



CITY OF

**PORTLAND, OREGON**

**OFFICIAL  
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 6TH DAY OF MARCH, 1996 AT 9:30 A.M.

THOSE PRESENT WERE: Mayor Katz, Presiding (until 10 a.m.); Commissioners Hales, Kafoury and Lindberg, 4.

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

Agenda No. 344 was pulled from Consent. On a Y-4 roll call, the balance of the Consent Agenda was adopted as follows:

**CONSENT AGENDA - NO DISCUSSION**

- 327** Reject all bids for four intermediate four-door sedans for the Bureau of General Services, Fleet Division (Purchasing Report - Bid 59)

**Disposition:** Accepted.

- 328** Accept bid of Cedar Landscape, Inc. for Sellwood Park renovation for \$160,293 (Purchasing Report - Bid 86)

**Disposition:** Accepted; prepare contract.

- 329** Accept bid of Davis Landscape Nursery, Inc. for Arbor Lodge Park improvements for \$126,300 (Purchasing Report - Bid 88)

**Disposition:** Accepted; prepare contract.

- 330** Accept bid of System Construction for NE 47th Avenue sewer reconstruction for \$45,614 (Purchasing Report - Bid 100)

**Disposition:** Accepted; prepare contract.

- 331** Accept bid of Rozema Boat Works, Inc. for furnishing one aluminum fire fighting vessel for \$392,000 (Purchasing Report - Bid 181)

**Disposition:** Accepted; prepare contract.

**MARCH 6, 1996**

**332** Seal and finish the remaining basement storage at the Stanley Parr Archives and Record Center (Resolution introduced by Commissioner Kafoury and Auditor Clark)

**Disposition:** Resolution No. 35501. (Y-4)

**333** Vacate a three-foot right-of-way lying north of SE Powell Blvd., under certain conditions (Ordinance by Order of Council; C-9887)

**Disposition:** Passed to Second Reading March 13, 1996 at 9:30 a.m.

**334** Vacate a certain portion of NE Airport Way east of NE 165th Avenue, under certain conditions (Ordinance by Order of Council; C-9900)

**Disposition:** Passed to Second Reading March 13, 1996 at 9:30 a.m.

**335** Vacate a certain portion of NW 90th Avenue and NW Bella Vista Drive, under certain conditions (Second Reading Agenda 297; C-9899)

**Disposition:** Ordinance No. 169842. (Y-4)

**Mayor Vera Katz**

**336** Appoint Tom Remly to the Housing Authority of Portland (Resolution)

**Disposition:** Resolution No. 35502. (Y-4)

**\*337** Authorize Revenue Bonds for various public projects (Ordinance)

**Disposition:** Ordinance No. 169843. (Y-4)

**338** Amend Portland City Code regarding resale of tickets to events at municipal facilities (Second Reading Agenda 298; amend Code Section 14.36.070)

**Disposition:** Ordinance No. 169844. (Y-4)

**Commissioner Earl Blumenauer**

**339** Accept completion of the NW 9th Avenue LID street improvement project (Report; C-9693)

**Disposition:** Accepted.

**MARCH 6, 1996**

**340** Declare the purpose and intention of the City of Portland to construct street, storm sewer and sanitary sewer improvements in the NE Jarrett/138th Avenue Local Improvement District (Resolution; C-9896)

**Disposition:** Resolution No. 35503. (Y-4)

**\*341** Revocable permit to Jake's Restaurant to close SW Stark Street between SW 12th and 13th Avenues on March 16 through 18, 1996 (Ordinance)

**Disposition:** Ordinance No. 169845. (Y-4)

**Commissioner Charlie Hales**

**\*342** Authorize commencement of eminent domain proceedings for acquisition of land on Springwater Corridor; authorize early possession (Ordinance)

**Disposition:** Ordinance No. 169846. (Y-4)

**\*343** Contract with Rozema Boat Works, Inc. for construction of a fire boat for \$423,756 (Ordinance)

**Disposition:** Ordinance No. 169847. (Y-4)

**\*345** Amend contract with John Vosmek Architect to extend effective date to June 30, 1996 and include additional services in the amount of \$1,980 (Ordinance; amend Contract No. 29897)

