



CITY OF
PORTLAND, OREGON

**OFFICIAL
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 20TH DAY OF DECEMBER, 1995 AT 9:30 A.M.

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

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

Agenda Nos. 1946 and 1949 were pulled from Consent. On a Y-5 roll call, the balance of the Consent Agenda was adopted as follows:

CONSENT AGENDA - NO DISCUSSION

1945 Accept bid of Gresham Transfer Co. for biosolids transportation for the Columbia Blvd. Wastewater Treatment Plant for \$2,937,600 (Purchasing Report - Bid 48)

Disposition: Accepted; prepare contract.

1947 Accept bid of Capitol Concrete Construction Company for SW Capitol Highway/SW 49th Avenue sidewalks, curbs, ramps, driveways and retaining wall for \$253,197 (Purchasing Report - Bid 55)

Disposition: Accepted; prepare contract.

1948 Accept bid of Imaging Products International, Inc. for annual supply of photographic supplies for various bureaus for \$85,687 (Purchasing Report - Bid 57-A)

Disposition: Accepted; prepare contract.

Mayor Vera Katz

1950 Give preliminary approval for Revenue Bonds in an amount not to exceed \$3,000,000 to finance multi-family housing project (Resolution)

Disposition: Resolution No. 35478. (Y-5)

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1951 Give preliminary approval for the issuance of Multi-Family Housing Revenue Bonds, Phase B (Union Station project) in an amount not to exceed \$30,000,000 (Resolution)

Disposition: Resolution No. 35479. (Y-5)

***1952** Give preliminary and final approval for the issuance of Multi-Mode Multi-Family Housing Revenue Bonds (Union Station-HAP project) in an amount not to exceed \$9,000,000 (Ordinance)

Disposition: Ordinance No. 169555. (Y-5)

***1953** Authorize temporary appointment of Akihiro Noma to the position of MIS Analyst at a rate of pay above entry (Ordinance)

Disposition: Ordinance No. 169556. (Y-5)

***1954** Establish one Program Manager I/Parks Development position in Parks & Recreation and two Auto Servicer I positions in the Bureau of Police in accordance with the Personnel Rules adopted by the City Council (Ordinance)

Disposition: Ordinance No. 169557. (Y-5)

Commissioner Charlie Hales

***1955** Agreement with Double Eagle Golf, Inc. deferring litigation and tolling the statute of limitations (Ordinance)

Disposition: Ordinance No. 169558. (Y-5)

***1956** Authorize an agreement with the Friends of the Children's Museum to provide supplemental services and programs through the Children's Museum during fiscal year 1995-96 (Ordinance)

Disposition: Ordinance No. 169559. (Y-5)

Commissioner Gretchen Kafoury

***1957** Amend contract with Gerding Investment Company for construction of East Portland Community Policing facility (Ordinance; amend contract authorized by Council; Ordinance No. 169534)

Disposition: Ordinance No. 169660. (Y-5)

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***1958** Contract with REACH Community Development to create a network of skilled volunteers for \$12,000 and provide for payment (Ordinance)

Disposition: Ordinance No. 169661. (Y-5)

***1959** Contract with Housing Authority of Portland to develop a facility for homeless families for \$602,000 and provide for payment (Ordinance)

Disposition: Ordinance No. 169662. (Y-5)

Commissioner Mike Lindberg

1960 Accept completion of the Albina pump station remodel and authorize final payment to Richard L. Martin, Inc. (Report; Contract No. 29146)

Disposition: Accepted.

***1961** Consent to transfer of Blaine's Sanitary Service, Inc. solid waste and recycling franchise to Portland Disposal & Recycling, Inc. (Ordinance)

Disposition: Ordinance No. 169663. (Y-5)

***1962** Amend contract with Montgomery Watson to extent contract and revise scope of work for design engineering and public involvement services for the Balch Creek watershed (Ordinance; amend Contract No. 27743)

Disposition: Ordinance No. 169664. (Y-5)

***1963** Contract with Gresham Transfer, Inc. to transport biosolids from the Columbia Boulevard Wastewater Treatment Plant to Echo, Oregon for land application and provide for payment (Ordinance)

Disposition: Ordinance No. 169665. (Y-5)

***1964** Contract with Black and Veatch for professional engineering services for Tryon Creek Wastewater Treatment Plant anaerobic digester repair project and provide for payment (Ordinance)

Disposition: Ordinance No. 169666. (Y-5)

***1965** Amend contract with Michel Gregory Communications to provide marketing and writing support services for public information for bureau-wide projects (Ordinance; amend Contract No. 30167)

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Disposition: Ordinance No. 169667. (Y-5)

***1966**

Authorize a contract and provide for payment for the construction of 6-inch, 8-inch and 12-inch water mains in the SE Harney Mains Package (Ordinance)

Disposition: Ordinance No. 169668. (Y-5)

City Auditor Barbara Clark

1967

Accept completion of the SE Valentine Drive LID and release retainage to Parker Northwest Paving Company (Report; C-9836)

Disposition: Accepted.

1968

Approve Council Minutes for May 3, 1995 through August 30, 1995 (Report)

Disposition: Approved.

REGULAR AGENDA

1942

TIME CERTAIN: 9:30 AM - Accept the Planning Commission recommendation for the Goose Hollow Station Community Planning Project (Report introduced by Commissioner Hales)

Discussion: Jim Claypool, Planning Bureau staff, said this plan is the culmination of a two-year dialogue between the City, affected neighborhoods, Tri-Met and the other groups involved in the light rail project. He said there is also an opportunity for 2,000 new housing units and 1,400 housing units on vacant or redevelopable sites. The Central City Plan boundary has been extended into most of the station planning area which will allow them to delete the transit overlay zone and apply one set of standards throughout. Staff supports amendments to add two pieces of property to the planning area. He said all zones in Goose Hollow will require housing and the Planning Commission has proposed that the housing requirement kick in for building additions of 10,000 square feet or 50 percent of existing floor area. A 10-foot setback is proposed on West Burnside Street. Height limits have been lowered to provide a step-down pattern of development rather than applying the limits allowed in the Central City Plan.

Howard Glazer, Goose Hollow Foothills League Board member and Chair of the Light Rail and Neighborhood Development Committees, strongly supported the Planning Commission's proposal. He opposed the Goose Hollow Business Association's proposal for further

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watering down of the housing requirement. The neighborhood and Planning Bureau have already compromised significantly in favor of business property owners and any further changes will essentially gut the housing requirement.

Bettina Christianson, representing Oregon Technical Services Center, said they own a one-acre plot of Section 3 (page 14) which is mostly undeveloped at this time. They wish to retain their present CG (General Commercial) rather than having the proposed housing zone placed upon them. Because a portion of the site is very steep and unstable and because of the height restrictions, it is not financially feasible to develop. She said the Jefferson Office Park is in Section 3 is already fully developed as commercial use and would not be expanded and the housing requirement would never come into play. As a result, Oregon Technical Services Center is the only property in Section 3 that will be impacted by the housing requirement and in order to expand commercially as planned they will end up being required to build 15 residential units.

Mayor Katz said Council will not be voting on this for another two weeks which will allow Council members to view the site.

Walter McMonies, 2675 SW Vista, owner of property on NW 20th, requested that the Central City Plan designation be extended up NW 20th about 200 feet to cover four parcels of property on NW 20th. The Planning Commission has approved it as has the Planning Committee of the Northwest District Association. It is opposed by one adjacent property owner. A 35 to 40 moderate income housing project is proposed and, if the CCP is not extended, they instead will have to develop the parcels as rowhouses or townhouses which they would prefer not to do.

Bob Stacey, attorney representing McMennamin's Pubs, said the Planning Commission has recommended EX zoning for the Crystal Ballroom property, now zoned RX. This will allow the McMennamin's to proceed with renovation of this historic property, which has remained vacant for a decade because of the RX zoning. Following the Planning Commission recommendation, REACH Development, a neighboring property owner, expressed concern about the increased level of noise allowed under the EX zone on the Taft Hotel, where it operates a residential care facility for seniors. McMennamin's has agreed to impose a restrictive covenant that would limit the Crystal to generating no more noise than is currently permitted.

Stephen Hendricks, 1708 SW Columbia, said he owns a small office building in Goose Hollow and is also President of the Goose Hollow Business Association. They believe that application of the required

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housing component for commercially developed properties under the proposed zoning is, unfortunately, unworkable. He said traditionally housing has always been kept separate from commercial but this plan now imposes a residential housing requirement on previously zoned commercial properties. He said they have compromised to the extent that they are willing to accept the required housing overlay if a new building is built on the site. But, under the existing proposal, if he were to add 1,200 square feet to his existing 1,500 square feet, he would be required to kick in some housing. The Association would prefer to base the requirement on 30 percent of the Floor to Area Ratio (FAR). He said if the required housing component is too restrictive it will encourage businesses to move out.

J. B. Harrington, Tri-Met, 4012 SE 17th, urged adoption. He said this is more than an amendment to the Central City Plan as this plan puts in place the first link of an 18-mile necklace of light rail stations from Portland to Hillsboro. Other communities will follow in Portland's footsteps with their own station plans, which will guide more intensive development around the 21 Westside light rail stops. The Plan strikes a nice balance between protecting the existing community and promoting development. The Plan also constitutes part of the early implementation of the Region 2040 plan and the rest of the region is watching as Portland moves from concept to reality. He requested an amendment to retain the 2.0 parking ratio established for Goose Hollow as part of the recently adopted Central City Transportation Management Plan rather than allowing 3.0 until the MAX line becomes operational, when it would then drop back to 2.0. He said they believe that since the zoning designations in Goose Hollow are being changed to higher transit-supported densities under this Plan, they should not delay the complementary parking requirements that make those designations work for three years. Tri-Met believes that is a timing gap and bad policy to separate implementation of transit-supported parking ratios and transit-supported land uses by three years. They ought to be implemented together.

