support for public, educational and government cable access television (Ordinance)

**Disposition:** Ordinance No. 169053. (Y-4)

**Commissioner Charlie Hales**

**\*1141** Grant a right-of-way easement in Springwater Corridor to Northwest Pipeline Corporation for the purpose of constructing, operating and maintaining an underground natural gas pipeline (Ordinance)

**Disposition:** Ordinance No. 169054. (Y-4)

**1142** Letter of Understanding with the Department of Planning and Development, State of Victoria, Australia, providing for the exchange of city planners between the two agencies (Second Reading Agenda 1106)

**Disposition:** Ordinance No. 169055. (Y-4)

**Commissioner Gretchen Kafoury**

**\*1143** Contract with Wetlands Conservancy for \$97,175 for the Rose City Youth Corps and provide for payment (Ordinance)

**Disposition:** Ordinance No. 169056. (Y-4)

**\*1144** Contract with ROSE Community Development Corporation for \$50,000 to support affordable housing development and provide for payment (Ordinance)

**Disposition:** Ordinance No. 169057. (Y-4)

**\*1145** Contract with Oregon Outreach for \$15,600 to strengthen the organization's fiscal and administrative operations and provide for payment (Ordinance)

**Disposition:** Ordinance No. 169058. (Y-4)

**\*1146** Contract with Central City Concern for \$45,000 to support affordable housing development and provide for payment (Ordinance)

**Disposition:** Ordinance No. 169059. (Y-4)

**\*1147** Contract with Portsmouth Community Redevelopment Corporation for \$34,500 to support affordable housing development and provide for payment (Ordinance)

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**Disposition:** Ordinance No. 169060. (Y-4)

- \*1148 Contract with Housing Our Families for \$50,000 to support affordable housing development and provide for payment (Ordinance)

**Disposition:** Ordinance No. 169061. (Y-4)

- \*1149 Contract with Franciscan Enterprise of Oregon for \$50,000 to support affordable housing development and provide for payment (Ordinance)

**Disposition:** Ordinance No. 169062. (Y-4)

- \*1150 Contract with Fair Housing Council of Oregon for \$10,000 and provide for payment (Ordinance)

**Disposition:** Ordinance No. 169063. (Y-4)

- \*1151 Accept a YouthBuild implementation grant under the Office of Economic Development of the U.S. Department of Housing and Urban Development in the amount of \$1,000,000 (Ordinance)

**Disposition:** Ordinance No. 169064. (Y-4)

- \*1152 Grant exemption from competitive bid process to allow pre-qualification of bidders through a Request for Statements of Qualifications (RSQ) process for remodel and upgrade of the Southeast Precinct and North Precinct (Ordinance)

**Disposition:** Ordinance No. 169065. (Y-4)

- \*1153 Contract with Erv's Incorporated for \$12,800 to demolish the structure(s) on the premises at 822 SE Ankeny, aka 103-109 SE 9th and provide for payment (Ordinance)

**Disposition:** Ordinance No. 169066. (Y-4)

**Commissioner Mike Lindberg**

- \*1154 Authorize a contract and provide for payment for the Ramsey Lake Wetlands project (Ordinance)

**Disposition:** Ordinance No. 169067. (Y-4)

- \*1155 Authorize application to EPA Region #10 for a \$5,000 grant to underwrite Streamwalk and Wetlands Citizen Monitoring training (Ordinance)

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**Disposition:** Ordinance No. 169068. (Y-4)

- \*1156** Award bid for the N Charleston Avenue south of Leonard Street minor sanitary sewer extension, authorize a contract and provide for payment (Ordinance)

**Disposition:** Ordinance No. 169069. (Y-4)

- \*1157** Contract with ValueCAD for professional services for the sewer Quarter Section mapping update and provide for payment (Ordinance)

**Disposition:** Ordinance No. 169070. (Y-4)

- \*1158** Intergovernmental Agreement with Multnomah County for monitoring and controlling of rats within and originating from the City's wastewater collection system; response to complaints and provision of advice to property owners regarding rat control (Ordinance)

**Disposition:** Ordinance No. 169071. (Y-4)

- \*1159** Authorize a contract and provide for payment for the SW 37th Avenue and Coronado Street sanitary sewer extension (Ordinance)

**Disposition:** Ordinance No. 169072. (Y-4)

- \*1160** Contract with Edelman/Naiman Interior Design and Planning for space planning and implementation services for the Bureau of Water Works and authorize payment (Ordinance)

**Disposition:** Ordinance No. 169073. (Y-4)

**REGULAR AGENDA**

- S-\*1161** Authorize the Livable City Housing Council to obtain City General Fund allocation from Livable City Housing Investment Fund and enter into a redevelopment and loan agreement with HOST Development, Inc. in a set-aside amount not to exceed \$400,000 and including a direct loan not to exceed \$160,000 to finance construction of the Woodlawn, North Foss and Columbia Boulevard subdivisions with repayment due from HOST Development, Inc. upon sale of units of each completed subdivision (Ordinance introduced by Mayor Katz, Commissioners Hales and Kafoury)

**Discussion:** Cay Kershner, Clerk of the Council, noted that a Substitute ordinance had been filed. Commissioner Hales moved the Substitute and Commissioner Lindberg seconded. Hearing no objection, the Mayor so ordered.

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Ted Gilbert, 1205 SW 18th Ave., Chair, HOST Development, Inc., said this financing structure will enable them to complete two entire subdivisions, with enough left over to take a big step towards a third. He said the biggest challenge before any developer today is the cost of infrastructure, which has increased sharply in recent months. This proposal allows them to maintain housing prices for sale to persons within 80 percent of median income.

Commissioner Kafoury asked if the fee waiver issue had been resolved.

Mr. Gilbert said no, currently there is a \$5,000 limit on each non-profit which does not work if you are building 130 houses. He said for these houses, the total cost of permitting and public process exceeds \$6,000 per house for houses which will probably be priced in the mid-\$80,000 range.

Commissioner Kafoury said the City is still working on a fee waiver policy but right now only the Bureau of Buildings and the Planning Bureau, to some extent, waive fees. She said she hopes to schedule an informal on this policy soon.

Commissioner Hales said this is a multi-bureau issue with financial implications as such waivers do cost money. If done right, this is a way to leverage Council's commitment to Investment Fund but Council must also be mindful of what this does to other rate payers and the General Fund.

Commissioner Kafoury said whether the Bureau of Environmental Services or Transportation would have fee waivers has never been discussed. The \$5,000 cap is just for the Bureau of Buildings.

Mayor Katz said a lot of other ways have been identified by the Livable Cities Housing Council to reduce costs.

Neyle Hunter, Executive Director, Livable Cities Housing Council, said HOST's current request is the last part of the financing package that includes public funds at the point where property is acquired. In the agreement with U.S. National Bank the Portland Development Commission deposited \$50,000 of its own funds into an account and assigned its interest to the Bank in the event HOST defaults on acquisition of a predevelopment line of credit. The amount deposited equals 10 percent of the total balance that can be drawn from the line of credit so \$500,000 was offered to HOST for a \$50,000 investment by the City. On the back end is a zero percent interest loan allowing HOST access to what the Bank would require as equity. When HOST sells all the properties, any unused balance will be returned to the Investment Fund. The language has not been agreed to yet but Livable

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Cities will subsidize 10 of the homes so that they remain affordable. U.S. Bank will disperse the funds, conduct construction inspections, recollect the money and deposit any sales proceeds into a market rate fund, and the Housing Fund will earn interest on the account but have no servicing costs.

