



CITY OF

PORTLAND, OREGON

**OFFICIAL
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 13TH DAY OF SEPTEMBER, 1995 AT 9:30 A.M.

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

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

Chuck Currie, Burnside Advocates, presented the Beverly Curtis award to Terry Anderson, Commissioner Kafoury's assistant, for her work on behalf of the homeless.

Bruce Hagensen, Mayor of Vancouver, described upcoming events planned to celebrate Jack Murdock Day on September 16.

1480

TIME CERTAIN: 9:30 AM - Present Erosion Control Award (Presentation by Commissioner Blumenauer)

Discussion: David Hill, Transportation Engineering, described multi-bureau efforts to deal with erosion control in rights-of-way and on private property. The Buckley Company was presented with the first annual Erosion Control Award for its efforts on the Forest Heights development.

Disposition: Placed on file.

CONSENT AGENDA - NO DISCUSSION

Due to the absence of Commissioners Blumenauer and Lindberg, Council was unable to vote on a Consent Agenda or emergency ordinances. All items on the Consent Agenda, with the exception of emergency ordinances, were considered individually. The emergency ordinances were continued to Thursday, September 14.

REGULAR AGENDA

1481

Accept bid of GNB Technologies, dba Standard Batteries, for annual supply furnishing automobile truck batteries for \$22,358 (Purchasing Report - Bid 18-A)

Disposition: Accepted; prepare contract. (Y-3)

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1482 Accept bid of Entek Corporation for HVAC replacement at Portland Tennis Center for \$44,832 (Purchasing Report - Bid 20)

Disposition: Accepted; prepare contract. (Y-3)

1483 Accept bid of Paul Brothers, Inc. for Balch Creek pilot project for \$143,677 (Purchasing Report - Bid 25)

Disposition: Accepted; prepare contract. (Y-3)

1484 Accept bid of Wilkins Trucking Co., Inc. for an annual supply of slurry seal aggregates for the Bureau of Maintenance for \$43,680 annually for two years (Purchasing Report - Bid 26-A)

Disposition: Accepted; prepare contract. (Y-3)

Mayor Vera Katz

1485 Confirm appointment of Mark Loomis to the Civil Service Board (Report)

Disposition: Confirmed. (Y-3)

1486 Adopt City of Portland Investment Policy (Resolution)

Disposition: Resolution No. 35440. (Y-3).

***1492** Agreement with HNTB Corporation for professional services for Phase I of the River Access and Transportation Project, Steel Bridge section (Ordinance; waive Code Chapter 5.68)

Discussion: Commissioner Hales asked if the design requirements for this phase are being coordinated with the design work already completed on the East Bank Esplanade Master Plan. He also noted the \$500,000 design cost on a \$1.5 to \$2 million project and asked if there will be money left to construct the project after the design is completed.

Ron Kleinschmidt, Bureau of Transportation Engineering, said it is not absolutely coordinated yet and there are questions on both sides about the match and the elevation to the South. He said one reason the design costs are so high is because the elevation differences will make it difficult to meet ADA requirements. He said a coordinating group has been formed to review the structural and operating safety issues and also look at the design concepts. That will be done before hard engineering dollars are spent on design.

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Commissioner Hales asked if this contract is inclusive of both of those phases of the design process.

Mr. Kleinschmidt said the first thing is to get the concept and once that is set the plans for actual construction will be worked out. This contract includes that work as well.

Commissioner Hales said he is concerned overall about the money the City spends designing projects rather than actually building them.

Mr. Kleinschmidt said the project concept has been around for a long time but the idea of leaping across the river on the lower deck of the Steel Bridge was added to the 1987 district master plan in 1991. Based on a 1991 feasibility study, the engineers determined that an outrigger bridge technically could be hung on the lower upstream side of the Steel bridge. The City sought \$1.7 in funds from ODOT, based on the rough cost estimate at that time. In 1994 they reached an agreement with ODOT for the funds and then ODOT's bridge engineer said he did not think it could be done. Another feasibility study was then done and conceptual agreement to go ahead was given by the two railroads involved as long as the City agreed to address certain issues. This has been one of the most complex contracts ever prepared, involving multi-jurisdictions.

Commissioner Hales said this makes him more nervous rather than less.

Mr. Kleinschmidt said they recognize that shifting money from construction to design means there are not sufficient funds to cover the cost. However, they believe a more finite design concept is needed first, to define the envelope. The design contract is set up for a worst case scenario and they hope not all the money authorized will be needed.

Commissioner Hales asked where the funds to augment the construction side will be found.

Mr. Kleinschmidt said they do not know yet but know they cannot begin to tackle that problem until they define the design envelope and make sure the railroads are comfortable with the proposals. He said they have been two years getting this far. He said anyone who undertakes this project has to develop a full understanding of the complexities involved with the bridge before they can even undertake the design. He said he is hopeful that at least 25 percent of the cost can be cut out of the contract by quickly focusing on the concepts and easing everyone's concerns about what they propose to do.

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Commissioner Hales said the City will eventually have to face the question of how to fund the balance of the construction project.

Mr. Kleinschmidt said this is too important to just give up and it is better to fine tune the concept first and have a plan that minimizes the expenditure of hard engineering dollars on plans that may not be any good. It is an expensive contract, almost twice what he expected. He said their rough estimate of the additional construction costs, in the worst case scenario, would be approximately \$1.25 million.