**Disposition:** Ordinance No. 169849. (Y-4)

**346** Contract with Multnomah County Rural Fire District No. 30 for periodic mutual emergency assistance (Second Reading Agenda 309)

**Disposition:** Ordinance No. 169848. (Y-4)

**Commissioner Gretchen Kafoury**

**\*347** Contract with Westlink Paging to furnish radio paging services for an estimated \$130,000 annually, waive competitive bidding and provide for payment (Ordinance)

**Disposition:** Ordinance No. 169850. (Y-4)

**\*348** Exempt contract from competitive bidding, authorize contract with 2KG, Inc. for \$100,000 for remodel of Archives and Records Center and provide for payment (Ordinance)

**Disposition:** Ordinance No. 169851. (Y-4)

MARCH 6, 1996

**Commissioner Mike Lindberg**

**349** Accept completion of the St. Johns "B" basin drainage system and authorize final payment to Alliance Corporation (Report; Contract No. 29391)

**Disposition:** Accepted.

**350** Authorize Agreement with Oregon Department of Environmental Quality relating to hydrogen sulfide management (Ordinance)

**Disposition:** Passed to Second Reading March 13, 1996 at 9:30 a.m.

**\*351** Contract with Triad Mechanical, Inc., the lowest responsible bidder for the Fremont Wastewater Pump Station remodel project for the Bureau of Environmental Services, and provide for payment (Ordinance)

**Disposition:** Ordinance No. 169852. (Y-4)

**REGULAR AGENDA**

**\*344** Reclassify two Office Manager positions to Sr. Administrative Specialists and one Secretarial Clerk I position to Technician I in Fire, Rescue & Emergency Services and establish rates of pay appropriate to these classifications (Ordinance)

**Disposition:** Continued to March 13, 1996 at 9:30 a.m.

**\*352** Authorize the Livable City Housing Council to enter into a loan secured by a first deed of trust with Tri-County Metropolitan Transit District of Oregon not to exceed \$120,000 to finance development process for property in Goose Hollow (Ordinance introduced by Commissioners Hales and Kafoury)

**Discussion:** Commissioner Hales said this is a fine example of the productive results that can result from collaborative bargaining with a developer from the very beginning. He said this project involved several public agencies as well as the neighborhood and business community.

Kim Knox, Tri-Met, said they are very excited about the result of this neighborhood-lead process to determine the character of future development in this area. The results meet both Livable City and Tri-Met goals. Tri-Met owns four sites in Goose Hollow and is currently proceeding with development of the Civic Stadium project, anticipating completion when light rail comes on line in 1997. It is interested in following a more collaborate process with the neighborhood in the future

**MARCH 6, 1996**

to identify what types of buildings and processes are going to meet the City's and neighborhood's needs, as well as Tri-Met's.

Howard Glazer, Goose Hollow Foothills League, said things have changed a lot since the neighborhood initially began working with Tri-Met. He described the League's involvement in determining the diverse type of housing to be built on these sites, reflecting a diversity of income levels, age groups and mixed-use. After two years' work, the Civic Stadium project is ready to go to the developers, and the remaining sites will be approached in a similar way. He said the most unique aspect is the different approach that was taken to finding out what kind of housing people want in Goose Hollow rather than having a developer decide. Even though the project is being built at a density of 50-60 units per acre, their planning efforts have enabled two large trees to be preserved.

Roger New, First Methodist Church, said nearby neighbors were very happy to be involved right from the start. He said because there are so many vested interests around them, infill projects need to involve all the affected parties, who need to be engaged as early as possible. In this case, making knowledgeable consultants and advisors available to the neighbors also gave everybody all the facts from the beginning.

Jim Claypool, Bureau of Planning, said this was a unique approach which early on recognized the interest of the neighborhood in the light rail line. They also recognize there are Metro 2040 issues to deal with and want to use this model in other areas.

Commissioner Hales said he is impressed with the short time this site development plan took.