Mayor Katz said for a small amount of money the Housing Council was able to leverage this loan.

Mr. Gilbert said they see many ways of leveraging public money. HOST wants to leverage this money, repay it, and keep rolling it over into new housing.

Commissioner Hales said a few years ago this looked like a very daunting project and to now achieve this level of production and so effectively use the Housing Investment Fund is very exciting.

**Disposition:** Substitute Ordinance No. 169074. (Y-4)

**Commissioner Earl Blumenauer**

**1162** Consider vacating a portion of NE Meadow Drive west of NE 13th Avenue at the request of Mitchell Nelson Group (Hearing; Report; C-9860)

**Discussion:** The Clerk noted that letters from the Oregon Department of Transportation and the Port of Portland had been filed, stating they had no objections.

**Disposition:** Approved. City Engineer prepare ordinance. (Y-4)

**1163** Grant a franchise to Metropolitan Fiber Systems of Oregon, Inc. for a period of ten years (Ordinance)

**Discussion:** David Olson, Office of Cable and Franchise Management, said all contested issues have been resolved. He said this is one of two companies which will build fiber optic loops in the area to provide competitive telecommunications services. These systems add to the City's telecommunications infrastructure and some fiber lengths are being set aside in these franchises for the City's own use as well.

Mary Beth Henry, Office of Cable and Franchise Management, said the compensation is five percent of gross revenue. The term of the franchises is 10 years.

Commissioner Lindberg said he was concerned about reserving a portion for government use.

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Mr. Olson said this should dovetail nicely with the City's development of a telecommunications planning policy and anticipates the City's own need for increased communications capacity.

**Disposition:** Passed to Second Reading August 23, 1995 at 9:30 a.m.

**1164** Grant a franchise to MCI Metro Access Transmission Services, Inc. for a period of ten years (Previous Agenda 803)

**Disposition:** Passed to Second Reading August 23, 1995 at 9:30 a.m.

**1165** Grant a franchise to Metropolitan Fiber Systems of Oregon, Inc. for a period of ten years (Previous Agenda 806)

**Disposition:** Filed for no further consideration.

**Commissioner Charlie Hales**

**1166** Amend Comprehensive Plan Map and Official Zoning Maps of the City in the Belmont/Morrison Corridor (Second Reading Agenda 1034; amend Code Chapter 33.130)

**Disposition:** Continued to July 12, 1995 at 2:00 p.m.

**Commissioner Gretchen Kafoury**

**1167** Designate a health and safety emergency and direct the Bureau of General Services to construct a temporary homeless shelter (Previous Agenda 1091)

**Disposition:** Continued to July 12, 1995 at 2:00 p.m.

**1168** Authorize the Bureau of General Services to negotiate and execute a lease agreement for \$1/year with the Portland Development Commission for temporary use of a site at Union Station for a homeless shelter (Previous Agenda 1092)

**Disposition:** Continued to July 12, 1995 at 2:00 p.m.

**\*1169** Authorize contract with Richard E. Ragland for architectural services for a homeless shelter for a fee of \$15,700 and provide payment (Previous Agenda 1093)

**Disposition:** Continued to July 12, 1995 at 2:00 p.m.



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**1125**

**TIME CERTAIN: 10:00 AM** - Report from the Citywide Cultural DiverCity Committee and Internal Diversity Trainers and presentation of Human Resources Award (Report introduced by Mayor Katz)

**Discussion:** Rick Lee, Office of Affirmative Action and City DiverCity coordinator, outlined the presentation.

Jess Hannah, HR Effectiveness, Inc., said his firm specializes in identifying innovative people practices in organizations around the world. He presented a certificate of recognition to the Mayor which signifies that the City is a "best practice" organization in the area of workforce diversity.

Mayor Katz asked him what else the City can do in order to continue to improve.

Mr. Hanna suggested reviewing his company's resource guide which includes the profiles of other companies and what they are doing.

Mr. Lee said he is studying those profiles and comparing them to Portland's. He has also established a relationship with Seattle and San Diego.

Celia Heron, Advanced Diversity Subcommittee member, said the committee is trying to find out what should be done now that all employees have completed the basic course. Results of an employee survey, with 900 respondents, indicate that employee reactions were mixed; some liked it, others did not. A total of 357 indicated that additional training would be useful. There was some resistance to the training simply because it was mandatory and the subcommittee is now considering whether subsequent training should be mandatory or optional. The subcommittee will suggest that a certain number of hours be required but offer a menu of training choices. It will also talk to Bureau and program managers to find out what is working and what needs to be improved.

Susan Keil, Diversity Committee and Chair of the Barriers and Solutions Subcommittee, said they reviewed the evaluative data which came out of the diversity training and looked at some trends in the retention of diverse populations in the workforce. They tried to focus on bureau needs and areas where preventive or remedial work might be useful. They are now putting together a very broad resource guide for bureau use.

Mayor Katz said in some cases acceptance of the training was less than complete. She asked if any people left the workforce because the environment was not conducive to their continued work there.

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Ms. Keil said she would say yes, based on anecdotal information, but they do not have data to judge whether this is what is happening overall. Her committee hopes to look at who is taking exams, who is making it through the screening process, and how long such employees stay with the City.

Mayor Katz said it is easier and less expensive to retain employees.

Mr. Lee said they are beginning to capture some of that information in the exit surveys and will prepare an analysis.

Ms. Heron said another concern is whether the City is making the best possible use of the people it has.

Ms. Keil said the DiverCity newsletters stress that it makes good business sense to learn how to operate within a diverse workforce.

Commissioner Lindberg asked whether the information in the exit interviews will come to Council.

Mr. Lee said he would be happy to provide the information.

Mayor Katz said every six months would be a good idea.

Commissioner Lindberg asked if a survey has been done throughout City bureaus.

Ms. Keil said they got a lot of data from other bureaus and there was also a barriers and solutions question in the diversity training itself which asked people about inhibitors to diversity.

Larry Harper, City Diversity Trainer, said the cultural diversity trainers believe the training program has been a positive experience. He said the survey indicates that a majority of employees believe there is a need for continued implementation of of cultural diversity goals.

Pat Bell, Bureau of Environmental Services and Diversity Trainer, said she valued the training she got as a diversity trainer and looks forward to continuation of the program.

Cathy Cassin, Cultural Diversity Trainer, said she hopes that they are able to continue with further training.

Mr. Lee introduced other City employees who served as committee members or trainers.

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Commissioner Kafoury said she hopes more connections can be made with the Metropolitan Human Relations Commission.

Commissioner Lindberg said he feels strongly that cultural diversity training should continue as the surveys indicate there are still a lot of issues to be addressed. The community is becoming more diverse and the City's workforce should represent that diversity. Efforts in affirmative action should also continue because there are still many barriers to fair employment, despite retrenchment on the national level.

Mayor Katz urged them to continue their efforts as the demographics of some communities are totally changing. She asked them to think about ways to retain a diverse workforce and overcome pockets of resistance.