This item was continued to the Thursday session for the vote.

Disposition: Continued to September 14, 1995 at 2:00 p.m.

Commissioner Charlie Hales

- 1493** Amend contract with the University Hospital of the Oregon Health Sciences University for occupational health nurse services and lab testing at a maximum cost of \$39,300 (Second Reading Agenda 1452; Contract No. 28523)

Disposition: Ordinance No. 169274. (Y-3)

REGULAR AGENDA

- 1509** Request of Teri Lyn Vik to address Council regarding a health and safety concern (Communication)

Discussion: Teri Lyn Vik, Bureau of Emergency Communications (BOEC) employee, said working conditions at BOEC are a threat to community safety. She claimed that BOEC management uses fear and intimidation in dealing with employees, many of whom suffer from stress and stress-related illnesses. She said employees are often forced to work two hours of overtime, bringing their total hours to 12. BOEC is also operating below minimum staffing standards which at times means that calls to 9-1-1 are placed on hold for up to five minutes. She said 31 BOEC employees have filed complaints with the State Bureau of Labor and Industry and the training department is in complete disarray, with management making up the rules as it goes along. Those who speak out are targeted for termination. She said the Bureau is operated in a chaotic manner that will cost lives and asked Council to appoint a task force to investigate these charges.

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Mayor Katz said these issues will come up during the budget process and at that time Council will review them.

Disposition: Placed on File.

1510

Accept bid of Modern Building Systems for furnishing and erecting a homeless assistance center for \$299,740 (Purchasing Report - Bid 24)

Discussion: Commissioner Kafoury noted that since Council approved this a counter proposal to remodel the now closed Recovery Inn facility has been made.

David Kish, Director, Bureau of General Services (BGS), said there were four bids for the homeless shelter, two for a tentlike structure and two for modular units. The contract should be amended to bring the total from \$292,440 to \$299,740 to include about \$6,000 for a parking strip and \$1,300 for extra laundry cabinets. He said the bids came in higher than expected because of some additions added to the original design. Those included a laundry facility, a day use area, offices for social service staff, off-site parking, lighting and security. They still believe this is a reasonable cost for a facility of this type. He referred to a memo his office sent yesterday highlighting the difference in this proposal and Mr. Atwood's proposal. Even though this is \$178,000 more than what he is proposing for the Recovery Inn site, General Services believes there are reasons to move forward as planned.

Commissioner Kafoury noted that construction costs are escalating rapidly. She said that, rather than underbidding, is the problem.

Mr. Kish said there have been fewer bidders on recent City contracts because of the boom in high tech construction work.

Karen Kramer, BGS Facility Services Manager, said the target date for opening was November 1st. The contractor has only 60 days to produce the modular facility and have it available for occupancy; if the contractor can begin by the end of the week (September 18), it is hoped it will be ready by November 15. try to meet that deadline.

Mayor Katz noted that the total cost varies, depending on whether the City purchases or leases the facility.

Mr. Kish said BGS is recommending leasing the facility rather than purchase, which would add an extra \$50,000 to the cost. He said they do not believe it will be worth that amount at the end of the 2-1/2 year period.

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Mayor Katz said the total cost would then be about \$475,000, including the fencing and lighting.

Ms. Kramer said the cost also includes contingencies for potential soil remediation, potential security fencing and other contingencies. There is an additional \$50,000 to dismantle the structure but today's budget is \$424,840.

Mr. Kish said 2-1/2 years from now they will be back to talk about clean-up costs and moving the facility.

Mayor Katz noted that the City is talking to County staff about operations and reminding them that this is intended to be a fifty-fifty partnership.

Jim Atwood, co-owner of the property where the former Baloney Joe facility operated, presented a proposal for reuse of that facility instead of building the temporary shelter near Union Station. He described various aspects of his plan including elimination of on-site food service, opening the facility 24-hours a day, admitting clients only by referral, adding air conditioning and other improvements. He said his proposal would save between \$300,000 and \$400,000 over the cost of the proposed portable shelter. He said they believe they can open the remodeled facility in 45 days, by November 1, as this is a simple commercial remodel in a building which has a new roof and is already adequately sprinkled and plumbed. He cited safety and design concerns regarding the temporary facility, which is in a field soaked in diesel and creosote. He said there is a discrepancy between his numbers and BGS's, the biggest being the \$151,000 1998 purchase price. In the fine print it says the building must be returned in "like new" condition and the odds of this occurring are very remote. Also BGS proposes that all City bureaus except itself waive their fees. Even if all the bureaus can do that, their fees still relate to the cost of services provided, whether included in this budget or not. He said it is much cheaper to remodel Baloney Joe's as the landlord will take all the risk and do all the work.

Mayor Katz asked him why he was so late with this proposal.

Mr. Atwood said the building owner believed that someone from the City would pick up the ball from the Salvation Army and it was not until July that they realized this was not going to happen. They also did not know how much had been budgeted for the portable structure and when they found out that it was \$300,000, they realized they could fix their building for \$195,000 and lease it to the City for 30 months. They then analyzed the numbers and found that the City's cost on the portable facility would be more like \$600,000 or \$700,000

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and that is the tip of the iceberg. The next problem will be operation of the facility. He said the proposal to manage 100 people with a staff of two is unrealistic and operation costs are going to be more than is dreamt. All the more reason to save as much as possible up front.