Mayor Katz said all the amendment requests will be reviewed prior to Council's vote.

Bob Johnson, property owner at 1303 SW 16th, supported the Goose Hollow Business Association position presented by Mr. Hendricks. He said the residential overlay is unacceptable in his situation as his building is very small and any expansion at all will put him in the housing business. Rather than do that, he would prefer to do nothing and believes there are many other building owners in the same position. He said this is not a good way to achieve the housing goals and asked Council to reconsider this requirement.

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Commissioner Lindberg asked how else the City could achieve its housing goals here.

Mr. Johnson said he would be more responsive to an incentive program, rather than a mandated one. He said integrating housing with his current building would be a financial hardship on his business operation.

Jerry Powell, 1441 SW Harrison, also representing the Goose Hollow Foothills League, said 30 years ago Goose Hollow was basically a commercial/industrial backwater. Twenty years ago it was decided that was no longer appropriate as it was becoming urban and had lost a substantial core of housing units over recent decades. The housing requirement is not addressing something new but remedying a loss suffered from policy oversight. This Plan provides an amendment to the Goose Hollow portion of the Comprehensive Plan and provides accommodation for a transit-oriented urban development. The idea of single purpose buildings is basically a suburban notion, as are setbacks and height limits. This is an urban, non-auto oriented area and this plan furthers that vision and implements Portland's Comprehensive Plan, Region 2040 and City housing goals. He said meetings have been held on the Plan for several years and most of the objections about mixed use are probably not real.

Joseph Angel, 1410 SW Jefferson, said he and other business owners in Goose Hollow made investment decisions based on the Central City Plan and the commitment they felt they had from the City for commercial zoning with certain height limits and FARs. While there were discussions then about mixed use zoning, the Bureau decided it was either not politically palatable or acceptable and it was taken out of further proposals. In certain districts mixed use zoning can be successful but where you have owner-operated commercial businesses, it is very hard to make the transition from running businesses to also having residential tenants. He is very supportive of added residential density in the downtown area but Council must decide whether that should be done by adding density to existing residential zones or, as done here, by adding relatively minor amounts of residential units to commercially-zoned property. He said he runs a business and brings in people from the entire region for training. This is where he wants to be but if he expands his 3,000 square-foot office more than 1,500 square feet he will have to add seven residential units. That will not happen. Instead he will move to a larger building or to the suburbs to get his added space.

Peter Fry, 722 SW 2nd, Suite 330, said the purpose of the Region 2040 plan is to build a stronger community structure, which is done

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by building strong tax bases. The regulatory side of public power is to force development to a public purpose. The bottom line is that owners build within that regulation or the regulation forces them to move on when the market is strong enough and/or property values are weak enough to allow redevelopment. The Planning Commission tried to find the magic place where one market transitions to another. The CX zone does allow housing as a permitted use outright so the issue for the City is to find the right place to force the market to transition through a stronger regulatory mechanism. The Planning Commission wrestled with this at three different hearings and sent staff back three times to find that magic place. While business associations believe that magic number is 30 percent of FAR, the Planning Bureau thinks it is 10,000 square feet, which makes the 50 percent expansion irrelevant because you would hit the 10,000 square feet mark long before you reach the 50 percent. By driving uses out and putting too much regulation on them, you destroy the community instead of building it. He asked Council to try to find the magic number which allows the community to stay in place and grow in a more restrictive regulatory environment than we have today.

Robert Butler, 824 SW 18th Avenue, said the Central City Plan focussed, in the Goose Hollow area, on the light rail system and how to enhance it. His concern is the patchwork form of this Plan which makes it very difficult to find out what is and is not allowed in an area. He cited several examples. The initial draft provided that business owners remodeling their buildings had to incorporate housing. The current version is watered down but presents the same problem, creating an economic hardship for business owners and destroying the property for its best use. Rather than add housing, employers will move out of the City. The mandatory housing requirement on employers is a mistake and other incentives should be found to encourage it.

Mayor Katz asked how many housing units, under the best case scenario, are projected in the Jefferson area.

Mr. Claypool said they project 2,000 units with the proposed zoning changes for the whole area and it would probably be a little less than half for the Jefferson area.

Commissioner Hales asked staff to return with a matrix identifying the amendments proposed by the Planning Commission, GHFL and individuals.

Disposition: Continued to January 3, 1996 at 9:30 a.m.

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1943 Amend the Portland Comprehensive Plan, Central City Plan and Goose Hollow District, Zoning Code and Zoning Maps in support of the Goose Hollow Station Community Planning Project (Ordinance introduced by Commissioner Hales)

Disposition: Continued to January 3, 1996 at 9:30 a.m.

1944 Amend the Central City Plan by adopting Action Charts for the Goose Hollow District and making related changes (Resolution introduced by Commissioner Hales)

Disposition: Continued to January 3, 1996 at 9:30 a.m.

Commissioner Blumenauer left at 10:40 a.m.

***1949** Authorize the Portland Office of Transportation and the Livable City Housing Council to enter into a disbursement agreement for the Belmont Dairy project to establish an interest-bearing Trustee Account with the City Treasurer for the total amount of \$395,000 (Ordinance introduced by Commissioners Blumenauer, Hales and Kafoury)

Discussion: Cay Kershner, Clerk of Council, said the City Attorney's office requested that this be continued to January 3, 1996 because the agreements are not complete.

Ben Walters, Deputy City Attorney, said he understood the final negotiations have not been completed.

Mayor Katz and Commissioner Kafoury said they thought this had to be done by year end. They asked that it be continued to the afternoon session to hear from staff and make sure it is all right to carry this into the new year.

Disposition: Continued to December 20, 1995 at 2:00 p.m.

1946 Reject all bids for 6-inch, 8-inch and 12-inch water mains in SE Brentwood District (Purchasing Report - Bid 53)

Discussion: Commissioner Lindberg said this would allow the Water Bureau to take an important step towards becoming more efficient through the rigors of competition. The Council earlier agreed to support the Bureau's venture to compete with private contractors on certain construction projects. A cost comparison methodology was developed over a year's time and reviewed and agreed to by a professor at Columbia University and the City Auditor's Office. Based on this methodology, the Bureau submitted a

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cost estimate for this water main project that is \$19,000 lower than the lowest bid received from private contractors. This action today formally rejects those higher bids and allows the work to proceed with City personnel. Many complex questions arise in comparing public and private proposals to do public work and no methodology report will answer all of them perfectly at this time. That is why Council authorized the Bureau to undertake two pilot projects to allow testing of the methodology and other aspects. This would be the first of those projects. Once the pilot projects are completed, the City would try to formulate a long-term policy on public/private competition for City works. He said this is a two-way street and the Water Bureau is also identifying areas where work currently done by employees could be more efficiently contracted out to the private sector. The project grew out of work done by the labor-management group at the Bureau. He also acknowledged the ongoing process with the Association of General Contractors (AGC), despite the differences in opinion.

Mike Rosenberger, Director, Water Bureau, said the Bureau believes it can improve its effectiveness through the collaboration of labor and management. A Labor Management Council group has worked to promote economies and efficiencies. An external assessment of Bureau operations was made by an outside consultant and an internal assessment of core and non-core functions was also undertaken. These will result in identification of areas where productivity can be improved and will also identify functions currently provided by the Bureau that could be subject to competition with the private sector. He said they have every intention of doing this. Development of the methodology to compare prices is at the root of some of today's controversy. The Bureau believes it has a legitimate and reasonable methodology ratified by outside sources. He said the Bureau's budget this year is \$60 million and of that it will spend \$15 million on contracted professional services, including construction and capital projects. That is 25 percent of the budget, or 60 percent of the non-personnel budget. He said they do not necessarily want to contract work in or out but to provide the best service at the best price, which is reflected in rates to customers. The Bureau believes it should be held accountable and hopes to demonstrate, after completion of this first project, that it can do what it thinks it can and then make a decision to proceed.

Mayor Katz asked whether this is a model methodology that can be used by every bureau doing contracting in or out. Also, what accommodations did the Bureau have to make regarding productivity to get to this bid.

Grant Zado, President, District Council of Trade Unions (DCTU), said

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he became a part of this process two years ago and has worked hard to build a partnership to look at competitiveness. He understood Council's charge reflected the citizens' desire to have City government work more like private enterprise. The question was whether City workers were competitive and if they could prove it. He said they would like this trial bid, which was already put off once because of the questions raised, to go forward to see if they are really competitive.

Dick Tracy, Director of Audits, said the May, 1995 City Auditor's report looked at the whole picture of competitive contracting and privatization. It concluded that, to be successful, four elements must be present: 1) broad competition between public and private providers; 2) thoughtful analysis of services which should be subject to competition; 3) a credible cost comparison methodology; and 4) effective management and monitoring of the process. The report recommended that all City bureaus begin looking at services to determine which should be subject to market competition. It also recommended that the Purchasing Agent take the lead responsibility for developing an impartial cost-review methodology.

Mayor Katz asked if bureaus had begun that review of their services.

Mr. Tracy said his sense was that not much was happening and that the Water Bureau is probably the lead example of a bureau that is moving ahead in this area.

Mr. Rosenberger said the Water Bureau began its review of core and non-core functions prior to the issuance of this audit.