**Disposition:** Ordinance No. 169853. (Y-4)

**\*353**

Authorize the Bureau of Planning and the Livable City Housing Council to enter into an intergovernmental agreement for the development of Goose Hollow sites purchased for the Westside Light Rail project (Ordinance introduced by Commissioners Hales and Kafoury)

**Discussion:** Mayor Katz noted that the Office of Finance and Administration questioned how many City people are involved in the development of this agreement. This issue needs to be dealt with.

**Disposition:** Ordinance No. 169854. (Y-4)

MARCH 6, 1996

**Commissioner Charlie Hales**

**\*354** Accept a grant from Metro for East Delta park in the amount of \$12,625 for FY 95-96 (Ordinance)

**Disposition:** Ordinance No. 169855. (Y-4)

**\*355** Authorize agreement with Nike, Inc. for maintenance of sign and clock at Duniway Park (Ordinance)

**Disposition:** Ordinance No. 169856. (Y-4)

**325** **TIME CERTAIN: 9:30 AM** - Transmit report of Director of Bureau of General Services on the City Hall renovation project (Report introduced by Commissioner Kafoury)

**Discussion:** David Kish, Director, Bureau of General Services, updated Council on plans for the renovation of City Hall, noting that current occupants will move to quarters in the State Office Building the first two weeks in May. He said they are very close to having the guaranteed maximum price come in from Drake Construction and expect to return to Council in mid-April with the final project budget. He said the budget today indicates this is still a very good investment for the City, comparing very favorably to new building construction even though it is slightly more expensive to do the historic renovation rather than simply doing the required Code work. The amount budgeted for renovation is up slightly due to increased costs to provide space and the computer network plus the addition of security measures actually proposed for the following year's budget. There is also some increase in construction costs, due to the strong economy. These costs are still within the budget and the General Fund appropriation to pay the debt on the project over the next 17 years is still enough to cover this and the precinct projects.

(Mayor Katz left to attend a funeral and Commissioner Lindberg assumed the chair.)

George "Bing" Sheldon, SERA Architects, 123 NW 2nd, 97209, said there will be a dramatic change in the visual appearance of City Hall when the renovation is completed. He said the current building does not work well and the remodeled Council chambers and restored light wells will draw people in.

Skip Stanaway, SERA Architects, said because of concern about rising construction costs, a value engineering team was formed to prioritize items although the overall scope has not changed. He said the restoration will create new ceremonial spaces and draw people in.

**MARCH 6, 1996**

Doug Grass, Drake Construction Co., 1740 NW Flanders, said there was some concern about subcontracting because of the long and difficult construction period but they are pleased overall with the interest shown by the subcontractors and believe they will have good coverage.

Jack Winter, Chair, Oversight Committee, said the committee brought a good cross-section of talent to deal with this complex and complicated project. He said he has confidence in the project team and in the cross checks on price that have been put in place. An ad hoc committee was formed to look at the design details and they are comfortable with both the cost and design.

Commissioner Lindberg said while value engineering is a good process, quality should not be sacrificed so that the City ends up with something like the Portland Building. He said his impression is that quality is not being sacrificed in this case.

Mr. Sheldon described some examples of the measures his firm took to ensure high quality craftsmanship on this project.

Commissioner Lindberg questioned the architects about other aspects detailed in the plan. He noted that he had voted against construction of the Portland Building when it came to Council and passed on a 3-2 vote because he wondered if it was right to approve a building which was to have the least cost per square foot of any building in the country.