**Disposition:** Accepted. (Y-4)

**1126**

**TIME CERTAIN: 10:30 AM** - Amend City Code to require nonresidential and multifamily recycling by January, 1996 (Ordinance introduced by Commissioner Lindberg; amend Code Chapter 17.102)

**Discussion:** Commissioner Lindberg said this is the final piece in the City's recycling puzzle. He noted the State's recycling goal of 50 percent by the year 2000 and the City's goal of 60 percent by 1997. He said the current recycling rate is 40 percent and the majority of waste now going to landfills is coming from businesses. Today Council will consider a requirement that all businesses and multi-family complexes have recycling in place by January 1, 1996. This one program is expected to increase the recycling rate from 40 to 52 percent, only eight percent short of the overall goal. The remaining eight percent is expected to come from recycling organic food wastes. He said this program will be funded by existing revenues; no fee or staff increases are anticipated.

Sue Keil, Manager, Industrial and Solid Waste Group, Bureau of Environmental Services (BES), said she is very pleased with the partnership approach recommended by the Commercial Implementation Team and by the commitment of everyone involved to make this successful. She said in Oregon a voluntary approach seems to work better than a strong-handed regulatory one and business has said clearly "hold us accountable."

Lee Barrett, Manager, Commercial Recycling Program, BES, described the process used to examine the various alternatives and develop an acceptable program. The alternatives were narrowed from about 16 to five which were then taken to business organizations for feedback. Universally, the organizations wanted to choose their own haulers and negotiate their own rates. After modeling and cost benefit analyses

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were completed, an alternative was selected and an implementation team then hammered out the rules and regulations. An extensive public outreach program has been conducted to inform the business community of what is planned. He said the ordinance adopting this program is very short as most of the details are contained in the administrative rules. Portland's program is more complex than other cities which have mandatory recycling because BES decided to allow businesses the flexibility of selecting items for recycling on a business-by-business basis.

Ann McLouglin, BES, described how the program will work for businesses, multi-family complexes and construction projects with a value of \$25,000 or more. Each recycler may sell their recyclables or choose whatever other method they wish. Each business and multi-family complex will be provided with recycling plan forms and businesses may choose the most appropriate form. Businesses have the option of using the quick forms or they can create their own recycling plan, working with the hauler of their choice to set up the system selected. Multi-family complexes are required to recycle five items, including newspapers and scrap paper. They would then choose three other items from a list of five commonly recycled materials. She said such recycling systems have already been set up for most multi-family complexes and few remain to be done. State law requires the recycling of four items; the City increased that to five because since the law was passed in 1991, scrap paper has been added on a regionwide basis. The ordinance does not go into effect until January, 1996 which allows five months for an intensive educational program. An administrative rules hearing later this summer will allow additional public review.

Mr. Barrett said they hope to keep enforcement efforts at a minimum. Businesses found not to be in compliance will be offered assistance and given 30 days to show compliance. If not, they would then be subject to a \$500 fine. The Bureau wants to encourage businesses to recycle and only as a last alternative will civil penalties be issued.

Mayor Katz asked how managers will be held accountable if people steal materials from the bins.

Ms. McLoughlin said owners are held accountable only for the recyclable material which does not go in the dumpster. She said there is now a civil penalty for theft from the yellow, residential bins and another penalty is being added for theft from commercial bins. Ms. McLoughlin said BES will monitor the program by asking for recycling tonnages to be reported by everyone picking up recyclables. They will also look at the amount of commercial waste still going to the landfill on a Citywide basis and conduct surveys to see what is happening in some sectors of the economy.

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Mayor Katz said complaints are increasing about the hours haulers are coming to pick up recyclables.

Ms. McLoughlin says residential pickup must take place after 6 a.m. but often haulers will go out earlier and pick up garbage from business and multi-family complexes.

Commissioner Hales asked how they planned to reach all the City businesses, many of whom are not involved in the established groups the bureau has been working with.

Mr. Barrett said haulers will be used to distribute the plan forms as about 97 percent of businesses have garbage service. BES also plans to make more presentations to neighborhood businesses and other business organizations. They realize, however, that some people, despite these efforts, will be totally surprised and asked for any suggestions.

Commissioner Hales said perhaps a slip in the business license renewals would be helpful.

Ms. McLoughlin said the License Bureau is going to a postcard renewal system but they will continue to work on that. She stressed that every business with a garbage hauler will be getting a recycling plan.

Commissioner Hales asked about the exception for contractors. Are construction subcontractors who specialize in recycling and removal of construction waste covered by this exception too? (He cited page 11, Section 17.102.122 (2)). He said he wants to make sure the City does not get into the wrangles Tigard and other cities have had about this.

Ms. McLoughlin said their intention is to include the subcontractors.

Mr. Barrett said they would not go after subcontractors who have contracts to remove demolition debris and require them to get a haulers license.

Chuck Martin, President of the Alliance of Portland Business Associations, said this plan properly emphasizes correcting inadvertent non-compliance. They would like to see this made as voluntary as possible and believe this approach will work as well in the business sector as it did in the residential.

Dave Hamilton, Vice President, Commercial Property Management, Norris and Stevens, said he was on the implementation team, which tried to make the process as simple as possible. The forms indicate this has been successfully accomplished. Regarding multi-tenant properties, he said they also came up with a way to ensure that the generator is

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responsible for recycling so that building management did not become the program enforcer.

Mike Hutchens, Chair, BES Solid Waste Advisory Committee, and Director of Purchasing, Portland Public Schools, said the committee endorses this plan and appreciates staff efforts to keep administrative costs low and seek very broad business input. As a purchasing director, he appreciated the ability to negotiate rates and reimbursement with the haulers of his choice. He said this program gives businesses an extra incentive to recycle in a way that makes the best sense to them and to the environment.

Mr. Martin said his hauler cut his business rate by \$80 a month because he was able to sell the recyclables.

Allan Killian, purchasing manager for Turner Construction, co-contractor on the Rose Garden arena project, said a proactive recycling program also promotes a cleaner and safer job site and adds to fire prevention efforts. In addition, they require subcontractors to comply with their recycling program. He said to date they have recycled 45,000 tons of materials off the job site, which equates to \$175,000 in net savings to the owner.

Jim Goddard, Recycling Manager for Metro, supported this recycling method as both workable and simple. It targets problem areas, such as small businesses and construction sites, where a real difference can be made. This process has been very effective in involving all affected parties and so should be well received.

David White, representing the Tri-County Council, supported the ordinance, adding that the Council believes the program must be monitored and compared to the results of programs in surrounding communities.

Christopher Taylor, OSPIRG Recycling Advocate, said this responds well to the currently inadequate recycling opportunities in multi-family complexes. The participatory model used to develop this program has allowed potential problems to be resolved and enabled it to get on line sooner. OSPIRG looks forward to continuing to collaborate with the implementation group and help with educational outreach.

Emily Cederleaf, Multi-family Housing Council, a Statewide rental owners association, said her one concern is that the number of products required to be recycled has now been increased from four to five. Many landlords tried to design the four bins to be safe and blend in with their complexes. Now those will have to be amended and there is nothing to state that if they did this voluntarily they should not have to add the

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additional item. She said one could keep adding products until the year 2000 but that does not mean all should be recycled on-site. She noted that many places have lost parking and other spaces. She urged reconsideration of this aspect, particularly for those who added bins voluntarily.

Ms. McLoughlin said they have been providing recycling systems to multi-families since 1989 and all along have provided space for more than four materials. For the past three years they have been providing a six-hole shelter. That does not mean that all these could accommodate all five recyclables as there may be instances where another container will need to be added for scrap paper. She said BES has been providing the shelters and containers at no charge to multi-family complexes since 1989 and believes adding another container is not inappropriate.