Mr. Tracy said their report also looked at a test methodology developed in the Water Bureau to see if it could be applied to all City bureaus. The Auditor's Office then asked two consultants to review the methodology. Both concluded that the cost methodology was workable but recommended a number of improvements. He said he understands the Bureau responded to the concerns raised but has not yet done all the work needed to ensure a methodology that works for all bureaus. There is also more work to be done by the City in setting up the review process. The Auditor's Office will also be involved in monitoring and auditing the results.

Mayor Katz said the budget process may be a good time to identify which services can be contracted in or out and to adopt a citywide methodology.

Mr. Zado said the Bureau of Environmental Services (BES) is also looking at this.

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Mayor Katz asked Mr. Zado if he thought the same laborious process that labor management went through in the Water Bureau would be needed in other bureaus. Or could this happen citywide with some additional work on the methodology?

Mr. Zado said with a proven methodology labor and management may be able to avoid having to go through the same laborious process. But labor would have to be assured that management agreed with them on the terminologies. He said he is concerned that, after all the time that has been put in, this will be put off and morale will suffer.

David Dalthwaite, Manager, Government Affairs, AGC, said they believe use of the methodology on this job is premature and that more work should be done before going forward with it. One concern is the City's responsibility to do public improvements at the least cost to the taxpayer. This methodology is not a fair representation of the least cost as not all the costs the City has incurred are included in the methodology. AGC worked with the Auditor's Office and with KPMG, one of the consultants which reviewed the methodology, both of which concluded that this methodology is a good draft but there are things that need to be fixed. Some adjustments were made by the Water Bureau in putting their estimates together for the Brentwood job; others are needed. A major error is the overhead factor the City applies to its bid. There is no overhead factor applied on the Brentwood job. The Auditor's Office said in making the overhead determination, the Bureau should look at City functions that have some bearing on this job and estimate the cost share of those functions to be borne by this job. AGC is concerned that this determination has not yet been made and believes it must be done to make the cost methodology complete. AGC would also like to see included an assessment of the impact on the City taxpayers if the work costs more than its bid. What is the consequence for the Bureau of cost overruns? A second issue is the lack of provision for warranty work. That is a cost a private contractor has to eat. A third item is a request for independent monitoring, including both inspection and contract administration. That should be an independent function not performed by the bureau doing the work. AGC thinks this methodology is close to being right and that there will probably always be some things they do not agree with. But it does believe such issues as overhead are very fundamental and if this is going to be a fair test, the methodology should be complete.

Mr. Dalthwaite said he understands the Water Bureau received a bid for paving work on this job and that those bids were solicited from minority contractors by the Purchasing Department. He understands one was used by the Bureau in this proposal. He does not

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understand whether the Water Bureau solicited competitive bids from all comers as required by Oregon State statutes. Finally, AGC wants to be involved in the process when the Water Bureau determines which work is to be subject to private competition.

Carl Coffman, Coffman Excavation, said as the next lowest bidder, he applauds the Water Bureau's efforts but philosophically disagrees with allowing the City to perform work on this magnitude. He said a cost comparison indicates inconsistencies and lack of a level playing field. He cited equipment costing, wages and overhead charges as examples.

Commissioner Lindberg said his information is that the engineering estimate was \$550,000. The Coffman bid was \$530,000 and the Water Bureau's was \$511,000, a \$19,000 difference.

Nick Johnson, Copenhagen Utilities and Construction, said he is concerned by the general policy shift. He said competitive bidding is self-regulating and has been a very efficient market. He asked the City to look at the additional burdens the City and other governmental agencies have stacked on the private contractors, making them less competitive. Examples include warranties, performance and payment bonds, and taxes. None of those benefits are addressed in the overall analysis. Social benefits which private contractors try diligently to comply with include apprenticeships and minority and emerging small business programs. He said it would be better for the City to look at those projects it currently does where the methodology can be developed. He asked what the urgency is to make the quantum jump into a larger project before the methodology is in place and the cost benefit ratio to the City has been determined.

Responding to the Mayor's earlier question, Mr. Rosenberger said he agrees with Mr. Tracy and KPMG that this methodology is not quite ready to be expanded to cover other City bureaus.

Sam Gillispie, Water Bureau employee and member of the Labor Management Team, described efficiency efforts that occurred within the bureau. Examples include rock hauling and equipment purchasing, which the Bureau contracts out competitively. To increase productivity they now have workers report directly to the job site, rather than reporting first to the shop. The major factor has been the workers themselves who have increased their personal efforts to be more competitive. It has been frustrating, after outside forces declare that public employees don't work and government is too big, to then be told it is wrong when they try to prove that they can work on a competitive basis. He said he specifically asked a KPMG representative what would need to be improved in the draft

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methodology and was given a list of eight items. He said he can describe what they did to adjust this bid in response to those, if Council wishes.

Commissioner Lindberg said the Bureau actually made eight changes which increased the amount of its bid.

Mr. Gillispie said they are trying to get to the level playing field. Two areas remain. One is philosophical -- AGC wants to do all work over \$50,000. The other concerns what overhead means. AGC wants to include upper management salaries while the Bureau team thinks this is unfair. Sooner or later the City has to deliver to the employees who are ready to go and, if these pilot projects do not move forward, then this effort is over.

Mayor Katz noted that Council already had a full discussion on overhead. Other issues raised concern cost overruns, warranty work and independent monitoring issue and apprenticeship costs.

Mr. Rosenberger said the Bureau believes the Auditor's Office will provide accountability oversight, both for quality and cost. He said while they do not yet have the quintessential methodology or process yet, it is premature to expect it. He said KPMG, the recognized experts in this area, has an ongoing program which it has refined over its two-year life. The City does not yet have an ongoing program and it is very difficult to talk in terms of systems of rewards and punishment when they are simply trying to get authorization to see if they can, in fact, compete. Does this methodology work well enough to allow Council to make a decision about doing a trial project. He believes the answer is yes.

Bob Riecke, Director, Water Bureau Finance and Support Services, listed some of the additions that had been made since the original cost methodology was published, based on the comments of KPMG. One issue was that no indirect labor costs were included in the bid for training, meetings, etc. which naturally occur when you have a labor force. He said after looking at that, the Bureau added almost five percent to the cost of labor to account for that activity. After comments by the AGC, the Bureau took another look at its cost for small tools, barricades, etc. which traditionally would have been carried in their overhead numbers. They specifically pulled those out and added another five percent to the cost. They also added two percent more to the labor cost for general liability insurance, even though it is not actually increasing for this trial job. Payroll costs were considered a wash because if the private sector does the job, the City has to pay them, too. As a result of this review, almost 15 percent was added to the project estimate in terms of direct labor

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costs. They believe they are now in good shape.

Commissioner Hales noted that the Bureau is doing about \$15 million a year in total contracted services, with about \$10 million in construction. This job would then represent about five percent of the annual construction budget. He asked what the Bureau's capacity is in terms of available time and equipment to do a larger percentage of work.

Mr. Rosenberger said roughly one million dollars in work could be done in-house, representing one crew.

Commissioner Hales asked if they would have to restructure the organization or add staff if they went much above 10 or 15 percent.

Mr. Rosenberger said if they are successful on this and another project, they would then request the addition of a second construction crew.

Mayor Katz asked what if the Bureau lost the next job. What is the collective bargaining agreement on the work rules regarding the first crew that had to be hired.

Mr. Rosenberger said for the two test projects, they have not added staff. Eventually they could. If they follow a model like Phoenix or Indianapolis they would hire a crew to work for two or three years with a set amount of work and then the Bureau would go back into a bidding process to continue to have that crew do work.

Mayor Katz said it is possible they could be out of work at some point.

Mr. Rosenberger said that is the nightmare scenario.

Mayor Katz asked if the work rules allow the Bureau to lay them off.

Mr. Gillispie said they would be laid off, displaced or redeployed.

Mr. Rosenberger said the competition ends up working both ways and the Bureau has to continually prove itself.

Commissioner Lindberg said he respects the views of AGC and the contractors, who have a lot of valid issues. However, because of the two-year effort and because the methodology has been adjusted in response to reviews by a series of outside parties, he believes it is wise to go ahead with the pilot project. There could be an endless process of issues being brought up, some of which, such as the

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overhead issues, may not be resolved even given more time. He said the project has been managed to reduce the number of issues to just a handful. There needs to be independent monitoring to look at the project, but he would like to move ahead.

Mayor Katz asked if the Auditor's Office will continue to work on the methodology.

Mr. Riecke said they hope to take information gained from this project, along with the AGC concerns, and work with the Auditor's Office to put together a citywide methodology to bring back to Council, probably this summer.

Mr. Rosenberger said he believes the Mayor wants to do dual tracking to make the methodology more expandable citywide.

Mayor Katz said she would also like a review of the issues identified.

Mr. Riecke said they would be happy to do that.

Mayor Katz said she does not want to wait forever as this experiment is a work in progress and the City needs to move on as quickly as possible in refining some of the issues raised.

Mr. Gillispie said, if this is to be implemented in other bureaus, the first thing that must happen is to begin to build the trust level between labor and management so that it would not take the two-year start-up time it took the Water Bureau.

Mr. Rosenberger said while they want to end up with a methodology that can be used citywide, this will end up serving as a framework, not an exact formula. This is a methodology developed to look at the relative cost of construction work and as the Bureau considers bidding out some services it currently provides it needs a methodology to do that cost analysis. A lot of the methodology here needs to be transferred into one that can be used to look at services too.