**Disposition:** Accepted. (Y-3)

**326**

**TIME CERTAIN: 10:15 AM** - Adopt 1996-98 City of Portland Affirmative Action Plan (Ordinance introduced by Mayor Katz)

**Discussion:** Robert Phillips, Affirmative Action Director, said this is a revision of the prior Affirmative Action Plan. He thanked all those who had helped in this partnership effort with the City Attorney's office. He said the Plan encompasses four separate plans; for minorities, females, the disabled community and veterans. The goals are measurement targets, not quotas or caps. Revisions included tightening up the technical preface to clarify Council's authority in adopting Affirmative Action plans. The methodology and goals were designed as benchmarks, not to give preferences. Other improvements included an improved internal complaint process with added processes for conflict resolution and mediation. He said the report clearly shows that representation by every single group noted has improved and these results clearly reflect Council's intent to move forward in this area. They have good reason to believe the numbers they use are based on the kind of statistical data that would be found credible in court. Grievance procedures for ADA are also included as required. They found when they developed the

**MARCH 6, 1996**

1992-93 Affirmative Action Plan that the City was way ahead of its time in the way it formatted the statistical information, creating a very credible document. They are confident the new plan will be found equally credible.

Madelyn Wessel, Chief Deputy City Attorney, said in 1989, when the first Affirmative Action Plan was adopted, the City was in a muddle trying to respond to the Croson decision. At that time, the City had a dysfunctional system for administering an affirmative action plan and was not utilizing a diverse community in a way that reflected Council's policy goal. There has been enormous progress since then. She cited Commissioner Hales' program in the Fire Bureau as one that has brought about real change. This has been accomplished in an adverse legal environment, basically because of Council's leadership.

Commissioner Lindberg said he appreciates the clarity of the language. He asked if a breakdown of the affirmative action information was available for specific bureaus.

Ms. Wessel said that will be in Part B of the Plan and will be issued four times a year.

Commissioner Lindberg asked if Council members could identify what the problem areas are in their bureaus.

Mr. Phillips said that information is sent out in the quarterly reports. Generally, unless people understand the statistical data, assumptions about bureaus may be made that are untrue. They tried to avoid including information in the overall plan that would be very difficult to interpret and will capture that in the quarterly reports.

Mike Pullen, Urban League, said affirmative action is still a very valid concept, one the League strongly supports. He said use of standard test scores is not a good way to determine merit and noted that a recent Harvard University study found that a person's determination was a greater indicator of success than were test scores. He applauded the City's progress in this area.

**Disposition:** Passed to Second Reading March 13, 1996 at 9:30 a.m.

**Commissioner Gretchen Kafoury**

**356**

Accept Towing Coordinator's report to the Towing Board of Review, entitled Municipal Towing in the City of Portland (Report)

**Discussion:** Commissioner Kafoury said she had asked the Towing Coordinator for this review.



**MARCH 6, 1996**

Marian Gaylord, Towing Coordinator, said there has been a significant increase recently in the number of municipal tows as towing has come to be used more frequently for enforcement of laws against prostitution, drug users and uninsured drivers. She surveyed other cities to see if there was a "magic bullet" solution and found that nearly all had the same problems in common. She said the City's system has a lot of pluses, including more accessibility to small and minority towing companies. She said stringent prequalification requirements are used to qualify towers for the rotation program.

Commissioner Kafoury asked how many cities have towing boards.

Ms. Gaylord said none have citizen towing boards. She said the quality of the dialogue between towers and the bureaus who use them is very high and towers have responded very well in emergency situations.

Commissioner Kafoury said this review was requested after she was approached by a firm that wished to bid on the whole system.

Dennis Nelson, Director, Bureau of Licenses, and Chair of the Towing Board, said they will return in the Spring with the contracts, which have many recommendations built in. The Board is also working on enforcement issues. This review has provided a road map to make the process even better.

Commissioner Kafoury said towing charges were not addressed and added that she thought Seattle's were much cheaper.

Ms. Gaylord said the City's fees are in the low- to mid-range, compared to the rest of the country. Seattle's tow charges vary from district to district and there is a lot of dissatisfaction about that. Portland's charges are about \$50 less than San Francisco's.

Mr. Nelson said the Tow Board is currently reviewing Part B, including tow charges from private lots, which does raise fee issues.

**Disposition:** Accepted. (Y-3)

Commissioner Hales moved to reconsider Agenda Item 326 to allow for additional testimony (see above). Commissioner Kafoury seconded and the motion carried. (Y-3)

At 10:00 a.m., Council recessed.