Mr. Barrett said because the free market is being allowed to respond to this, consortiums are being formed to operate a materials recovery facility. This will allow a great majority of haulers to offer the collection of recyclables that are co-mingled. The days of needing five separate containers are starting to disappear.

Ms. McLoughlin said the implementation team noted the difficulty of finding adequate storage space on most properties. Allowing people to co-mingle recyclables will mean less space and fewer containers will be needed.

Commissioner Lindberg moved to amend Section 2 of the ordinance to delay the effective date only of Sections 17.102.160 and 17.102.180 until January 1, 1996. Those are the sections that require commercial recycling and require independent commercial recyclers to register and report to the City. The remainder of the Code amendments would go into effect 30 days after adoption. Those would deal with the theft issue and some housekeeping changes.

Commissioner Hales seconded and, hearing no objections, the Mayor so ordered.

**Disposition:** Passed to Second Reading as amended July 19, 1995 at 9:30 a.m.

Council was recessed at 11:30 a.m.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 12TH DAY OF JULY, 1995 AT 2:00 P.M.

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

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

**Commissioner Gretchen Kafoury**

Mayor Katz noted that substitutes had been filed for Items 1167 and 1168 and that she would also call for Suspension of the Rules to introduce two additional resolutions concerning the homeless shelters.

**S-1167**

Designate a health and safety emergency and direct the Bureau of General Services to construct a temporary mass shelter (Previous Agenda 1091)

**Discussion:** Commissioner Hales moved the Substitute; Commissioner Kafoury seconded and, hearing no objections, the Mayor so ordered.

Mayor Katz noted that action on the first two resolutions was delayed one week and now two new resolutions have resulted as an outgrowth of discussions between the interested parties. The purpose of the delay was to address community concerns regarding the temporary homeless shelter proposed in the River District neighborhood. The discussions also resulted in a second resolution to fast track the construction of a permanent homeless facility or facilities. The two resolutions now before Council have come as a consensus package from all the groups involved. She said both her staff and Commissioner Kafoury's have been working with representatives of almost 12 community groups and yesterday they came to a consensus agreement on both these resolutions. The first new resolution provides certainty for the River District Association that the shelter will be temporary and will exist no longer than March 1, 1998. That would give them time to find a site, construct a shelter and respond to any appeals. The facility will not be a dumping ground but will connect the homeless with services that will put them back in the community. In return for the certainty of the time line, the River District Association has agreed not to initiate legal action to delay construction or operation of this facility. The last remaining hurdle to the first resolution is the operation of the facility, which is a responsibility of Multnomah County. It has the responsibility of providing the necessary funds to keep it operating and she hopes they



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recognize the urgency of the situation and identify those funds as soon as possible.

Mayor Katz said the second resolution commits Council to fast track construction of a permanent facility or facilities. She said a long time was spent analyzing the status of the Shelter Reconfiguration Plan. The 90-bed basic shelter that non-profit organizations are slated to provide in the community is not available today and cannot be counted upon. She said she believes that the City will still need an emergency shelter, perhaps not as large as what is being temporarily constructed but that decision will be reviewed by a citizens group which will recommend exactly what those facilities should be. Even if successful, the actions called for in the second resolution still will not solve all the local homeless problems. Many problems still need addressing, such as transitional and SRO housing. But this will move those efforts significantly forward, both in the quality and quantity of service. The second resolution also outlines the goals of the permanent facility and assigns tasks to assure that it will be a good neighbor with the River and Pearl Districts. It also sets up a time line for getting the facility or facilities built. She said the issues will be revisited as these two resolutions are implemented.

Commissioner Kafoury said there was a lot of confusion about the number of shelter beds but noted that any of the goals and plans are works in progress and, like any strategic document, changes will be needed. The continuing overall need continues to be for affordable housing as the downtown stock of very low income housing is still below what the City had in 1978 when urban renewal was completed. However, the goal of this phase of the Shelter Reconfiguration Plan was to close Recovery Inn and get on with a more effective and efficient shelter program. She said only after the Portland Development Commission was unable to find a permanent shelter site last winter did they begin inventorying properties the City had access to for consideration as a temporary site. It was not their goal to put a shelter in the River District. This is not the best choice overall but because of the low density and zoning, it is the best choice for now. Timing is very important. This needs to be open for three winters and she appreciates people allowing for them to add the extra winter. She said citing a permanent shelter has always been the goal and she is pleased that is the focus.

Pat Prendergast, 333 SW 5th Avenue, representing the River District, thanked Council for extending these resolutions one week. He said the River District was not happy about having the facility in the middle of this new development area but was willing to support it if they could be assured that it was a temporary facility. Given that, the River District and he, as an adjacent property owner, are comfortable with the two

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resolutions before Council today. He said Roger Breezley, Chair of the River District Association, was not available to sign a statement to this effect, but did inform him that the River District would not oppose these resolutions.

Commissioner Kafoury said the City Attorney advised her that the River District needs to provide a signed letter assuring that legal action would not be taken by the River District.

Mr. Prendergast said if his signature would suffice, he would be happy to sign a document this afternoon.

Commissioner Kafoury said she has been very clear that she would not support the additional restrictions if such assurance was not given.

Mayor Katz suggested having him sign such a letter while other testimony continues.

Peter Fry, 722 SW 2nd, Room 330, representing the Central Eastside Industrial Council, said they appreciate Council's assistance through this difficult process and the Central Eastside will stand by its commitment to site a facility on the Eastside.

Mayor Katz said part of the resolution is to speed up that facility.

Chuck Currie, Burnside Advocates Group, supported creation of the temporary shelter. He said, however, completion of a permanent facility still omits two critical elements of the Shelter Reconfiguration Plan. It was assumed that religious missions would provide basic emergency shelter and act as the safety net for the system. They no longer provide this service which means the safety net is gone. Also, the plan assumed creation of several hundred units of low-cost housing available for people moving out of the shelters. That housing has not been built and in fact, with closure of the Hamilton Hotel, has been lost. Without resolution of those issues, Burnside Advocates retains their right to challenge the plan and advocate for more emergency shelter beds as needed.

Mayor Katz said the intent was not to have these resolutions implement the entire Shelter Reconfiguration Plan but only to deal with the emergency shelter.

Commissioner Hales said he would support all these measures as he believes this is a responsible package. He appreciates the stretching that was done by the partners and community groups to make this work. He said he supports this, however, with the understanding that as the City steps up to its responsibilities to the homeless, the County and non-profit sector will do likewise. He said he is not committing any

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City funds to the operation of these facilities as he regards that as the responsibility of the other two partners.

Mayor Katz said the City will move as quickly as possible both on construction of the temporary facility and on identifying a site and resources for a permanent shelter. She shares Commissioner Hales' concern about financing operating costs, which is a County responsibility and should not fall on the City's shoulders.

**NOTE:** During testimony on item 1170, it was noted that the letter signed by Mr. Prendergast, representing the River District Association, had been filed.

**Disposition:** Substitute Resolution No. 35419. (Y-3)

**S-1168**

Authorize the Bureau of General Services to negotiate and execute a lease agreement for \$1/year with the Portland Development Commission (PDC) for temporary use of a site owned by PDC as a temporary mass shelter (Previous Agenda 1092)

**Discussion:** Commissioner Hales moved the Substitute. Commissioner Kafoury seconded and, hearing no objections, the Mayor so ordered.