Commissioner Hales said when he ran for public office he was often told government should be run more like a business. It has been a remarkable education for him to learn how difficult that is. He said this is a good time to try such an experiment. The methodology has been worked on a long time and the private sector has been involved in the process. Even if this is a runaway success, it will not make a significant difference in the operation of the Water Bureau. Because of the current boom in construction, the time is ripe for such an

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experiment. This is a reasonable experiment and ought to be given a chance.

Commissioner Kafoury said there is plenty of construction work to go around right now and the Water Bureau seems to have gone the extra ten miles to make sure this is a fair and competitive bid.

Commissioner Lindberg thanked all those who had hung in on this process over the last two years. He said Bureau employees are energized about finding better ways of doing business in this and a lot of other areas. This is a two-way street and in several months the Bureau expects to identify those areas where they now perform the work that will put out to bid with the private sector. The goal is not to see how much of private sector business they can obtain.

Mayor Katz said she has learned that Portland is one of the leaders in identifying areas that can be contracted out. She said Council asked many of the same questions AGC has asked because of its desire to set a level playing field, knowing that there are always issues that are unresolved. Because of Council and AGC poking, the Bureau made changes and relatively few issues on contracting out remain. She said Council now feels comfortable that enough progress has been made on this to say yes. She noted that she would not have said that several months ago until the Water Bureau made adjustments in response to the concerns raised by Council and the AGC. She called for careful monitoring and a review of the methodology as she would like to see a broader application in such areas as centralized purchasing and contracting out. The labor movement has traditionally been very nervous about these issues and in this case the labor leadership has taken a huge step, allowing the City to set the stage to build a trusting relationship between labor and management. She hopes in the next few years that trust will allow them to deal with other issues so that not only is collective bargaining a collaborative process but that labor will come to the table and say we need to change some archaic work rules because they do not make us competitive. She said if this project is delayed now, the wrong signal will be sent and the trust relationship damaged.

Disposition: Accepted. (Y-4)

Mayor Vera Katz

1969

File Sylvan annexation with the Portland Metropolitan Area Local Government Boundary Commission (Resolution; Case #A-2-95)

Discussion: John Bonn, Urban Services Manager, said this

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annexation proposal includes the remaining unincorporated parcels of Highway 26. One is the Sylvan Interchange area slated for a major remodel and its annexation gives the City the ability to do the needed transportation planning. Also proposed for annexation are several street rights-of-way in the Highlands subdivision in unincorporated Multnomah County which are now maintained by the City at no cost through an intergovernmental agreement. After annexation, the City will begin to see the revenues to pay for that service. For these road miles, they anticipate revenues of approximately \$78,000.

Mayor Katz asked how it happened that the City developed agreements but does not get the money for the services it provides.

Mr. Bonn said this is what the City Council in 1984 thought was a good deal.

Disposition: Resolution No. 35480. (Y-3)

1970

File Sylvan annexation with the Portland Metropolitan Area Local Government Boundary Commission (Resolution; Case #A-3-95)

Discussion: Mr. Bonn said this is a double majority annexation, the bulk of which includes the subdivision that was the site of the 1995 Street of Dreams and some adjacent residential areas where the consent of property owners was obtained. The Street of Dreams portion is 50 percent developed and his office recommends that the effective date for this annexation be June 30, 1997 in hopes of capturing a larger assessed value.

Commissioner Hales said the western City boundary is one of the most absurd lines one could ever see. This annexation makes it less so.

Disposition: Resolution No. 35481. (Y-4)

Commissioner Earl Blumenauer

1971

Amend City Code to increase the authority of the Commissioners, their Bureau Managers and the City Auditor to obligate the City for Professional, Technical and Expert (PTE) services and allow for annual adjustment (Second Reading Agenda 1938; amend Code Section 5.01.020)

Disposition: Ordinance No. 169669. (Y-4)

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Commissioner Charlie Hales

***1972**

Accept dedication of new park land within Forest Heights Estates Subdivision in NW Portland and assign responsibility to Portland Parks and Recreation (Ordinance)

Discussion: Susan Hathaway-Marxer, Parks Bureau, said dedication of this park was a requirement by the Hearings Officer for approval of this development.

Commissioner Hales said the hook here is that the Parks Bureau will be required to improve this park within one year after the School District begins construction of a school on the adjacent parcel. He said he does not mind paying for these improvements as this is a park-deficient area in a whole new neighborhood.

Mayor Katz said Council must not overlook the cost of maintaining services in a growing community.

Disposition: Ordinance No. 169670. (Y-4)

Commissioner Gretchen Kafoury

1973

Appeal of Portland Region Independent Drivers and Extramen (PRIDE) of Taxicab Review Board Order No. 16.40.120-004 relating to luxury transportation providers (Hearing on Appeal)

Discussion: Commissioner Kafoury said when this item came before Council several months ago, Commissioners expressed uniform discomfort and indicated that the whole regulatory system might need review. She said the Bureau did that review and is returning today with a recommendation similar to one the Taxicab Board of Review brought forward before. She said if two systems coexist, one regulated and one not, price becomes an important factor. While this recommendation is very clear about the price differential, the Board did not recommend either a specific dollar amount or a percentage because there is so much variation in the rates overall. Both the taxi industry and the luxury transportation providers have worked very closely with the bureau director on this issue and she recommended that Council concur with the Taxicab Board's recommendation.

Mayor Katz said this was an admirable job although she does not agree with all the pieces. She asked the bureau director to identify the changes and that testimony be limited to the unresolved issues.

Dennis Nelson, Taxicab Board of Review, said the issues are the same ones raised in September. He said after the Board received

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Commissioner Kafoury's direction, it drafted language which was not appealed by either the taxicab companies, the luxury transportation providers, the hospitality industry or the Port of Portland. The feeling was that these groups could live with that language. The appeal comes from a group of drivers and is difficult to respond to as the City Attorney has advised that the Taxicab Board was operating within its scope of authority and followed the procedures for adoption of an administrative rule. Two issues were raised. The first was premium rates, which the Board responded to by adding language to the rules stating that premium rates must be charged for luxury service and these rates must be consistently and substantially higher than those charged by taxicab drivers. He said he believes that will have upward pressure on luxury transportation rates and the Port has agreed to make premium rates a requirement in its new service contracts. The second issue was reservations and in this case the Board adopted language stating that "not to be hailed on the street" means "service by prior arrangement." An exception to that reservation rule is granted to the Port for operations at the Airport but that must be done in a written contract containing requirements that meet the rest of the regulatory scheme relating to luxury transportation. The Port is willing to do that. He said he believes these actions respond to Commissioner Kafoury's direction following the last Council hearing on this matter.

Mayor Katz asked who would monitor the rates.

Mr. Nelson said that is the responsibility of the Bureau of Licenses except at the Port, where it is part of the contractual relationship between the Port and its provider.

Mayor Katz asked where the limousines will be standing at the Port.

Mr. Nelson said he does not know as a major remodel of that area is planned. However, vehicles will be available for passengers leaving the baggage area who will be able to choose from a variety of transportation options.

David Lefkowitz, attorney representing the petitioners, PRIDE, said this is an issue of law and how the facts are applied to that law. He said both the existing and proposed regulations violate the law which states that the agency has to act within the scope of the authority given it by the legislature. In this case Council established the Taxicab Review Board and gave it the authority to interpret the Portland City Code. The Code defines taxicab clearly and unambiguously but the Board rewrote that definition, going beyond its authority in regards to the exclusion of luxury transport. The current definition states that it is "a motor vehicle that carries

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passengers for hire where the passenger may control the destination and route travelled." The Code was adopted in the 1970s and in 1993 the Taxicab Board was established and given the authority to interpret the Taxicab Code regulations. In 1993 the Board said that if someone falls outside of what we determine to be a taxicab then it does not have to be regulated. That is in the existing regulations which define particular exclusions to what is determined to be a taxicab. One exclusion is luxury transport, defined with seven factors, none of which takes it outside the definition of a taxicab as provided in the Code. That is critical. The Board shirked its responsibility in 1993 to enforce Code regulations as applied to taxicabs. It is now running into opposition because it is trying to broaden that exclusion and allow service in particular areas, shored up with premium rates. That is superfluous because they are continuing to act beyond the scope of their activity. The key point here is that the Board has no authority to rewrite the definition of a taxicab. He asked Council to throw out the existing regulations as they apply to luxury transport and tell the Board that exclusion does not comply with what Council has determined to be a taxicab. He said the City Attorney's position is that this is moot as it was not addressed in 1993. But Council certainly has the authority to say that the proposed regulations being appealed are clearly beyond the scope of the Board's authority. The Board is trying to enlarge the exclusion for what is considered a taxicab and it cannot willy nilly do that and comply with the Code. The beef is that luxury transports are beginning to act more and more like taxicabs.

Second, Mr. Lefkowitz said, an agency cannot enact regulations that are so vague that they allow the agency to act arbitrarily and capriciously in enforcing them. He cited such terms as "impeccably clean," "rigorously maintained," "service by reservation only," "large vehicles." He said as far as he knows these regulations are not being enforced. "Reservation only" has been thrown out the window and limos are hailing customers at the Airport, acting more and more like taxicabs and charging the same rates. Why are the regulations being revised if what they are doing is okay? Because the Board is not enforcing what it already has the duty to enforce. The Board does not have the authority to say Council did not mean what it said. If a change is needed the Council needs to get together and redefine what it means to be a taxicab because right now limos are acting like taxicabs and the Board is shirking its responsibility by not enforcing the regulations.