Commissioner Kafoury said the commitment had been already made to the Central Eastside community that Baloney Joe's would be closed and homeless people would not be placed there anymore. She said a different use should be found at this location, which Bill Naito has called a gateway to downtown and an ideal place for something positive and upbeat.

Mr. Atwood said Mr. Naito told him that it made more sense to fix up the old building.

Commissioner Hales said because of its prior commitment to the Eastside community, he does not believe Council can back down at this late date. He said he continues to be concerned about the cost increase and will not support an operating cost pick-up by the City as this is Multnomah County's responsibility. He said the City has obligated itself and now both the non-profits and the County must live up to their obligations as well. The danger of something coming unraveled there is still of concern.

Mr. Kish requested the amendment changing the total amount to \$299,740 to pay for the items described above. Commissioner Kafoury so moved and, hearing no objections, the Mayor so ordered.

Mayor Katz said she raised the same concerns as Mr. Atwood and things got a little controversial about this facility and about the long term need for a mass shelter. She said they need to stop being in a state of denial about the need for one. Because of the timing, it is very awkward for the Council to change direction right now. She said she too is concerned about the operational costs and managing such a facility correctly.

Disposition: Accepted as amended; prepare contract. (Y-3)

Mayor Vera Katz

1511

Adopt a joint resolution with the City of Suzhou for the design and preparation of construction documents for a Classical Chinese Garden in Portland (Resolution)

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Discussion: Mayor Katz described the project and financing arrangements for this \$4.3 million project and added that money needs to be raised first to cover the \$168,000 design cost.

Dr. Eng Lock Koo, 10373 NE Hancock, Steering Committee Chair, said the plan for the Garden was conceived in 1986 when the Chinatown Gateway was built.

Donald Jenkins, Chair, Classical Chinese Garden Society, said they are grateful for the City's initiative in this matter, particularly at the international level. He said the Society has accepted responsibility for raising \$180,000 and is confident it can meet that commitment.

Bill Naito, Fund-raising Chair, Classical Chinese Garden Society, said this will make Portland the Queen City of the Pacific Rim and thanked Northwest Natural Gas Co., for the donation of such a valuable piece of property.

Connie Diack, President, Portland Suzhou Sister City Association, described her visit to a similar garden in Vancouver, B.C. and said her organization strongly supports this project. She said the Vancouver garden was completed in two years and its operation is totally supported by admissions and volunteer contributions

Ma Chang, 3485 River Forest Way, West Linn, Portland Kaohsiung Sister City Association, said they are very happy to see this project moving forward so smoothly and look forward to furthering closer ties with Taiwan.

Mayor Katz said there is a lot of enthusiasm for this project but it will take a lot of work. The federal government will be asked to participate and the City may be asked as well. However, right now this will be a private fund raising attempt.

Commissioner Hales said this valuable "point of light" is doable but will require hard work and diplomacy with friends in two countries.

Disposition: Resolution No. 35441. (Y-3)

Commissioner Earl Blumenauer

1513

Consider vacating portions of NE 7th Avenue and NE Oregon Street in connection with the Grand Avenue Gateway site (Previous Agenda 1473; C-9893)

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Discussion: Kathryn Hall, Office of Transportation Engineering, said Tri-Met's concerns have been answered and it no longer has any objections to this vacation.

Ron Kleinschmidt, Office of Transportation Engineering, said Tri-Met withdrew its objection after it realized a number of other options for light rail connection were available and it is now embarking on a public involvement process to analyze them. The street vacation will not preclude a connection on NE 7th. He said when the City sited the Convention Center in 1987 they also did an area development strategy for the Lloyd District. In the overall plan the area of this vacation was envisioned as a superblock. As they made transportation improvements in connection with the Convention Center, Transportation Engineering staff came to recognize the need for a definite transportation plan and out of that grew the Lloyd District Transportation Capital Improvements program, with a host of projects. With completion of the 16th Way project in November, people will be able to travel from 16th and Multnomah to the Convention Center and then across the river to Tom McCall park and only cross two signalized intersections.

Commissioner Kafoury grumbled that is the way it used to be.

Mr. Kleinschmidt said some of the goals outlined in the Transportation Capital Improvements Project were to recover blighted pieces of property and to attract development. He described some of the opportunities to provide a gateway and redevelopment, all of which focus on the importance of the 7th and Holladay intersection for pedestrians. Tri-Met agrees that their proposal was not as appropriate as other options and therefore withdrew its objection.

Commissioner Hales said this is a good system plan for pedestrian and transportation facilities in the neighborhood and also supports the proposed vacation on Pacific Street. Because of the way it functions between 7th and 9th, as an alley through what otherwise is a superblock environment, he does not have a problem with carrying that pattern one more block. However, while the superblock configuration is all right in this case, he thinks the City may need to revisit the general policy that favors superblocks.

Mr. Kleinschmidt said in the Central City plan and a host of other documents, staff recognized superblocks as a possible method of development in this district. Looking at past superblocks, however, they found some aspects which they plan to avoid in future superblock developments. How pedestrians are treated is one of those aspects. However, each superblock is reviewed separately and a review will also be triggered on existing ones if any major

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redevelopment is proposed. At the Lloyd Center, consideration will be given to a pedestrian corridor reaching from there to Broadway and into the neighborhood.