**Disposition:** Substitute Resolution No. 35420. (Y-3)

**\*1169**

Authorize contract with Richard E. Ragland for architectural services for a homeless shelter for a fee of \$15,700 and provide payment (Previous Agenda 1093)

**Disposition:** Continued to July 12, 1995 at 9:30 a.m.

Commissioner Hales moved to suspend the rules to hear two additional resolutions. Commissioner Kafoury seconded and, hearing no objections, the Mayor so ordered.

### **SUSPENSION OF RULES**

**1169-1**

Authorize and direct various City bureaus to take specific actions relating to the development of a temporary mass shelter on the Union Station property (Resolution introduced by Mayor Katz and Commissioner Kafoury)

**Disposition:** Resolution No. 35421. (Y-3)

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**1169-2** Authorize and direct various City bureaus to take specific actions relating to proceed with the development of permanent homeless facilities consistent with the adopted Shelter Reconfiguration Plan (Resolution introduced by Mayor Katz and Commissioner Kafoury)

**Disposition:** Resolution No. 35422. (Y-3)

**1170** **TIME CERTAIN: 2:00 PM** - Appeal of Joanne Starr, applicant, against Hearings Officer's decision to deny application for a 20-lot Planned Unit Development with environmental review and adjustments located at 12281 SW Boones Ferry Road (Hearing; 94-00949 PU EN AD)

**Discussion:** Sue Donaldson, Planning Bureau, said applicant asks for approval of a 20-unit Planned Unit Development (PUD) and public street. The Hearings Officer denied the previous version and applicant appealed.

Mayor Katz noted certain procedures to be followed and asked for ex parte contacts. Michael Holstun, Senior Deputy City Attorney, further detailed those procedures.

Ms. Donaldson said the applicant has now presented a modified plan and the Planning Bureau recommends approval with conditions. The reasons for denial were based on environmental protection and neighborhood compatibility, which translated into the amount of open space, lot coverage and setbacks.

Ms. Donaldson showed slides of the site. She said concerns were raised about the impact of the development on the drainage way, which could cause runoff and erosion problems. One issue is grading and filling, plus replanting in disturbed areas. Another issue is the design of the storm drainage facilities. The water will drain in two directions, north into the drainage way and also south under Boones Ferry Road, probably into another environmental zone. The street will have to be improved and the drainage facility will have to be changed; redesign is part of this proposal. The north portion of the site has an Environmental (E) zone overlay and that drainage way, called Park Creek, flows into Tryon Creek. The criteria require that there be no detrimental impact to these resources and one mechanism to ensure protection is to set aside enough open space to create an effective buffer zone between the development and the creek. The applicant modified the original site plan to put all the area in the E-zone into the open space tract. The amount of land set aside meets the PUD criterion that 50 percent of all open areas be held in common. Applicant also agreed to preserve as many trees as possible outside the common open space. The Bureau of Environmental Services (BES) has determined the

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drainage system will work as proposed, with some conditions which require revegetation of any disturbed areas and design of the channel to Park Creek to be as unobtrusive as possible. Some creative engineering will be required which the developer seems willing to attempt. Another condition refers to an additional Type II environmental review because the design for the south drainage system is currently still unknown. The last remaining issue is whether there is too much impervious surface from roads, driveways, building footprints and decks. The stormwater system will detain excess water and hold it long enough to ensure its quality and that the rate of discharge is not more than the creek can handle. The amount of building coverage being asked, 51,000 square feet, is less than the 61,000 the R10 zone allows. The road is as narrow and short as possible to lessen the amount of grading required. One condition requires that outdoor areas be pervious rather than using concrete slabs, keeping impacts to a minimum. The applicant is asking for adjustments for increased lot coverage, from the 30 percent the R10 base zone standard allows. This is a standard request for a PUD and the question is whether the increases are excessive and compatible with the surrounding neighborhood. The building coverage is less than what would be allowed in a standard subdivision and one condition limits the amount of building coverage to the figure requested. The neighbors argue that this is not a standard subdivision and that coverages of 45 percent should not be allowed as they create too much impervious surface and allow big houses on small lots. The question is whether this is compatible with surrounding development. On the other hand, PUD criteria actually encourage smaller lots in order to avoid areas susceptible to disturbance. The open space requirement encourages higher lot coverage because the calculation is tied to the total amount of private open space. The larger the amount of private open space, the larger the required common open space. In an area like this which still retains a rural quality any new development is a shock, particularly a planned community which has relatively small lots and houses sized to match the land value. However, the total site has to be considered when evaluating lot coverage. This is a planned development with consistency within it and the housing goes along with the common open space. The houses will be close together but that is unavoidable with this type of housing. All the development, with the exception of the stormwater facilities, will take place outside the environmental zone. The Bureau of Planning recommends approval with the conditions which address the Hearings Officer's reasons for denial.

Paul Sedoruk, 233 SE Washington, Hillsboro, 97123, said they have approval now from both Planning and BES. The lots have been withdrawn from the environmental zones and they are using the R7 standards for all setbacks except along the perimeter, where they have been doubled. Also, by pulling the lots out of the environmental zone,

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they have preserved the substantial forest that exists in the middle of the site and will be enhancing it with street trees and additional trees in the buffer. Regarding building coverage, he said if the lot is R7 (7,000 square feet or above), they are using the R7 building coverage. If the lot is R5, (5,000 square feet), they are using the R5 building coverage, or 45 percent. Lots averaging 6,000 square feet are averaged out to 45 percent building coverage also. He said Exhibit 3 (of his material) shows that 51 percent of the total open space is in common ownership. In addition, the common open space exceeds the 40 percent requirement for open space. Exhibit 4 shows that appropriate housing can be built on each lot with the setback standards allowed by the PUD process without impacting the Environmental zone.

Amanda Fritz, 4106 SW Vacuna, speaking as a resident of the Tryon Creek watershed, said the applicant has made significant changes in the plat since the Hearings Officer's decision and because of the decreased lot size and more reasonable lot coverage, impervious surface has been significantly reduced. She commended applicant for bringing the design into compliance with the Code and now believes the proposal meets the approval criteria. She cited some improvements proposed by staff and incorporated into the plan. These include relocating the new street to the south and directing that the 25-year postdevelopment stormwater runoff be detained to the 10-year predevelopment level. This should be the standard for all development in the City. She said planning detention or infiltration for all lots, not just bordering environmental zones, recognizes that all development impacts the creek and that the effects of runoff from impervious surfaces must be limited wherever they are generated. Some concerns remain. The stormwater management system approved by BES did not specify the method of conveyance of runoff from the edge of the environmental zone to the creek. Because of this uncertainty, a Type II review must be included as a condition of approval so that the City and neighbors have an opportunity to discuss and modify the stormwater plans. This could have been avoided if the City had required a complete plan for stormwater disposal before the initial hearing. She said she believes Starr Crest will be a better development because of the changes that have been made and that the revised plans should be approved with the conditions of approval requested by the Arnold Creek Neighborhood Association.