Commissioner Hales said there are two issues before Council. One concerns the substantive questions as to how much regulation there should be. Second, given the present regulatory system, is there any reasonable way to address what part of the market should be

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reserved for taxicabs and what part should be available for luxury transportation. He said he thinks what the Board has done is a reasonable compromise. He asked Mr. Lefkowitz if he agreed that, if the authority to determine that market resides in City Code, Council can change the Code to adopt the language now proposed by the Board.

Mr. Lefkowitz said not to the extent it is vague, arbitrary and capricious. But it is up to Council, not the Board, to determine that.

Commissioner Hales asked the City Attorney Ben Walters if he agreed that, if it is determined that the Board exceeded its authority, then the authority rests with Council.

Mr. Walters said yes. He said the question posed by Mr. Lefkowitz is whether Council has delegated that authority to the Board and whether the Board has acted appropriately in adopting these rules.

Mayor Katz said the legal question is whether it exceeded its authority.

Commissioner Lindberg said Council is trying to judge what is in the best interests of the community. Is there something being done here that is really unfair and inequitable that creates a tremendous burden on taxicab drivers? He said he is somewhat disappointed that Mr. Lefkowitz spent so much time on the legal definition without talking about the big picture of why Council should not adopt what is before it.

Mr. Lefkowitz said he is not ready to state his client's position on the big picture but will do so in the proper forum, before the Council to amend the City Code.

Mayor Katz said the answer is that Council delegated that authority to the Board and consequently does not have the authority. She asked Mr. Walters to comment on Mr. Lefkowitz' brief and whether he would change his original opinion that the Board did not exceed its authority and violate the Code.

Mr. Walters said he continues to be comfortable with the Board's action. Setting aside the brief and legal arguments, he said he understands that, after the Board was created in 1993, it determined what was within the scope of its regulatory authority and what was outside it. In identifying the exemption for luxury transportation providers, in part what the Board was doing was recognizing historical fact. The Taxicab Code was created in the 1970s and after that the City never considered limousines or luxury transportation

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providers as falling within the scope of that definition. They were always treated as being outside. In 1991, an ordinance to regulate limousines was rejected by Council which stated there was no evidence at that time to indicate a need to regulate them as taxicabs. The regulations adopted by the Board in recognizing the exemption were an attempt to try to draw a boundary around limousines/luxury transportation providers and identify that activity as being outside of the regulations Council adopted for taxicabs. He said he does not see how an attempt to capture the nature of the definition falls outside the delegated authority. It is purely an interpretative question of what is a taxicab.

Mayor Katz said one response to Commissioner Hales' question is that they (Mr. Lefkowitz's clients) can sue the City. Or Council can change the Code to clarify those definitions if it feels that a portion is vague or if even the vague definitions are not being complied with. She said Council has been told it has no authority to overrule the Board unless it decides to change the Code.

Gary Cooper, 3437 SE Grant, 97214, said the Taxicab Board in its decision states that historically there has been no need to regulate the luxury transport industry in Portland from 1970 until 1988. That is correct because until recently it operated within a delineated area, with an identifiable specialized segment of the market, providing a type of transportation service with more amenities than taxicabs. The problem today reached an acute stage at the Airport only after the luxury transportation industry found that providing service at the Airport by reservations only was not profitable under regulatory language as written. When Council heard this the last time it was interested in delineating the difference in services between taxicabs and luxury cars. The criteria for luxury cars actually defined the market, stating what such cars must have at a minimum and differentiating them from normal transportation providers. Now the luxury transportation providers are saying the only way they can operate at the Port is if they are permitted to become an "on demand" service and handle any and all deplaning passengers. They changed the whole concept of what they were in that request. They became a general service provider, which is what taxicabs are, and should be subject to the same rules and regulations. If they want to be special service providers they should address their market and not the general public at the expense of a regulated industry.

Commissioner Lindberg asked if the primary issue is the queuing at the Airport.

Patrick Fessler, Vice President, PRIDE, said the definition specified a

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niche luxury market. Because of the failure of the experiment by luxury providers to make it as a "reservations only" operation, they were pushed to the front of the taxicab line. It was only then that the market was created for them as they accessed deplaning passengers. They were allowed to go to the head of the line and were able to pick and choose fares. Deplaning passengers are being led to believe that the luxury providers are taxicabs so the distinguishing characteristics that allowed them to enter the marketplace to begin with are no longer there.

Mr. Cooper said the way the Port explained the positioning of the taxicabs seemed very fair -- towncars on the south end and taxicabs on the north. But the reality was that through decades of repetition, everyone deplaning has been instructed to go to the most forward vehicle. When taxicab drivers complain that the towncars are forward of them, they mean in the eyes of the deplaning public. Another unfair practice is having them put their trunk lids up, blocking the top lights of the taxicabs behind them.

Commissioner Lindberg said at one time he thought this could be solved by working with the Port.

Commissioner Kafoury said they are still working on it.

Mayor Katz said she has witnessed some of these practices herself and would like to know what the Port plans to do physically and what rules and regulations it plans to enforce. She said she was surprised when a friend told her the price to her house for a taxi and for luxury transport was the same.

Larry Rank, Port of Portland, Airport land site operations manager, said, based on the trial period, they plan to modify some of their requirements. He said it is obvious that fares are a major issue and the Taxicab Review Board emphasized the need for more of a difference between the two fares than the Port currently has. The Port will give some guidance in the RFP, most likely establishing some percentage above cab fares.

Commissioner Lindberg asked if there would be a separate place for limousines.

Mr. Rank said he did not anticipate any significant change in the relative positions of the two types of transportation. There will be a location on the commercial roadway for taxicabs and a specific location nearby for luxury transportation. He cannot be any more specific as the Port has not completed the design for the new commercial roadway. He only knows the roadway will be smaller.

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Mayor Katz asked if the number of limousines on the roadway would be limited.

Mr. Rank said yes. Right now there are three and they intend to begin with a minimum of six vehicles in the luxury car fleet. No maximum number has been set but there is a limit on the number of vehicles they can keep in the area. The current area accommodates three; the new area will probably accommodate two.

Fred Gould, taxicab driver, asked who is going to define luxury cars. He said it is hard to believe they can call these cars luxury cars as they are no different than the car he drives. For them to call themselves luxury cars and yet charge the same fares taxis do is ridiculous.

Frank Chato, President-Elect, PRIDE, said the luxury drivers are parking in front of the taxicabs. If they would return to the area where the limousines previously parked, the cab drivers would not object to what is going on at the Airport. He said limousines now have access to the same passengers that 50 taxis have access to and in a given day each can probably make 10 trips to the taxi driver's five. He said they are charging less to Salem than taxi drivers because they have the leeway to charge what they want.

Commissioner Kafoury said one of the problems with this debate is that all the issues get mixed up. She said at some point it must be pointed out that no one mandates that 40 taxis wait at the airport. That is the cab drivers' choice.

Mr. Chato said the regulations were put into place precisely to separate these two industries so they do not fight. The regulations worked until now when exemptions are given to the limousines.

Serafin Palomaris, taxicab driver, 1604 E. Burnside, #21, 97233, said the regulations were put into place to protect the public and make sure that the cabs charged and operated fairly. Limousines were not regulated because it was a niche market. The intent, when the Code was adopted in 1993, was not to have the limousines act like taxicabs and a hard look should be taken at how the crossover has developed. He said the Taxicab Review Board listens to special interest groups rather than considering the public good. The cab drivers are being deliberately hurt by this. The same regulations can be kept if the luxury transport industry agrees to only pursue the niche market rather than staging the limos anywhere, on demand.

James Carson, Radio Cab driver, said he does not mind competing with the limos but he does not want to be discriminated against. Mr.

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Rank states that three limos are allowed in front of the cab lines but he did not note that only two cabs are allowed behind those limos. He said cabs do not have to work the Airport, but neither do the limos. They are trying to take business that is not theirs without operating as cabs. He said there was no problem at the Airport or the hotels when the luxury transport companies lived by the definitions. It was only when the Taxicab Review Board and the Airport allowed them to encroach that they began to take his bread and butter.

Rocky Vaughn, Radio Cab driver, said the luxury transport companies have failed and need to reevaluate their market rather than trying to take the cab drivers' piece of the market.

Sid Blezak, Rose City Cab driver, said limousine drivers are being given a distinct economic advantage by their placement at the Port. He said that advantage is predicated on the basis that they are serving a niche and that they are not competing with cab drivers. That is not true. He said Rose City is not run very efficiently and because it has no dispatch service, he is forced to work the Airport to make a living.

Les Stark, Radio Cab driver, said the playing field is not equal because the custom all across the country is that deplaning passengers go to the first vehicle in line or have the dispatcher call one for them. This is not happening in Portland where the first vehicle is a towncar and there is no signage to identify it as not being a taxicab. This is true also for the second and third vehicles. Hacking and providing on-demand service in a public right-of-way is not a luxury service. It is a taxicab service and should be kept that way. He said the two must be distinguished.

Commissioner Lindberg agreed that most airports distinguish between the two in their signage.

Mayor Katz said today Council is dealing with a narrow issue on appeal. She said the question for Council is how much it wishes to change the Code if it is not satisfied with what the Port's RFP includes.

Jim Boitano, Broadway Cab driver, said at the Airport taxicabs wait from 30 minutes to two hours for a fare and must take the customers they get, whether they go near or far. The luxury sedans cut in front of them and get their choice of whether to take a customer. They pick over the best fares and cut rates too.

Joe Cerf, Radio Cab driver, said the towncars can usually make two

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trips downtown to the one that cabs do. He said they take the cream of the crop and hurt the ability of cab drivers to make a living.

(name indistinguishable on tape), Portland Taxicab, said the yellow pages of the phone book carry an ad for limousines. He said he does not understand why the Airport insists on putting the luxury cars in front.