Commissioner Hales said he is not sure it makes sense for the City to enable superblocks very often, if ever, and the City should make it very clear when it does not want something, as it has done with gated communities. Some things, such as the fortress redevelopment of the Lloyd Center mall, got away from the Planning Bureau. He said the City may need to be more blunt with the private sector and noted his disappointment that Airport Way, which was sold to Council as an industrial area and where the City spent a fortune on infrastructure, is turning out to be Beaverton East with fast food places and retail junk. He said with all this high quality planning, he will be disappointed to see the Lloyd District turn out to be a suburban enclave with lots of parking garages and superblocks. He said he is not sure a pedestrian-friendly, street-level environment is being developed here.

Mr. Kleinschmit suggested exploring another option to superblocks.

Mayor Katz said further development at the Lloyd Center is being discussed that may add to everything Commissioner Hales is concerned about. She said when you walk by the superblocks and institutional blocks in that area at night, there is nothing going on and more activity is needed here.

Mr. Kleinschmidt said just the having the Kaiser Permanente building move into the district greatly changed the pedestrian ethic, and added a significant amount of pedestrian and transit activity. As development continues going that way, more such activity will be added.

Commissioner Hales said there is still a lot of badly underdeveloped privately-owned property in this area and if the City does not want to see more superblocks here it should revisit the concept and then make it clear what it will and will not support.

Mr. Kleinschmidt said the Lloyd District Community Association could be a good forum for review.

Commissioner Hales said the only reason the City has the downtown it has today is because it was so resolute about sticking to its requirement for 50 percent street level retail.

Disposition: Approved; City Engineer prepare ordinance. (Y-3)

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1514 Accept report on streamlined speed bump and school safety projects and adopt selection guidelines for new school safety projects (Report)

Discussion: Crysttal Atkins, Bureau of Traffic Management, described the streamlined process for approving school safety projects and showed slides of those most recently undertaken. She described three complex and four basic school projects that have now been completed. The simplified process in the neighborhoods has worked well, allowing for more rapid completion. Staff also recommends that the school safety selection method be adopted permanently.

Disposition: Accepted. (Y-3)

Commissioner Charlie Hales

1520 Reject the proposed U.S. House of Representatives budget which proposes more than \$450 billion in cuts in Medicare, Medicaid and the Older American's Act and request restoration of funds from the Senate (Resolution)

Discussion: Commissioner Hales said passage of this budget will cut funds for such outstanding programs as Meals on Wheels, a program which relies heavily on volunteers.

Disposition: Resolution No. 35442. (Y-3)

Commissioner Gretchen Kafoury

1521 Accept a tax foreclosed property from Multnomah County and convey it to Housing Our Families (Second Reading Agenda 1474)

Disposition: Ordinance No. 169275. (Y-3)

City Auditor Barbara Clark

1522 Create the Brentwood/Darlington HCD District No. 1 Local Improvement District (Second Reading Agenda 1440; C-9895)

Disposition: Ordinance No. 169276. (Y-3)

At 11:43 p.m., Council recessed.

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WEDNESDAY, 2:00 PM, SEPTEMBER 13, 1995

Due to the lack of an Agenda, there was no meeting.

SEPTEMBER 14, 1995

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 14TH DAY OF SEPTEMBER, 1995 AT 2:00 P.M.

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

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

Agenda Nos. 1499, 1500, 1501 and 1504 were pulled from Consent. On a Y-4 roll call, the balance of the Consent Agenda -- emergency ordinances which could not be passed at the September 13, 1995 meeting -- was adopted as follows:

CONSENT AGENDA

***1487** Pay claim of Dustin Q. Hoang (Ordinance)

Disposition: Ordinance No. 169277. (Y-4)

***1488** Pay claim of Janet Chambers (Ordinance)

Disposition: Ordinance No. 169278. (Y-4)

Commissioner Earl Blumenauer

***1489** Contract with ECONorthwest, Inc. for professional services for the Least Cost Planning component of the Transportation System Plan (Ordinance)

Disposition: Ordinance No. 169279. (Y-4)

***1490** Apply to the Oregon Department of Transportation for grant funds totaling \$80,000 to provide a continuous bikeway on NE Tillamook between NE 15th and NE 92nd (Ordinance)

Disposition: Ordinance No. 169280. (Y-4)

***1491** Apply to the Oregon Department of Transportation for grant funds totaling \$100,000 to provide for enhanced pedestrian facilities at SW Taylors Ferry Road and SW Capitol Highway, SW 19th Avenue between SW Troy and SW Moss Streets, and NW Hoyt and NW Broadway (Ordinance)

Disposition: Ordinance No. 169281. (Y-4)

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***1492** Agreement with HNTB Corporation for professional services for Phase I of the River Access and Transportation Project, Steel Bridge section (Ordinance; waive Code Chapter 5.68)

Disposition: Ordinance No. 169282. (Y-4)

Commissioner Gretchen Kafoury

***1494** Increase contract with Chris Michael DiLoreto, Architect, for design of North Precinct (St. Johns) Police Station (Ordinance; amend Contract No. 29497)