**MARCH 6, 1996**

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 6TH DAY OF MARCH, 1996 AT 2:00 P.M.

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

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

**357**

**TIME CERTAIN: 2:00 PM** - Amend Title 33 of the City Code relating to the Columbia South Shore Plan District (Ordinance introduced by Commissioner Hales)

**Discussion:** Commissioner Hales said the question before Council and the community is whether the Columbia South Shore will be developed according to the vision property owners and the City had or whether that vision will be squandered and the City will underutilize and misutilize what had been planned as a major industrial and employment district in the City.

David Knowles, Director, Bureau of Planning, said the City wants to meet its 2040 goals by preserving its employment zones for employment purposes and reduce the pressure created with land-consumptive retail uses in those areas. He noted the significant investment the City has made in the Columbia South Shore area.

Tom McGuire, Bureau of Planning, described the two proposed Code amendments, affecting only the EG2 (General Employment) zone on the east and west ends of the industrial sanctuary. The first change would place a cap of 20,000 square feet on the size of retail sales uses. Retail sales uses in excess of that limit could be allowed but would require a conditional-use process. The applicant would have to show that the proposed retail sales use was supportive of the industries and other employment uses within the Plan District.

Mr. Knowles said the Planning Commission endorsed this at its February meeting and the City is now close to agreement with the affected property owners. He said the ordinance's effective date would be September 1, 1996. Staff believes that is adequate time for allowing property owners to provide sufficient information to vest their rights to develop under the existing rules. Property owners have some concerns, however, about the date and whether the City's existing practice with respect to vesting is adequate. He said the Bureau has spelled out in a letter to property owners and their representatives what its existing practices are regarding the vesting of development proposals but has

**MARCH 6, 1996**

not yet learned if that satisfies the concerns.

Mark Clemmons, Director of Economic Development, Portland Development Commission (PDC), said they have worked jointly with the Planning Bureau and the Columbia Corridor Association to develop this change. This has been a very difficult process, resulting in some strained feelings which they hope will not be long lasting. He said they are looking not only at EG but also at IG zoning issues further to the east at the gateway. PDC endorses the Planning Commission proposal because it supports the City's vision for high value uses at the South Shore gateways. Destination retail projects (also known as "big box" retailers) have found this area attractive but do not meet the high value development desired in there. Continued development of such uses will only attract similar destination retailers and this is already starting to occur. The land and infrastructure needs to be preserved for higher value office and industrial uses which are likely to provide a greater density of quality jobs or provide local support retail as the area further develops. He said these changes also support Metro's 2040 goals and the Regional Urban Growth Goals and Objectives (RUGGOs) that have been adopted to support the highest use of developable land within the existing Urban Growth Boundary (UGB) for employment opportunities. Large destination retailers do not provide the density of jobs per acre the City needs to meet those RUGGOs. Also, Metro's Plan designates destination retail centers at the Gateway transit station and at downtown sites, such as Gresham. Without changes to the EG zoning, the western gateway of the South Shore district could become another retail center. PDC also believes it is important to support existing retail centers, such as the one along 122nd. He noted that hotels, motels and retail uses that support local markets will continue to be allowed. The proposal appropriately treats retail projects that are already in the pipeline by providing a delayed effective date of September 1 that will allow them to use the existing regulations. PDC is sympathetic to development community concerns and will continue to look at the retail regulations as they apply to the IG zone.

Gussie McRoberts, Mayor, City of Gresham, said "big box" retail in Columbia South Shore is a gigantic loophole that will sink Gresham's regional center, adding that the regional center concept is a major component of Metro 2040. She said it is essential to limit destination retail centers and that, while legitimate projects need to go forward, the new regulations should go into effect soon. She said there will be rezoning with 2040, resulting in non-conforming uses, and this is a reality of change. "Big box" retail stores eat up land with their parking and if the UGB is to be limited, cities cannot continue doing business as usual.