Anthony Richardson, Arnold Creek Neighborhood Association, 12297 SW Boones Ferry Road, requested that the record be left open for seven days. He said this site is in a rural area and contains a significant forest with an environmentally protected creek. It has the second highest habitat rating in the Southwest Hills Development Plan, second only to Tryon Creek Park itself. The forest extends beyond the environmental zone which leaves a number of large trees outside the conservation zone. The forest is the most significant resource to the

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community and that is why the Arnold Creek Neighborhood Association is so concerned about the quality of development here, particularly the drainage. That is why they support the Hearings Officer's denial. He said the stormwater runoff affects not only the creek on the northern boundary but also empties into the drainage way along Boones Ferry. On the south side, the developer is considering putting in a culvert across Boones Ferry into the environmental zone on that side, which concerns the neighbors there. Those proposals have not yet been fully reviewed. The soil is topsoil over hard clay and water does not drain into that type of soil. He said there is also concern about groundwater recharge as there are neighbors who use wells. His personal concern is that putting drainage features on the south border next to his property could cause more drainage into his basement. He said disturbance at this site could tremendously impact the wildlife and stream quality and called for the services of an arborist and restricted access to the environmental zones. A member of the Arnold Creek Neighborhood Association should monitor these requirements and there should be financial assurance to ensure that. The maximum square footage, according to Code rather than common practice, should be addressed as well.

Rick Coates, 12295 SW Boones Ferry Road, Land Use Chair, Arnold Creek Neighborhood Association, said the neighborhood early on indicated that it would support lower density and the alternative created by Ms. Donaldson in the Planning Bureau. He said the approval criteria cannot be satisfied. He noted the Planning Bureau actually recommended approval before the Hearings Officer's decision but despite that she denied it. The two things the applicant changed since then were to move the lot line, increasing common open space, and to change some of the details regarding the drainage on the south side. He believes Mr. Baechler of BES will hold them to task on that. However, other issues have not been addressed; including requiring that the architectural design provide flexibility. Also the setbacks were denied and these are a major concern because it is a high density development smack in the middle of an undeveloped area. Regarding preservation of water features, he said he does not see how moving the line will help as it is simply a change of ownership and it is hard to see how that will preserve the water features. Regarding walkways, he said the neighborhood association would support the Hearings Officer's suggestion that the City request a public right-of-way for future connectivity. On environmental review, the Hearings Officer said too many lots are planned and would negatively impact more than the stormwater. The Hearings Officer specifically mentioned a mitigation plan for the loss of resources as a whole and there is nothing in the new proposal that addresses that. On the adjustments to building coverage, the neighborhood has not had sufficient time to review the new proposal. However, he noted that the Hearings Officer had stated



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neighborhood character, design and flexibility of siting as reasons not to have such high coverage. The Hearings Officer also recommended denial regarding Comprehensive Goal Three, neighborhood character, because there were too many lots with detached single dwellings for the site. This was also true for Goal 12, urban design. The Hearings Officer specifically recommended that the minimum density be lowered for this site because of its environmental sensitivity and high aesthetic values. Mr. Coates said he is happy that the common open space has been increased, however. The last issue is the change in numbers as there have been so many hearings and revisions, always to the developer's benefit. The actual maximum density should be rounded down to 20 lots, not up to 21. The Arnold Creek Neighborhood Association believes that approval with a condition for lower density would be more appropriate for this site.

Mr. Richardson asked for more time to inspect the applicant's plan on exhibit.

Mayor Katz asked if the neighborhood association had seen the new proposal.

Ms. Donaldson said it has been available but they had not seen the house footprints before.

Mr. Richardson said what is different is that the road surface at the end has been enlarged.

James Frederick Squires, 12404 SW 19th Ave., Lake Oswego, 97034, said the problem with this development has to do with the amount of land that is being covered over. The total property is 5-3/4 acres and the road will cover nearly an acre. He said it is important to calculate building coverage because that is where the rest of the impervious surface comes from. For a PUD the calculation is linked to the calculation for common open space because both depend on lot size. The Code says the R10 standard of 30 percent maximum building coverage applies in this situation. It also says the common and private open space have to be equal. The building area the Code requires is about 36,000 square feet. The private and common area are the same, about 84,000 square feet. The total, including the road area, is 248,300. He said, however, applicant is asking instead for 51,000 square feet of building space and while their private open space is not far from what the Code requires, the common open area is substantially less. He said in recalculating the numbers his differed quite substantially from the applicant's and, if interested, he could address those. He explained how the lot size factor is calculated to determine private and common open areas, noting that the Planning Bureau takes a slightly different



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approach which gives the builder an adjustment on building coverage up front without any comparison to what the R10 standards should be.

Janice Richardson, 12297 SW Boones Ferry Road, speaking in opposition, said this site is within the Southwest Resource Protection Plan and ranks next to Tryon Creek and Marshall Park for the value of its wildlife habitat. She called for protection of the wildlife and said the tree protection plan does not take into consideration that the forest bordering on the north of Lots 11-15 extends out of the environmental zone by 50 feet and is a part of the complex ecological habitat. The edge of the environmental protection zone as shown in the plan is in error. She said valuable trees will be lost to building lots and there will be additional degradation to the southern edge of the forest through tree removal and grading, particularly because of the radical change in drainage. She said the integrity of the Tryon Creek watershed is dependent on maintaining the quality of drainage creeks such as Park Creeks, particularly in the face of increasing development. She said other developments by Mr. Fullerton have not shown adequate attention to details.

Colleen Thompson, no address stated, said she lives in a 1906 farmhouse bounded on two sides by this proposed development. She said this neighborhood is diverse, with a country flair and some development. The existing development, however, is not big houses on little, tiny lots as is planned here. This is not in keeping with the character of the neighborhood. Both the Planning Bureau and Hearings Officer agreed there was a major problem with density and they are pro-development.

Pat Burns Ratozo, 1952 SW Dickenson Lane, said her concerns are the schools and safety. She said there is no stoplight on Boones Ferry from Monroe Parkway to Terwilliger and she is very concerned about the safety of school buses at such a dangerous intersection. She said schools do not have money now for the extra children moving in and developers should put money toward support of the schools, possibly \$2,000 per home.

Liz Callison, 6039 SW Knightsbridge Dr., said her first concern about this development relates to problems of leadership by the Planning Bureau as it interacts with the community. Neighborhoods seem to be encouraged by Commissioner Hales' office to "do it yourself" monitoring and enforcement. Even more problematic are attempts to negotiate at closed-door meetings with developers, which should be kept public. The City's last remaining environmental lands have been inadequately protected under present Planning and BES regulations and that the Starr Crest proposal was seriously contemplated, much less proposed for approval, does not reflect well on commitments to preserve livability.

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She said a continuing problem is the City's excessive upzoning in stream corridors and wetlands, where every effort should be made to reduce density, not double and triple it. Of equal concern is that BES has not formed a stormwater management plan for this creek drainage or for the Tryon Creek watershed. The Park Creek area already processes water in a very efficient manner and this should not be ruined. The wrecked environment of the Palatine Heights development provides some warning of what will occur at Starr Crest under the same developer. Ms. Donaldson acknowledges that no definite plan has been filed for stormwater treatment. A neighbor of this development, Nancy Park, asks for a continuance so she can testify to the excessive impact to the creek.

Chris Dooley, 1834 SW Dickenson Lane, said while he applauds the developer for removing the building envelopes from the environmentally protected zones, this still leaves a very high density development up against a very delicate ecosystem. He said when he bought his property nearby he was told about the wildlife but only began to see it some 14 months after his house was built. Based on this experience, he believes adding 20 homes will put a significant amount of pressure on this environmentally significant area. He asked Council to address the neighbors' concerns and consider a compromise.