Disposition: Ordinance No. 169283. (Y-4)

***1495** Increase Purchase Order contract with Andrea Bainbridge Design for Bureau of Buildings remodel (Ordinance; amend Contract No. 29686)

Disposition: Ordinance No. 169284. (Y-4)

***1496** Authorize an \$80,000 Intergovernmental Agreement with Multnomah County for the remodel of the 14th and 15th floors of the Portland Building (Ordinance)

Disposition: Ordinance No. 169285. (Y-4)

***1497** Enter into a lease agreement with Frontier Communications for tower space at 2595 NW Skyline (Ordinance)

Disposition: Ordinance No. 169286. (Y-4)

***1498** Increase petty cash fund for the Bureau of Housing and Community Development from \$200 to \$500 (Ordinance; amend Ordinance 152321)

Disposition: Ordinance No. 169287. (Y-4)

***1502** Contract with Portland Habitat for Humanity for \$30,000 to support affordable housing development and provide for payment (Ordinance)

Disposition: Ordinance No. 169288. (Y-4)

Commissioner Mike Lindberg

***1503** Contract with Elcon Associates for professional engineering services for Columbia Boulevard Wastewater Treatment Plant Return Activated Sludge Pump and Control Replacement Project and provide for payment (Ordinance)

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Disposition: Ordinance No. 169289. (Y-4)

- *1505** Contract with R & W Engineering, Inc. for professional engineering services for Tryon Creek Wastewater Treatment Plant mixer/aerator variable speed drive replacement project and provide for payment (Ordinance)

Disposition: Ordinance No. 169290. (Y-4)

- *1506** Authorize a contract and provide for payment for the Water Bureau Operations Building to finish first floor improvements project (Ordinance)

Disposition: Ordinance No. 169291. (Y-4)

- *1507** Authorize an intergovernmental agreement with the City of Gresham for cost sharing in the preparation of a draft interim hazardous substances containment design guidance handbook and regulated hazardous substances list (Ordinance)

Disposition: Ordinance No. 169292. (Y-4)

- *1508** Contract with Campbell DeLong Resources, Inc. in the amount not to exceed \$68,000 to assist in the development and analysis of a customer profile and analysis study (Ordinance)

Disposition: Ordinance No. 169293. (Y-4)

REGULAR AGENDA

Mayor Vera Katz

- 1504** Authorize settlement of condemnation proceedings for a parcel of land required for stormwater drainage treatment purposes in connection with the SE Johnson Creek Boulevard street improvement project (Ordinance)

Disposition: Ordinance No. 169294. (Y-4)

- *1512** Amend City Code to allow "total service" for calculating vacation accrual dates to include any continuous absence because of injury in the line of duty (Ordinance; amend Code Section 4.16.020)

Discussion: David Shaff, Employer Relations Office, Bureau of Personnel, said this is a Code change regarding how service in the City is counted for vacation accrual for employees who have been injured in the line of duty. The current Code states that the first

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year of absence as a result of injury will be counted for purposes of vacation accrual. A number of employees who have had more severe injuries and have been off for more than a year have been penalized and do not accrue vacation at the rate they would have if they had not been injured. This is an attempt to resolve that situation and will also resolve at least one grievance in the Police Bureau.

Disposition: Ordinance No. 169295. (Y-4)

Commissioner Earl Blumenauer

***1515**

Contract with Atlas Products, Inc. to consult in the development of a pre-fabricated rubber speed bump, not to exceed \$30,000, and provide for payment (Ordinance)

Discussion: Scott Madsen, Traffic Calming program, Bureau of Traffic Management, said this will allow them to explore the use of a pre-manufactured device which could be easily removed and replaced for resurfacing of the roadway. Right now they also have a problem with the constructability of the asphalt bumps which can vary as much as half an inch in either direction of the three-inch tolerance. That half an inch makes a big difference in how individuals feel about the bumps and they have recently had to reconstruct some bumps because of the imprecision of construction with asphalt. He said they will be investigating the durability of the product as well as different surfaces and possibly some type of reinforcement.

Mayor Katz asked if the intent was to study traffic patterns and behavior changes.

Mr. Madsen said no, the intent is to look for a replacement for the existing devices, which Transportation constructs. Depending on the costs, they may end up using them more on high-volume streets which require more frequent maintenance.

Commissioner Blumenauer said this would give them some construction flexibility.

Mr. Madsen said when it resurfaces a street the Bureau of Maintenance has to grind off existing bumps as well as the roadway. They hope these can be adhered to the road either mechanically or with a chemical.

Commissioner Blumenauer said it is an operational savings for the Maintenance Bureau.

Disposition: Ordinance No. 169296. (Y-4)

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*1517

Issue a revocable permit for Roof Tops International, Inc. to install, maintain and operate public telephones on City streets (Ordinance)

Discussion: Mary Beth Henry, Office of Cable Communications and Franchise Management, said this and the following items are all related. The City up to now has allowed only one provider of public, pay telephone service but because that business is growing more competitive there are now many providers on private property. Roof Tops International has asked for a permit to provide public pay phones in the right-of-way. U.S. West is currently the only provider. After extensive discussions with Transportation, they have agreed that they would like to pursue competition between U.S. West and Rooftops but have declared a three-year moratorium so they can evaluate any issues that arise.