Ino (indistinguishable), Radio Cab driver, asked if luxury cars would be willing to change positions with cab drivers. He said he thinks not.

Mayor Katz said the question is whether the Board exceeded its authority or not in its rule making. The City Attorney, Ben Walters, has advised Council that it has not but she is not sure whether he needed more time to review the brief.

Mr. Walters said he still feels relatively comfortable about his advice.

Mayor Katz asked whether Council could change the Code to clarify the definitions if it finds that some of these issues are not addressed by the RFP.

Mr. Walters and Mr. Nelson said yes.

Mayor Katz said she hopes the Board will review the RFP.

Commissioner Kafoury said the Board's relationship with the Port is ongoing, not new.

Mr. Nelson said the Board has been meeting with Port officials who are aware of many of the issues raised. There will be enforcement issues in the future, under any contract, although currently the focus is more on taxicabs than on limousines in terms of rule violations. The same is true of City enforcement. He said he was concerned to hear today that some companies cannot provide service to the entire City as is required by the Taxicab Code and that their drivers are forced to work only the Airport. That is a Code violation that will need to be investigated. He stressed that discussions between the Port, taxicab companies, limousine service providers and City staff are ongoing. He said many of the issues will be addressed in the RFP. The physical issue is best determined by the Port which has indicated its intent to comply with both the letter and spirit of the City's Code and make a clear distinction between taxicabs and luxury providers. The City will be involved in that process.

Commissioner Kafoury said the City can also commit to enforce the Code regulations. She said she believes the rules now are clear about

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the price differential and the reservation system. Those are issues than can be enforced. She said this is the fourth hearing on these issues and at some point the next step has to be taken rather than just rehashing the same stories. To deny that there is economic hardship for a lot of workers in Portland is silly but constantly beating this horse is not getting things any further along. She moved to deny the appeal and uphold the Taxicab Board of Review with a clear commitment that the City will continue its enforcement and monitoring and will work with the Port to try to get rid of the perception of inequity. If it is then decided there is inequity they will come back and deal with the Code again.

Commissioner Hales seconded. He said he will support the motion because, on a substantive basis, this is a reasonable piece of work. However, it is not a sufficient solution to the problem. The legal issue still needs to be addressed by Council and he is prepared to revisit the Code if more clarity is needed. He said these two public agencies and two sectors of a business need to work together to solve this problem. In the case of the Port it is not enough to say their job is just to run a business and regulations are not their problem. The specific geography of what happens out there in the commercial street in front of the Airport is 75 percent of this issue, including where and how cars queue up, whether they open their trunks, what the signage is. He suggested that all four parties meet with the assumption that this is a soluble problem. He said he is disappointed that it has not been solved yet.

Commissioner Lindberg agreed with Commissioner Hales. He said he is positive a solution can be found if all parties work together. There do seem to be some equity questions but this is a partial solution.

Mayor Katz said whether the Taxicab Board has overextended its boundaries will be discovered sooner rather than later. She said she agreed with Commissioner Hales' assessment and knows from personal experience that there are problems at the Airport, i.e. a Port official urged her to take a limousine because she was Mayor. Open trunks and improper clothing is not what she considers a limousine service. Between signage and behavior, the City ought to be able to solve this. If it is not solved, Council will take another look and write its own Code language. This is not something Council wants to do but it may be forced to. She urged the Port to try to responsibly negotiate some of these issues and asked that copies of its RFP be provided to Council for review.

Disposition: Appeal denied. (Y-4)

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Commissioner Mike Lindberg

1974 Accept Revenue Shortfall and Financial Plan report dated December 15, 1995, submitted by the Bureau of Environmental Services (Report)

Disposition: Continued to December 20, 1995 at 2:00 p.m.

***1975** Authorize an intergovernmental agreement with the Oregon Department of Energy for \$60,000 for the Portland Telecommuting Program (Ordinance)

Disposition: Continued to December 20, 1995 at 2:00 p.m.

***1976** Contract with 1) Kiewit Pacific for construction/demolition at the estimate amount of \$600,000; 2) Northwest Pipe and Casing for steel pipe at the estimate amount of \$150,000; 3) Maskell-Robbins for high density polyethylene pipe at the estimate amount of \$75,000; 4) KPFF Consulting Engineers for structural engineering at the estimate amount of \$60,000; 5) Black & Veatch for hydraulic/civil engineering at the estimate amount of \$60,000; and 6) Cornforth Consultants for consultant services at the estimate amount of \$20,000 for a total estimated amount of \$965,000 without advertising for bids and provide payment (Ordinance)

Disposition: Continued to December 20, 1995 at 2:00 p.m.

At 1:30 p.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 20TH DAY OF DECEMBER, 1995 AT 2:00 P.M.

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

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

Items continued from the morning session were heard first.

***1949**

Authorize the Portland Office of Transportation and the Livable City Housing Council to enter into a disbursement agreement for the Belmont Dairy project to establish an interest-bearing Trustee Account with the City Treasurer for the total amount of \$395,000 (Ordinance introduced by Commissioners Blumenauer, Hales and Kafoury)

Discussion: Neyle Hunter, Livable Cities Housing Council, said the bond sale has been delayed as there is no willing purchaser at this point.

Commissioner Kafoury said she thought this had to be adopted by the end of the calendar year in order to qualify for the tax credit from the State.

Mr. Hunter said staff believes it is all right to wait as the 10 percent test has been met. He said the Portland Office of Transportation, Livable Cities Housing Council and the Portland Development Commission have all committed money.

Mayor Katz asked him to circulate a letter for Council to sign indicating its intent to move this along.

Disposition: Continued to January 3, 1996 at 9:30 a.m.

1974

Accept Revenue Shortfall and Financial Plan report dated December 15, 1995, submitted by the Bureau of Environmental Services (Report)

Disposition: Continued to January 3, 1996 at 9:30 a.m.

***1975**

Authorize an intergovernmental agreement with the Oregon Department of Energy for \$60,000 for the Portland Telecommuting Program (Ordinance)

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Discussion: Commissioner Lindberg said the Energy Office is moving beyond work with City employees to developing telework programs with other employers.

Disposition: Ordinance No. 169671. (Y-5)

***1976**

Contract with 1) Kiewit Pacific for construction/demolition at the estimate amount of \$600,000; 2) Northwest Pipe and Casing for steel pipe at the estimate amount of \$150,000; 3) Maskell-Robbins for high density polyethylene pipe at the estimate amount of \$75,000; 4) KPFF Consulting Engineers for structural engineering at the estimate amount of \$60,000; 5) Black & Veatch for hydraulic/civil engineering at the estimate amount of \$60,000; and 6) Cornforth Consultants for consultant services at the estimate amount of \$20,000 for a total estimated amount of \$965,000 without advertising for bids and provide payment (Ordinance)

Discussion: Mayor Katz asked why this did not go out for bid.

Commissioner Lindberg said because two out of the three conduits were damaged, the Bureau wanted to have people move in immediately to do the work. He said not going out to bid saved a tremendous amount of time in getting the conduits back on line.

Disposition: Ordinance No. 169672. (Y-5)

1977

TIME CERTAIN: 2:00 PM - Consider proposed amendments and staff recommendations for the Outer Southeast Community Plan (Report introduced by Commissioner Hales)

Discussion: Jerry Brock, Planning Bureau, said today Council will take testimony on the amendment requests and tentative staff recommendations. He said Council will take action on these requests on January 11 and staff recommends that the record be left open until January 5 for further written testimony. Staff will return on January 24 with the adopting ordinance and resolution as amended by Council. He noted the report is divided into three sections: 1) site-by-site map amendment requests; 2) Code and policy amendments; and 3) amendments requested by three neighborhood groups. For the most part consensus has been reached as a result of negotiations between staff and the neighborhoods. There are 54 amendment requests, 26 map amendments, 20 policy and Code amendments and seven neighborhood amendments. Staff is tentatively recommending approval of almost half the amendments. Only a handful of concerns remain on the table as the bulk of all the recommended plans and zoning have gained acceptance. With the exception of these requests, the neighborhood and business plans are satisfactory. Of the

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remaining requests, those concerning transportation, public service, education and human services, were found to be outside the scope of the Plan although staff hopes it will provide a starting point for their future consideration.

Mayor Katz said once the Plan is adopted, bureaus will be asked to identify those pieces they plan to implement during the next two-year budget process. While not all of them may be done within the next two years, such as the education and public safety pieces, they will not be ignored.

Sharon Owen, Hazelwood Neighborhood Association, (Amendment 49, Page 100), reviewed Hazelwood's requests. She said their first concern is that some property (No 4 and 5 on Map G) which they requested be zoned R2.5 and R5a is being proposed for R2a zoning by staff. They believe R2a is inappropriate because this area has limited pedestrian access to the transit stations, especially for residents in the eastern and northern portions of the neighborhood. Second, they requested R2.5a for another piece (No. 6) where the staff recommendation is R2a. Because this area has no pedestrian access to light rail, that much upzoning is not appropriate. Hazelwood is very pleased with the staff recommendation for design review in the Gateway regional center and light rail corridors. They advocate design review as a Citywide policy, possibly implemented by plan areas, starting with Outer Southeast. She suggested that Gateway and light rail districts serve as pilot projects for possible wider implementation, much as Albina provided a test for the "a" overlay zone. Regarding open space, Hazelwood does not agree with staff that the Parks Future Plan addresses open space acquisition. One flaw is that any residential structure that occurs in commercial zones has no open space requirements. At least one apartment building in the area has proved to be quite a disaster as a result. She said the other recommendations made by the neighborhoods address some vital issues for improving the planning process, including better coordination between the bureaus of Planning and Transportation. For instance, they seem to be out of synch on service development charges.