Mayor Katz said Council will raise some of these issues with staff.

Patty Barker, 12115 SW Orchard Hill Way, Lake Oswego, 97035, past Vice President, Arnold Creek Neighborhood Association, noted a number of issues that she believes needs to be addressed and which she believes the developer is agreeable to. All stormwater management plans not reviewed and approved through a public hearings process should be subject to Type II review, which should be completed prior to the issuance of any building permits. She said open-ended conditions should not be allowed for stormwater management and there should be a review and approval process prior to final plat approval. Second, wheelchair- and stroller-accessible pathways should be provided from the streets into the E-zones and a public pedestrian easement should be provided for the length of the west pathway to provide connectivity. Three, a cooperative effort should be made for removal and replacement of ivy and non-native plants in the E-zone. There should be no disturbance in the EP zone and a bond should be required to protect significant trees, including those outside the E-zone. Finally, mitigation should be required for all disturbance within any E-zone. She thanked staff, neighborhood activists and the developer, adding that she was a member of the Starr Crest mediation team and hoped that agreement could be reached. Unfortunately, the Neighborhood Association was unable to reach consensus. She amended her original letter to add that with a firm commitment from the developer, City bureaus, the

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neighborhood and Council, Starr Crest can be the primary example of how business ought to be done.

Mr. Richardson, speaking for himself, asked how the developer plans to address the road going over his property.

Commissioner Hales said earlier versions of the plat showed that, on the west end of the street system, there appeared to be a curve that connected to a portion of SW 19th. That now appears to be a cul-de-sac, three-quarters of which is on the applicant's property. He asked for more information about that. He said he is also not clear about the location of the right-of-way for the pedestrian pathway or what the applicant's reaction to that proposal was.

In rebuttal, Mr. Sedorak said the issue is impervious surface, not density, as they are building one less unit than required by the City's minimum density requirement. He said the development will not negatively impact the creek, adding that they met with Planning and revised their plan to pull the lots totally out of the environmental zones. They also met with BES and proposed an alternative plan for stormwater treatment that will be reviewed later by a Type II review. He said if they were to develop this property on 10,000 square-foot lots, they would be allowed 63,000 square feet of impervious surface. They are proposing to reduce that by over 12,000 square feet, a 25 percent reduction. Planning has given them conditions of approval which address the great majority of concerns expressed by the neighbors today and by the Hearings Officer.

Mr. Sedorak said the portion of the road that supposedly goes over the adjacent property is not actually pavement and would be only if you spun the cul-de-sac circle to a full 45-foot radius. Part of the required right-of-way would go with that but they are only required to provide a temporary turn-around at that point. It will be connected to 19th at some future time and there will be no requirement to get that additional right-of-way from the property owner. It is only there so you can see what a 45-foot radius cul-de-sac bulb would look like. The road will be constructed totally on the Starr property. They have stayed totally out of the conservation zone and the applicant, Joanne Starr, planted most of the trees on the site, which formerly was a grape orchard. Only through her efforts are there so many trees on the site. Regarding the safety of children, there is adequate turnaround space within the subdivision to let them catch the bus in the cul-de-sac. They opposed providing handicapped access into the environmental zone because grading the slope in order to meet ADA requirements seems to contradict the goal of minimizing the impact to the environment.

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Commissioner Hales said he still did not understand where the pedestrian access was proposed.

Ms. Donaldson said the developer has agreed to provide two places where property owners can access the common open space. He will ensure that a new path will follow the existing one to decrease the amount of disturbance. They believe it is better to provide a path to guide where people go rather than having them go everywhere. There was some question concerning whether the 19th Street right-of-way is actually a public right-of-way. She understands it was never accepted as such by the City and there was a question as to whether, if it was a public right-of-way, a path should go through there and across the Creek to the other side. At this point Transportation is not requiring that connection because it has not been dedicated to the City.

Commissioner Hales said his question is where would the pedestrian path be. He asked if there is a condition requiring a dedication of a pedestrian connection from the public areas of the project to the dedicated open space.

Ms. Donaldson said yes.

Regarding the SW 19th issue, Commissioner Hales asked if Transportation, when it reviewed this, assumed that this would be the corner of a street network or a cul-de-sac bulb.

Ms. Donaldson said the understanding was that it would provide a connection to 19th Street sometime in the future. Transportation is requiring a barricade at the end now because the road is gravel. Usually they require a temporary turnaround but the Fire Bureau does not believe it needs one there. The turnaround will not be necessary when the street is continued, as eventually Transportation would require a connection from SW 19th to the east-west street in this project.

Commissioner Hales said the plan shows stubbed street connections on the east at Lots 18 and 20. Is it assumed that the street network, with future development, would somehow continue eastward on both those streets?

Ms. Donaldson said there is an existing house there and how the owner will continue to get access during construction is a question. Applicant at some stage showed a conceptual plan about how this road would link with a new development on the east side and allow continuing streets at both the north and south ends. That is what the street stubs are for.

Commissioner Hales said that seems strange spacing because of the proximity of the south connection to Boones Ferry. He said he realizes

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the applicant has no control of the property next door but the whole point is to try to create street connections that will actually work in the future. He asked if the assumption is that both (stubs) would be used to extend the street connection eastward with future development.

Ms. Donaldson said that was correct, although possibly the southern connection would not be needed.

Commissioner Kafoury asked if a bond was required for the trees.

Ms. Donaldson said they have a tree preservation plan which requires that a certified arborist inspect the site and ensure adequate protection of the trees during construction. She said she is sure applicant would have no objection to a bond.

Commissioner Kafoury said she would feel better if they had one. Mayor Katz agreed.

Commissioner Hales asked if the sidewalk design for the west side is the usual one for the West side which places the sidewalk immediately behind the curb, making the provision of street trees difficult. How will this work and how will the City assure that street trees will actually be planted?

Ms. Donaldson said Transportation Engineering asked for a sidewalk on one side only, partly to allow the lots to be brought forward, and for a planting strip along one side. She indicated that trees will be planted along the drainage swale on the other side and will be placed a little more informally, not necessarily as street trees. There will be planting on both sides although things are tight and Transportation is aware of the problems on the site. The requirement for street trees is in the conditions.

Mayor Katz asked if connectivity would be required.

Ms. Donaldson said there will be a path from the public sidewalk to the common open space at two points. The path will allow one to walk from the east end, within the common open space, and out on the west side, connecting back to the east sidewalk.

Mayor Katz asked if it was correct that nothing will be done regarding stormwater drainage without a Type II review.

Ms. Donaldson said yes. The conditions written by BES require a Type II review for the drainage system going into the south drainageway. The applicants have a conceptual design for that but are willing to include the final design within the Type II review as well.

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Mayor Katz said she does not support open-ended conditions and believes there ought to be a review before that is approved. Although she realizes the minimum density guidelines call for 20 homes, she said she would prefer a lower density as these homes do not reflect the nature of this environment or, with their four-car garages right in front, the kind of design the City wants to encourage. She said she realizes this is not within Council's purview but would hope the developer would be a little more sensitive to the environment rather than screaming to the community "here we are."

Ms. Donaldson said, regarding density, she has been accused of creating this problem because she produced a series of design options that showed 16, 18 and 20 lots. However, those were only options. Title 34 allows people to reduce the density below the minimum if there are site constraints but does not force them. At the moment this proposal does not encroach into the environmental zones and does meet the density requirements.