Mayor Katz asked if the City can still prohibit calls coming in.

Ms. Henry said yes.

Commissioner Blumenauer said currently there are a lot of illegal phone booths in the right-of-way. Also, Transportation believes it is entitled to revenues from the pay phones as it gets the calls from citizens complaining about right-of-way issues. This is an unresolved issue which will be coming to Council to determine where the revenue ultimately ends up.

Don Gardner, Office of Transportation, said in some cases phone booths are installed on private property but only one foot back from the right-of-way. Because the doors open onto the public sidewalk it looks like the phone is on the street and Transportation gets the calls from citizens who believe the phones are being used for drug dealing and other questionable activities.

Disposition: Ordinance No. 169297. (Y-4)

*1518

Issue a revocable permit for U.S. West Communications, Inc. to install, maintain and operate public telephones on City streets (Ordinance)

Disposition: Ordinance No. 169298. (Y-4)

*1519

Authorize agreement for public pay telephone long distance services with American Telephone and Telegraph (Ordinance)

Disposition: Ordinance No. 169299. (Y-4)

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1516 Declare moratorium on issuance of phone booth permits (Resolution)

Disposition: Resolution No. 35443. (Y-4)

Commissioner Gretchen Kafoury

*1499 Contract with Multnomah County for \$35,418 for intensive probation supervision for domestic violence offenders and provide for payment (Ordinance)

Discussion: Lane Borrow, Oregon Men's Association, said in this and the following ordinances, there are no provisions for domestic violence services for men who are also victims. He quoted from ORS statutes and from federal laws which state that any services provided by shelter homes, safe houses, etc. which receive grants or other financial assistance shall be made accessible to all persons who reside in the area served and which prevent discrimination on the basis of sex. There are no services for men and their children who are in domestic crisis and no one on the government or community level seems to be interested.

Mayor Katz noted that the contract with Multnomah County does not refer to any gender restriction.

Mr. Borrow said 1499 deals with offenders but it is just assumed that 95 percent of the offenders will be men. He said his statement covers all three ordinances. (Items 1499, 1500 and 1501)

Dan Dennehy, Director, Oregon Mens Association, said common knowledge is wrong when it is assumed that 90 percent of all acts of domestic violence are conducted against women and he will provide Council with statistics to support this. He said before he could serve on the Multnomah County Family Intervention Steering Committee he had to state that "men are abusers and women are victims and survivors." As a victim himself of domestic violence, he said he was unable to get any help and found no agency to turn to for assistance. He cited an article stating that men are just as likely to be victims of domestic violence as women and that violence on the part of women is on the increase. He said it is unfair to have one set of rules for men and one for women and asked the City to do some model legislation and take a look at the rest of the story. He said statistics are often made up and misused and it is bigotry to accuse one section of society based purely on "common knowledge."

Richard Koenig, PO Box 15045, 97215, said it is difficult to ascertain whether the statistics are correct, citing an experience he had when he was stabbed by a woman but found no Police report listing the

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assailant's name, mode of assault or anything else. He said he tried to amend the record in that case but the Police Bureau is unwilling to take his report.

Specifically addressing Item 1499, Mr. Koenig said studies of domestic violence show that offenders have the same psychological profile as victims and the vast majority of such acts are done out of feelings of frustration and inadequacy. Offenders and victims alike need assistance, not just supervision.

Regarding Item 1501, Mr. Koenig said when he contacted the YWCA to ask about their capacity to house male victims, he was told they did not have any capacity and that he should call the Men's Resource Center. That is the same inadequate referral they made two years ago. He said while most men have been trained not to complain, he does get some calls for shelter from male victims. He asked for money to do the work he needs to do.

Commissioner Kafoury said, regarding Item 1499, that Multnomah County's program includes anger control, not just supervision, in order to address the problems. She said the City is dependent on community groups to submit applications for programs and urged him to submit a grant and get a program together.

Disposition: Ordinance No. 169300. (Y-4)

***1500** Contract with Salvation Army for \$112,836 to assist victims of domestic violence and provide for payment (Ordinance)

Disposition: Ordinance No. 169301. (Y-4)

***1501** Contract with the YWCA for \$69,157 to assist victims of domestic violence and provide for payment (Ordinance)

Disposition: Ordinance No. 169302. (Y-4)

Commissioner Charlie Hales

1523 Amend Title 33, Planning and Zoning, to clarify several issues (Ordinance)

Discussion: Commissioner Hales said this package of Code changes was taken to the Planning Commission this summer which has forwarded 13 of the 17 Code changes originally recommended by the Planning Bureau.

Bob Glascock, Planning Bureau, said this is the 10th package of

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amendments proposed by the Planning Bureau since passage of the Zoning Code in 1990. This package contains five groups of amendments (groups A-E). The first would allow larger garages in the rear and side yard setbacks in certain zones and would allow people to avoid an adjustment process and save staff time. He noted that of 39 requests for such adjustments last year, 32 were approved. The second set of amendments clarifies the Code to state that no off-street parking is required for residential development in the Neighborhood Commercial (CN) Zone. Issue 8.3 relates to the housing pool and simply deletes a reference requiring the Portland Development Commission to make a report which staff feels duplicates other efforts. The Group B amendments respond to the need for the City to be in compliance with certain State law regulations regarding notifications, appeal fees, etc. The Group C amendments relate to review procedures. C.1 deals with low-impact minor alterations on existing conditional uses and would require only an adjustment, eliminating the requirement for a conditional use process as well. Bed and breakfast regulations (C.2) would be eased, changing the process from a Type III to a Type II. Under the Type II process, neighbors will still be notified and property owners could request a hearing. Also grouped under C is an amendment eliminating the provision that failure to record a land-use decision within 14 days of approval will render it null and void.