Bruce Cody, Centennial Neighborhood Association, (Page 81), requested adoption of their amendments, which were jointly negotiated with the Planning Bureau. They are good for the City because they guarantee 1,000 housing units from the Centennial Neighborhood, with a trigger mechanism to increase zoning if these targets are not met. The amendments also support City and regional transportation goals by placing multi-family development within 1/4 mile of the major transit corridors -- Powell, Division and Stark. The neighborhood has agreed to filling in three 1/2- mile strips through

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the heart of its area and the proposed amendments will protect residential neighborhoods outside the strips along those routes. Centennial also supports Map Amendment 1 (page 89) which would change the proposed R5 zoning back to R7 on the landfill site at SE 155th. He said if park acquisition is the goal here, upzoning the land to R5 makes the land more expensive to purchase for open space. He noted that park acquisition here is supported by five neighborhood associations as they recognize that this is a park-deficient area. If livability decreases as density grows, urban flight may grow. Centennial urges adoption of the joint statement of the neighborhoods on livability issues. The provision of open space and children's playgrounds in all multi-family development will help assure that the City attracts and keeps families. Finally, Centennial supports Ms. Gemelli's request for CG zoning on her property (Page 2) so as not to restrict businesses that could be developed there under the current zoning. CM will not work well here.

Louise Cody, Centennial Neighborhood Association, cited mistakes in the December 14, 1995 corrected document regarding the "a" overlay - Centennial amendment (Page 92, No. 29, C1 and 2). She said this is not Centennial's request, which (Page 85, No. 3) calls for limiting application of the "a" overlay zone to locations within 1/4 mile of Stark, Division or Powell. On P. 92, No. 29, it says that the "a" will not be limited to 1/4-mile if the trigger (5,000 housing units in 10 years) goes off. Then the Comprehensive Plan designation will apply the "a" outside the 1/4-limit everywhere. She said Centennial never agreed to this and this is in direct conflict with Map Amendment C6 page 21 in the document given Council on November 15. On Page 91 there are also mistakes.

Mayor Katz noted that staff reports there was a misunderstanding regarding this issue and defers a recommendation at this time.

Commissioner Hales asked if the difference in substance regards the scope of where the "a" overlay would apply once the trigger goes off.

Ms. Cody said there is no trigger for the "a". She said residents of Centennial agree with Albina about the "a" zone and would not accept it outside the 1/4-mile limit. They accepted it within the limit only because of other zoning modifications negotiated in the total package with the Planning Bureau. Finally, they agree with all the other amendments.

Gordon Davis, representing the Portland Area Council of Camp Fire, requested a zoning amendment, not previously proposed, for 20 acres used as part of the Camp Fire day camp program until last year when it was declared surplus. They then realized that this property

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had a combination of residential and open space zoning. They request that the approximately 15 acres of open space be rezoned as R10C, consistent with the rest of the property and all those surrounding it. This would also be consistent with the City's policy of not zoning private land open space unless the owner so requested.

Commissioner Hales said while he normally would not favor opening up the process to new amendments at this point, this is a peculiar case and he would like to discuss this with the neighborhood organization to see if they have issues with this situation. He believes, however, that use of the term open space is a little misleading in this case as it usually indicates that the land in question is public space, not privately owned.

Spencer Vail, Planning Consultant, addressed Amendment No. 11 (p. 22 & 23). He said staff denied his client's request for CXd zoning, the same as applies to property to the east, as it believes this will reduce the development potential of the area. He disagreed, citing the Gateway Regional Center Subarea Policy 4 which indicates that the CX zone will allow more intense commercial development. He said his client is looking for additional development potential as it has been difficult marketing the property under its current zoning.

R. L. Hildebrandt, realtor/broker, also addressed Amendment Request No. 11. He said when he and his partner secured the property several years ago, they intended to build an apartment complex. This is a very difficult site for which they have repeatedly tried to secure financing without success. He said building 100 units with only 40 parking stalls will not fly with the financial people as they believe renting the units would be very difficult.

Commissioner Lindberg asked if the 40-space limit was a Code requirement.

Mr. Hildebrandt said it was.

Mr. Brooks said the Code does not restrict the maximum number of parking for residential zones although it does restrict it with the transit overlay zone for commercial and industrial zones. He said this site would not be restricted and if you had 100 units you could have 100 spaces.

Mr. Vail said Mr. Hildebrandt was given some misinformation some years ago.

Mr. Hildebrandt said they never got that information from Planning. He urged consideration of the CXd zone request.

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Mr. Vail said Hazelwood Neighborhood Association does not oppose the CXd zone request.

Mildred Gemelli, owner of property at 16710 SE Division, requested that CG zoning remain on this property (Amendment No. 1, p. 2). She said locating small mixed residential and commercial will not work in an area already almost wholly commercial with a five-lane highway beside it. Also, the small size of the property does not allow for meaningful development that includes parking.

David Hickman, 2915 NE 28th St., representing the Buck family, requested retention of the EG1 zoning on three lots -- 13500, 13600 and 13700 (Amendment No. 21, Page 42) -- where a mini-warehouse facility is planned. An additional three lots owned by the Bucks are currently too small to build anything on. He said they are planning on an addition to the mini-warehouse facility to put another building in that area. He asked why staff had denied their request for EG1 when they already have a building permit.

Rick Buck, no address stated, said the Planning Commission has assured them they will get the permit for this facility. The three separate lots that they would like drawn into the same zone are virtually useless for anything else. They go from 142nd to 143rd. If denied that zoning, they will be left with these narrow strips of no use to anyone.

Susan Booker, Chair, Emerging Glenfair Neighborhood Association, referencing pages 111-116, said the City should not radically downgrade the value or livability of neighborhoods, harming those who purchased homes based on the totality of information available to them at the time of purchase. To rezone an entire neighborhood from R5, R7 and R19 to RH and R1 borders on a taking of property. The neighborhood has not opposed increased density and has proposed a plan that would absorb over 5,000 people into Glenfair, one-quarter of the total expected population increase for the whole Southeast side in the next 20 years. It would leave the core of the neighborhood relatively intact. She said rather Council should listen to the people who live here rather than a dictatorial Planning Bureau. She said despite recent staff efforts, the final amendment document does not reflect a meeting of the minds between staff and the neighborhood.

Mayor Katz asked where the neighborhood thought agreement was reached.

Ms. Booker said they felt at one point they had an agreement but then found it had been totally changed when it was finalized. She

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said they have a problem with the Comprehensive Plan versus the "a" overlay when the trigger is met. Once the 50 percent trigger is met they are willing to let the "a" overlay trigger take place in the inner core. The Planning Commission recommended that the Comprehensive Plan apply after the 50 percent trigger kicks in but the neighborhood cannot live with that.

George Monogue, Emerging Glenfair Neighborhood Association, confirmed Ms. Booker's testimony regarding Amendment No. 51, Page 112. He said when MAX was constructed and when this area was annexed residents were assured that livability would not be negatively impacted. The City needs to maintain its credibility in this respect. He said he does not think people in other areas of the City would support light rail lines through their neighborhoods if they foresaw making all the MAX corridor high density as the current proposal does. Glenfair is a very small area but has agreed to accommodate 5,000 additional residents, indicating its willingness to meet City goals and accept increased density on the border streets. However, the neighborhood wants to retain R5 and R7 on the inner core areas. As proposed, when 50 percent of the density on the border streets is reached that would then trigger an "a" overlay for the remaining areas on the interior, which are now single-family residential. That would double the density in those areas. The Planning Bureau recommends that when the trigger is met those areas would become R1a, rather than remaining R5 and R7 as they are now. That would be very destructive, promoting property speculation as buyers await commercial or high density residential development.

Heather Smith, Emerging Glenfair Neighborhood, strongly disagreed that this area must accept the increased growth proposed by the Planning Bureau. She said recently a team from the neighborhood surveyed the area and found that apartment tenants residing on Burnside have a ridership on Tri-Met of 48 percent. However, only one block away from Burnside, ridership dropped significantly, to less than 10 percent. Therefore, MAX is only an attraction for those who live on Burnside itself, not the other areas. She said Glenfair residents believe the plan they have submitted allows both for growth and yet saves the composition of the neighborhood. There is room on the perimeter to accommodate 5,245, making it unnecessary to encroach on the interior. The major disagreement between the neighborhood and Planning Bureau is with the "a" overlay versus the Comprehensive Plan. The use of the "a" overlay in conjunction with the trigger would ensure planned and stable growth and they do not feel this is unreasonable.

Jack Moore, member of the Glenfair Homeowners Association,

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(referencing Pages 111-116), said the Planning Bureau's zoning recommendations are equivalent to stealing residents' homes and financial security. The proposed neighborhood plan should be acceptable to all parties, giving the City increased density while keeping the neighborhood intact. When MAX was built along Burnside, property owners there were told that no upzoning would occur.

Jerry Ernst, Glenfair Neighborhood Association, said the recommended zoning changes will cause the dissolution of their established, single-family neighborhood as it now exists. It will be dissolved into RH and R1a zoning, which means that for every 1,000 square feet it is possible to build two living units. The inner east side had R5 zoning, with 5,000 square feet per living unit. Now the Planning Bureau is proposing to build on 500 square feet and less in their entire neighborhood. They are being asked to accept density that is ten times higher than the major portion of the City because of MAX. He charged that residents there were forced to absorb exorbitant charges for new sewers so the City could upzone the area. He said no other neighborhood has been asked to make close to this kind of sacrifice. He asked Council to accept Glenfair's plan.