Commissioner Hales moved tentatively to overturn the Hearings Officer decision and approve the PUD, possibly with additional conditions to clarify his concerns. Areas which he believes need clarification are the pedestrian connection to the common open space and ensuring that the street trees will be planted. If a left turn onto 19th rather than a cul-de-sac bulb is planned, he would like that to be stated more explicitly. He said if three-quarters of a cul-de-sac bulb is built now and the adjacent property is not developed for some years, he does not want future Councils to have to demonstrate that this was meant to be a street connection and not a cul-de-sac. He agreed with Commissioner Kafoury's request for a tree preservation plan with certification by an arborist. He is not too sure about a bond.

Ms. Donaldson said they have sometimes been required before.

Commissioner Hales said since the Hearings Officer's decision this project has been modified and does meet the criteria although there are still things that could be improved. He said while he appreciates the Neighborhood Association's testimony, he takes issue with the statement that this is a rural area. If the neighborhood wants that addressed it should participate in the Southwest Community Plan process. Density and design concerns should be addressed through that process, rather than fighting over three or ten lots at a time. Finally, the reconfiguration of the lots which has been done since the Hearings Officer's decision meets the City's criteria and when someone meets them, they deserve approval.

Commissioner Kafoury seconded. Mayor Katz said she will accept Commissioner Hales' statement as a motion and will support it as she

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believes enough was done in the interim by the Planning Bureau and the neighborhood to mitigate some of her concerns. The record is open for seven days and if something major has been missed she would like to know about it. She noted this was a tentative decision and she might be willing to change her recommendation based on what she gets during this period.

Roll was called on Commissioner Hales' motion. (Y-3)

Commissioner Hales said he hopes this is one of the last projects in which the City does not know what its stormwater standards are so it requires people to go through a second Type II process in order to design the infrastructure. Everyone needs to know up front what the standards are and they need to be readable and understandable. He said he knows such discussions are now underway with BES and the development review team but no one is well served when there is open-ended negotiation over the design of infrastructure and no one can see the target until the end of the process.

Commissioner Kafoury said such projects are always going to require delicate balancing over the number of units. The design is far more important, however, than the numbers.

Mayor Katz noted tension about the Council's commitment to the 2040 goals to increase density, which are best addressed in the Comprehensive Plan. She agreed with Commissioner Kafoury that the design is more important and added that she is not that impressed with these plans and hopes they will change. She said she would be sensitive to further recommendations by the Neighborhood Association while the record is open but meanwhile she will support the motion.

Mayor Katz requested that Commissioners Blumenauer and Lindberg review the tapes so that they could vote on the findings, rather than delaying them until August 31, the next time the Council members present today will all be present again.

**Disposition:** Tentatively grant appeal with conditions; applicant prepare findings for August 9, 1995 at 2:00 p.m.

## **REGULAR AGENDA**

### **Commissioner Charlie Hales**

- 1171** Amend Title 33, Planning and Zoning, Chapter 33.130 (Commercial Zones) Mixed Commercial/Residential Zone Regulations and Standards (Ordinance)



**JULY 12, 1995**

**Discussion:** Michael Harrison, Planning Bureau, said on June 28 Council heard testimony on the Belmont Livability and Zoning study. On that date Council passed to second reading an amendment to the zoning maps implementing that study and passed a resolution directing that the changes to the zoning code recommended in the report be finalized and brought to Council today. This is the second reading on the zoning map and the first reading on the amendments which provide the specific new language. These amendments directly make the CM (Mixed commercial) zone a more useful and flexible tool and eliminate some problems which were identified. The CM zone was added to the Code in 1991 as part of the rewrite project. Three changes are proposed now. The first gives existing buildings and businesses in commercial zones status as conforming uses, rather than non-conforming. The CM zone is a mixed use zone and it is intended that new construction be at least 50 percent residential. Currently the Code makes existing commercial uses and buildings nonconforming uses because there is no 50 percent residential match. Changing that could change the legal and lending status for many existing businesses and make CM zoning a much more useful tool when talking to neighborhoods about where to put density and the character of neighborhoods and commercial corridors, providing for a transition in character over time. The second changes have to do with how the 50 percent split between commercial and residential is calculated. First, the Planning Commission decided not to include structured parking under a building as part of a business' square footage, rather than counting it as part of their commercial square footage and thus penalizing them for using their space more efficiently. The Code has also been changed to encourage the provision of outdoor private recreation space for residential units. To do that the Code includes outdoor balconies within the calculations for residential square footage in meeting the 50 percent requirement. The third substantive change allows extremely small commercial additions, no more than 250 square feet, to existing buildings. Businesses would not have to match their new commercial square footage with residential until they go above the 250 square foot limit.

Charles W. Lawrence, 4430 SE Belmont, said these changes will make his life easier and thanked Council for helping him resolve a long-standing problem. He said this will help other property owners in the same situation make their properties usable.

**Disposition:** Passed to Second Reading July 19, 1995 at 9:30 a.m.

**1166**

Amend Comprehensive Plan Map and Official Zoning Maps of the City in the Belmont/Morrison Corridor (Second Reading Agenda 1034; amend Code Chapter 33.130)

**Disposition:** Ordinance No. 169075 as amended. (Y-3).



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- \*1172** Designate ten Heritage Trees in the City of Portland (Previous Agenda 1122)

**Disposition:** Continued to July 19, 1995 at 9:30 a.m.

- 1173** Deny appeal of Rosemarie Opp and Lawrence Hudetz and uphold Hearings Officer's decision as modified 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 at 805 SE 122nd Avenue (Findings; Previous Agenda 1022; 95-00039 CU AD)

**Discussion:** Commissioner Hales moved to amend the decision to reflect the language proposed by Steve Gerber in his memo of July 7, 1995. Commissioner Kafoury seconded.

Steve Gerber, Planning Bureau, said the change eliminates the findings that supported incursion or encroachment into the open space. It also changed the decision in two ways. It denies parking in the open space and adds a mechanism whereby Council could review a request for additional parking without the Library having to start over again at ground zero. That mechanism was proposed by the City Attorney.

Roll was called on the amendments. (Y-3)

Commissioner Hales noted in response to a question from the appellants, that the appeal was denied but the conditions were changed.

Mayor Katz said she believes the appellants still have the ability to appeal in the future if the Library comes back. She said she raised this issue earlier and that was the answer. She noted Planning Bureau agreement.

**Disposition:** Findings adopted as amended. (Y-3)

**Commissioner Charlie Hales**

- 1174** Reaffirm, on LUBA remand, approval 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 (Findings; Previous Agenda 1023; 93-00833 CU)

**Discussion:** Al Burns, Planning Bureau, said two sentences should be deleted from Page 6 of the findings, under Finding 12. He indicated the incorrect statement, beginning with the words "the remainder of Element 6.4 is not applicable" and continuing to the end of the

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paragraph. The language should be deleted as it is not necessary to the findings. He said Mr. Cox, applicant's attorney, has no objection.

Commissioner Hales moved to delete those two sentences as indicated. Commissioner Kafoury seconded and, hearing no objections, the Mayor so ordered.

Commissioner Hales moved to adopt the findings reaffirming Council's prior decision.

**Disposition:** Findings adopted as amended. (Y-3)

At 4:25 p.m., Council adjourned.

BARBARA CLARK  
Auditor of the City of Portland

*Cay Kershner*

By Cay Kershner  
Clerk of the Council