Mr. Glascock said the Group D amendments contain two items relating to non-conforming situations. The first responds to a Bureau of Buildings' request regarding fire, life-safety and accessibility improvements and reflects concern that, if those improvements trigger landscaping upgrades on non-conforming properties, property owners will be discouraged from making earthquake preparedness improvements or making their buildings more accessible. The amendment would exclude those from the formula used to trigger non-conforming landscaping and screening improvements. The second (D.2) relates to parking lots in non-conforming developments which do not have perimeter or interior landscaping, which the Code currently requires. Currently, if property owners want to install the required landscaping, they must go through a land-use review. The proposed Code change would eliminate that review, which is a disincentive to bringing non-conforming elements into conformance. The Group E amendments relate to the size of off-street parking stalls and would allow 40 percent of the required standard-size spaces to be substituted with compact-size spaces. He noted a request to raise it to 60 percent. This change allows more flexibility in development and also encourages more efficient use of space.

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Amanda Fritz, 4106 SW Vacuna, 97219, said she was pleased to have the Planning Commission respond to citizen input and drop some of the amendments originally proposed by the Planning Bureau. She identified an error on Page 25 in 33.266.130 (E) regarding the landscaping requirements, which should have been deleted.

Norman Jantzer, 4529 SW Westwood View, described a problem the Terwilliger neighborhood had several years ago with an application for a bed and breakfast. He said he wants to make sure neighbors are considered as without a notice of hearing posted on the property, they would not have been able to organize opposition in that instance. He said they knew more about the safety of the streets than staff did and neighbors spent about \$35,000 in appealing the approval.

Arnold Rochlin, PO Box 83645, 97283, Forest Park Neighborhood Association, said his written testimony on Amendment C-1 was based on a misunderstanding but he still believes there is a hole there. He requested that this be referred back to staff for review. Regarding D.1, which would exclude mandated health and life safety improvements from certain non-conforming development requirements, he said the problem here is that the developer who brings his development up to Code is out in the cold because what he did was not mandated. Owners are already putting plans aside to bring their structures into conformance. You are telling people they are fools to go ahead and improve their property.

Commissioner Hales asked if he was suggesting that the word mandatory be removed.

Mr. Rochlin said his first choice would be to eliminate the provision entirely as currently people are allowed to continue non-conforming uses, gradually bringing them into compliance.

Steve Rogers, 533 NE Brazee, 97212, Land-Use Chair, Eliot Neighborhood Association, addressed three concerns. Regarding B-4, he asked that the list of notification requirements be clarified as they are currently all jumbled up. Second, he asked that the name of the neighborhood association contact person be listed on the notice. He said that is generally done but is not required by Code. Finally, he said the 14-day deadline for responses from the neighborhoods to Type II applications is too short and inhibits citizen participation.

Charlotte Uris, 2526 NE 10th, seconded Mr. Rogers' testimony regarding the need for a longer than a 14-day response period. She asked for a 30-day time period, if possible. She asked that the approval criteria and basis for the decision be required on the notification requirement. She said it educates her and helps her

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decide whether she agrees with a decision or wants to appeal.

Mayor Katz asked if the City was doing that now but it is not codified.

Ms. Uris said yes.

Earl Dial, 4134 NE Flanders, urged Council to pass the staff recommendation regarding the replacement of garages and to add an emergency clause to allow people to get started right away.

Mr. Glascock said Ms. Fritz correctly identified an error in the Planning Commission's recommendations as they did not intend a change in the perimeter landscaping to appear in Table 266-4, on Page 25.

Regarding Mr. Jantzer's testimony, Cary Pinnard, Planning Bureau, said the 1991 Code really cracked down on bed and breakfast uses, particularly for other social uses. After several years' experience with these more restrictive regulations, Planning believes, in the interest of streamlining, that a Type III procedure is unneeded. Even with a change in bed and breakfast applications to Type II, there would still be notice to surrounding property owners and an opportunity for a hearing.

Mayor Katz asked if notification to the neighbors would still allow them to make comments at a hearing.

Ms. Pinnard said the difference is that the hearing would not be automatic. The notification area is slightly reduced but the neighborhood association and the surrounding property owners are notified in both Type II and III.

Commissioner Hales said the opportunity for a hearing is there but it is not automatic.

Ms. Pinnard said there are more notices with a Type II than III because an administrative decision is made after the comment period and if any party is unhappy with that they have the opportunity to appeal and have a hearing. She said the regulations on bed and breakfast operators are really tough, i.e. operators are limited to no more than four gatherings a year for more than four people.

Commissioner Kafoury wondered if government was getting too intrusive. Mayor Katz agreed.

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Commissioner Hales said this is one of those cases where the City said they would make the standards tougher in exchange for automatic hearings.

Ms. Uris said in order for this to work, more than 14 days notice is needed.