Jim Stout, Glenfair Neighborhood Association, said arbitrary blanket zoning is considered to be a taking of real private property, citing Oregon state statutes. He said the purpose of the takings clause is to prevent some people alone from bearing a public burden which should be borne by the public as a whole.

Commissioner Blumenauer asked Mr. Stout to provide any evidence he has in writing that proximity to the MAX line and change in zoning decreased property values.

Mayor Katz agreed and said the issue of the value of property rezoned for a particular use is an interesting one.

Linda Bauer, no address stated, disagreed with staff's statement (Page 52, Amendment 34) that the agricultural uses on this property will become non-conforming. Non-conforming is when you do something in a zone that is not allowed. A conditional use allows the use with conditions. She said this is a stable that was recently enlarged, creating a mudhole which seeps into the creek. She said another stable nearby put its manure pile on top of the bank. These need to be looked at site by site to see if this use is allowed outright or needs to be conditioned. She said these are on a flood plain where water quality is very important.

Nick Sauvie, Director, ROSE Community Development Organization,

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asked that the existing CG zoning be retained on property at 104th and Holgate. He said under the proposed CS zoning, the building would need to be placed within 10 feet of the property line. They are intending to do a 60-unit housing complex there for seniors, with no commercial use, and it does not make sense to push those units within ten feet of Holgate.

Bob Head, Hanna Realty and member of the Southeast and Foster Business Coalitions, asked if one can do the same thing in General Commercial as you can in Storefront Commercial. Why change the current zoning on the property at 104th and Holgate. Loaves and Fishes, which plans to serve at least 100 people with Meals on Wheels, needs street access for their volunteers which would be difficult with CS zoning.

Jim Worthington, 3232 SE 153rd, 97236, supported the testimony of Bruce and Louise Cody, and Mildred Gemelli. He said some of the zoning in the overlapping area between Glenfair and Pleasant Valley needs rethinking. He said some of the area zoned A2 where Planning calls for application of the "a" overlay goes right down to Johnson Creek.

Commissioner Hales asked what the problem is with that.

Mr. Worthington said if you rezone for R2 with an "a" overlay along Johnson Creek you are doing a lot of building in a swamp. He said the Glenfair and Wilkes area should be withdrawn from the plan as they were not originally involved because people thought it was better to include that whole area in the Outer Northeast Plan.

Mayor Katz asked if that would produce a better consensus or would their recommendations remain the same.

Mr. Worthington said residents in that area have not had the background other neighborhoods had because they became involved so late. The area originally was in the Rockwood Community Group before annexation.

Jerome Fulton, 11812 NE 45th, representing the Johnson Creek Headwaters Association, said if the 100-year flood plain is rezoned for increased development, flood damage will increase and the area will continue to be economically depressed. He said the plan will be successful if it does four things in regard to Johnson Creek: 1) does not upzone the 100-year flood plain for any purpose; 2) stops ongoing filling of the flood plain (Amendment Nos. 33 and 35, p. 63); 3) prevents upstream developments from making downstream flood damage worse; and 4) preserves and restores Johnson Creek and its

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flood plain as a natural resource.

Commissioner Lindberg noted that a working group of Planning Bureau and BES employees has been looking at these issues in depth and believes it came out with a good result.

Mr. Fulton said there are some specifics he thinks could be improved, i.e. filling should stop immediately instead of ending it over five years (Page 61). Would the same upzoning occur here if there had recently been a big flood?

Commissioner Lindberg said in one case, involving freeway land, he believes acceptable solutions were agreed upon by Environmental Services and the neighborhood.

Jeanne Harrison, Office of Transportation, said there was a misunderstanding regarding transit designations and service on 148th and 152nd. The Centennial Neighborhood states that the regional transportation plan calls for no planned service for those two streets. However, Tri-Met has asked that the City keep the transit designation on those two streets as they plan on having service there in the future.

Don Roach, representing Peter Patel, addressed (Amendment No. 15, Page 30) a request for CG zoning on the eastern half of property owned by Mr. Patel on Powell Boulevard where a motel is planned. He described the commercial development in the area and said the recommended CM zoning would make building a motel very difficult if residential housing is required above it.

Commissioner Hales said the motel and residential could be separate buildings. He noted that the rules for CM zoning had been changed recently to make it easier to do the residential portion and suggested that Mr. Roach talk to staff about that.

Mr. Brock said it appears that the site is large enough to do both.

Peter Patel, Salem, OR, said he owns a small lot on Glisan and I-205. He requested CN2 or CG zoning on his property (Amendment No. 18, Page 37), in order to build a motel.

Ron Thrasher, 9318 SE Hawthorne, said the amendment on page 38 was incorrect. The area he is concerned about is the whole area from Division south to Washington on the north, bounded on the east by I-205 and the west by 92nd. It is currently zoned R5 which the Planning Commission wants to change to R2a zoning. He said R2 zoning will essentially force him out of his home because developers

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will bulldoze his house and put up five units. Developers of the former ODOT property have run in utilities prior to variance approval as they knew they would get it. He also questioned why 92nd is designated a transit street.

Dorothy Cofield, representing Shelly Radmer (Amendment No. 32, Page 44-45), requested that the proposed conservation overlay not be imposed until pending litigation is resolved.

Jeff Veenker, representing John Repp and Joan Pritchard (Page 9), said they requested a change in zoning from R10 to at least R7. He said Mr. Repps's property is currently zoned R10 while Ms. Pritchard's is zoned R10 and they wish to do a combined development. They are aware that the property is within the 100-year flood plain. The City's recommendation is not to allow the zone change which would mean an additional one house per acre. However, along 122nd Avenue, also within the 100-year flood plain, the City recommends R1 and R2. This does not make sense as the property in question is farther away from Johnson Creek corridor and its permeable area travels to the north, rather than to the corridor.

Liz Callison, 6039 SW Knightsbridge Dr., said none of the fish-bearing streams in the Plan district have Environmental protection zones on them. Instead they have been designated Environmental Conservation zones, which provide much less protection. She said the City claims (Page 16) that the majority of streams in the Environmental zone are within Environmental Protection zones, which typically extend at least 50 feet on either side of the stream. She said she testified before the Planning Commission but was not notified of the hearings before Council. The plan does not reference DEQ management guidelines for stream water quality or quantity and does not provide adequate stream protection buffer work. Riparian components of setbacks are also not adequate and the Johnson Creek Management Plan is not referenced. She suggested using the Balch Creek plan as a model to protect the streams and tributaries in Southeast Portland, especially with the higher densities planned.

Mayor Katz asked Mr. Brock why EP zones had not been considered.

Mr. Brock said the only Environmental zone changes in the plan were on parcels that were incorporated from Multnomah County. There is an action item that asks for an environmental study.

Ms. Callison said in Multnomah County the SEC (Significant Environmental Concern) zoning is applied to many of the streams and they have 300-foot buffers. That significantly restricts

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development within that buffer and Portland needs to correlate better with Multnomah County as it currently is providing significantly less protection.

Mr. Brock said an environmental study was done three years ago and an intergovernmental agreement with BES is being prepared to study these issues.

Jim Hall, no address stated, asked that the effective date be shortened. Waiting until July 1, 1996 will hold off everything off until at least 1997.

Gerald Clark, senior pastor of the Lifegate Baptist Church, said his church is immediately south of Burnside on 148th, in the middle of the high density zoning area. He asked what effect that would have on their plans to expand or if this would make the property more valuable for apartment units? Would the church be allowed to continue there?

Mr. Brock said the church would be a conditional use in a residential zone.

Commissioner Hales said the mere rezoning of the property from one residential zone to another would not make it any more or less difficult to expand.

Commissioner Blumenauer said it becomes an economic decision for the church which must determine for itself what is the highest and best use of the property.

Mavis Holt, Mill Park Neighborhood Association Land Use Chair, addressed zoning on SE Division and 122nd (Page 48). She said this is the first time she has seen this proposal and believes it to be one of the problems that results from overlapping boundaries. She said they are interested in the new shopping center and in working with Powellhurst/Gilbert on these projects, including establishment of a business association. She said more time is needed to go block by block in her neighborhood as she believes that is the best way to solve problems. She said the overlapping boundaries have caused a split in the neighborhood and this problem needs to be solved.

Commissioner Hales said the Task Force's recommendation is to encourage the resolution of boundary disputes but not mandate that by Council action. The Task Force believes more incentives need to be created for neighborhoods having these disputes rather than bringing a hammer down.

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Ms. Holt noted that they had already been through mediation.

Mayor Katz asked if a time line for resolution should be set by Council.

Commissioner Hales said he thought so.

Kent Lucas, 9828 E. Burnside, Suite 200, 97216, opposed the proposed CS zoning (Page 19, Site 3) and asked for retention of the CG zone as they strongly believe it too restrictive for an auto-oriented street like 82nd.

Mr. Ernst said Glenfair had no representation during this process until the last three months and believes they were inadvertently taken advantage of. He said theirs is an R5, R7 and R10 neighborhood and the zoning has to be more fair than what is proposed now.

Mayor Katz said she believes that is a legitimate issue although she does not know how the rest of Council feels. However, it is not a taking issue as Council has heard testimony that the value of the land has gone up considerably. It is a representation issue and an issue of when development is triggered.

Disposition: Continued to January 11, 1996 at 2 p.m.

At 3:35 p.m., Council adjourned.

BARBARA CLARK
Auditor of the City of Portland

Cay Kershner
By Cay Kershner
Clerk of the Council