Mr. Glascock said Mr. Rochlin's first objection concerned C.1 where he believes the adjustment criteria is inadequate. He said staff believes that the three situations where they propose only adjustment review already have adequate adjustment criteria.

Ms. Pinnard said staff looked for situations where there appeared to be unnecessary government intrusion and where regulations were unneeded to protect surrounding property owners. Staff came up with a small list of changes, such as for a fence or deck, where they felt a full conditional use review procedure was not necessary. However, no specific conditions of a conditional use may be violated when such changes are made. For example, if the height of a fence was an issue when approval was originally granted, one would go back to the conditional use process.

Mr. Glascock said Mr. Rochlin's second issue had to do with B.1 concerning the exclusion of health, life safety and accessibility improvements from the non-conforming development requirements.

Ms. Pinnard explained that the City has a policy which states that over time non-conforming development should come into conformance as improvements are made. Improvements which go beyond the \$10,000 threshold trigger conformance requirements. What has happened lately is that a lot of large building permits have been issued in response to federal or state-mandated upgrading requirements, such as earthquake or accessibility upgrades. People felt they were getting a double hit because not only were they forced to spend a lot of money for those upgrades, but the City was adding still another bite. The City wants to keep the \$10,000 threshold but exclude from that threshold money spent for such mandates.

Commissioner Hales asked what the effect of deleting the word "mandatory" would be.

Ms. Pinnard said that would be more confusing as they are trying to clarify that if a property owner is forced to meet another governmental requirement, that amount will not be counted. A lot of adjustments are generated because people want to add to their business or modernize; those would be counted. She agreed with Mr. Rogers' suggestion about having a consistent order about what goes

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into the notices. And while staff agrees that as standard operating procedure it wants to include the name of the neighborhood association contact on the notices, it does not want that requirement in the Code. Since the names change, staff does not want to violate the Code if they have not updated their contact list. Regarding the amount of notice given on Type IIs, she noted that Council made a decision on that after much debate about balancing the need for faster review against more time for public participation. Council could review that the impact on staff's work program should be considered first.

Mayor Katz said she thought the recommendation was to bring people back to the table on that issue. That decision, however, should be left to the Commissioner in charge.

Ms. Pinnard agreed with Ms. Uris that there are a few more places where the approval criteria and basis for decision are included, even though that is routinely done.

Regarding the addition of an emergency clause, Mr. Glascock said one option is to add an emergency clause but specify October 6 (or some other date beyond the 21-day LUBA appeal period deadline), as the effective date so the City does not have to make goal findings on each request.

Commissioner Hales suggested holding this over for a week to allow staff to make the suggested changes and attaching the emergency clause then.

Mr. Holstun said the Planning Bureau will be required to make goal findings until the ordinance kicks in. However, one could still make the ordinance kick in next week by adopting the emergency clause.

Ms. Pinnard said because of the requirement for goal finding for each one of these garage requests, staff is recommending that the ordinance not be effective for 21 days.

Commissioner Hales asked if staff could not just hold over the findings.

Mr. Holstun said Council can delay, if it wants, the effective date for 21 days in order to avoid making goal finding. He said he understood the request was for the ordinance to become effective immediately so that people could go ahead and submit applications. In approving those, staff would be required to adopt goal findings for each permit issued until the end of the 21-day period.

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Ms. Pinnard said the Permit Center is not set up to adopt goal findings when it issues a building permit.

Mr. Holstun said if Council elected to make the emergency ordinance effective immediately and most of the applications related to the garage setbacks, the goal findings obligation should not be that horrendous.

Commissioner Hales said Council cannot act on an emergency clause until next week anyway (because only three Council members are present). He suggested that Council direct staff to reorder the notice as was suggested. It should also delete the reference on Table 266-4 to reflect the Planning Commission action. He said he is open to taking another look at the Type II notice but would like to wait until the work on subdivisions is completed. He said putting the name of the contact person on the notice should be a Bureau practice but not put in the Code, creating a technicality that might make a case appealable because of a wrong name.

Mayor Katz noted Ms. Uris' suggestion to add to the Code a requirement to identify reasons for denial or approval.

Commissioner Kafoury said she was still trying to understand Mr. Rochlin's issue.

Mr. Rochlin said right now if people request an improvement in a non-conforming developing, they may be required to devote 10 percent of the cost of the improvement to reducing the non-conformity of certain listed items, such as landscaping, fencing, etc. What is being recommended here is not to count the 10 percent cost of mandated improvements for the sake of health or safety.

Ms. Pinnard said that was only against the \$10,000 threshold.

Mr. Rochlin said perhaps this was not worth debating anymore. Commissioner Kafoury said then it does not matter if she does not understand it. Mayor Katz said now she is confused.

Commissioner Hales said he wants to put this into effect immediately if it can be done without creating an administrative nightmare in the Permit Center.

Ms. Pinnard said perhaps they can prepare one set of goal findings which they can use over and over for garages.

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Mayor Katz asked staff to talk to Mr. Rochlin regarding his concern.

Disposition: Passed to Second Reading as amended September 20, 1995 at 2:00 p.m.

At 3:40 p.m., Council adjourned.

BARBARA CLARK
Auditor of the City of Portland

Cay Kershner
By Cay Kershner
Clerk of the Council