Anne Nickel, Columbia Corridor Association (CCA), said this process

**MARCH 6, 1996**

has been very frustrating for the Association because of the quick time frame and the lack of serious consideration of alternatives. It fears there will be unintended consequences if this goes forward. For instance, a business supply company, which needs 25,000 square feet, has plans to move into the EG zone but with this zone change it would need a conditional use, a cumbersome process with subjective criteria that are hard to meet. She asked the City to study a market-based alternative conditional use. The success of both the western and eastern gateways require appropriate support retail there. She said the new conditional-use criteria requiring that 75 percent of a business serve local markets is too high and asked the City to move quickly to make appropriate changes if the desired support retail cannot meet this new criteria. Another consequence is a decrease in land values for property owners. She urged the City to allow those projects to move forward which were started in good faith under the existing regulations. CCA supports the effective date of September 1 but believes the word "vested" needs to be much more clearly defined and has provided language to do that. She said the City's 20,000 square-foot limit is far below what the RUGGO standards call for, which is 50,000 maximum/minimum for retail in an industrial sanctuary. She said the advantage of having a plan district is that the City can be very creative in what is put there. So Council could define "vested" here differently than what applies elsewhere, recognizing this area's uniqueness.

Commissioner Lindberg asked her about the office supply store.

Ms. Nickel said the store needs 25,000 square feet and if the proposed cap of 20,000 is passed, it would preclude this and other uses needed to make the area work. She said the rapid pace of this process has not allowed enough time for exploration of what the real cap should be.

Commissioner Lindberg asked if she would support this if a better definition of "vested" was approved.

Ms. Nickel said vesting needs to be done well and Council needs to decide what to do with existing projects to allow them to move forward. But the proposed 20,000 cap should also be reexamined.

Commissioner Hales asked what would be the appropriate maximum size for a video or clothing outlet store in the Columbia South Shore district.

Ms. Nickel said a real estate broker will speak to this later.

Commissioner Hales said the City cannot distinguish between retail uses in the Zoning Code and make value judgments about them. The City has to look at broad categories rather than do a fine-tuned market

**MARCH 6, 1996**

sorting.

Ms. Nickel said there is confusion about what is meant by "support retail" and there was no discussion about that or about what businesses need in the way of support.

Art Spada, Columbia South Shore property owner, objected to the City's attempt to restrict retail uses on his property, which is presently zoned GI2 but could potentially be EN or mixed employment. He said he had discussed the zoning with Mr. Glascock and been told that since commercial zoning had been provided at the western gateway, it was appropriate to have commercial or retail around 181st at the eastern gateway to create a balance. He said it is unconscionable for the City to take a large portion of the value of his property at this time as no development has yet occurred in this area. He said these regulations should not be imposed on the eastern edge just because of what is happening at the western end. The proposed 20,000 square-foot cap will eliminate many potential users and a 50,000 cap, consistent with Metro's measures, should be allowed. He said the City has not taken sufficient time to study this. He recalled the City's commitment to work closely with his family and other property owners in exchange for agreeing to annexation. Now he believes the City is trying to wound him.

Frank Parisi, 1 SW Columbia, Suite 680, representing Home Depot, identified himself as a spokesman for "big bad box retail." He said the store they propose in Columbia South Shore will contain 130,000 square feet and employ 175 people, 85 percent of them in career jobs. In Portland when Home Depot came to town it willingly put up all the money for the International Corporate Center subdivision to take it out of bankruptcy and get it off the ground. It did that because it was to be a retail-oriented subdivision and while they knew they were taking a risk it was not because they thought City Council, within 1-1/2 years, would decide to change the zoning. He said this takes away their redevelopment rights and there is no solution on the table for that. The City is going to do it and Home Depot will lose. The other problem, however, is that Home Depot's big advance is still not paid back and the only way to get it paid back is to continue to complete the transactions on the table now. One is with PacTrust on Lot 5 and there is as yet no resolution regarding the timeline or the definition of vesting. Also, they would like a way to get another purchaser if this one balks. He said the current proposal leaves his client high and dry.

Mayor Katz said she understands that "big bad box retail" is being stopped in many places in the country. She asked Mr. Parisi if Home Depot was redesigning any of its stores to be more compatible in an urban environment.

**MARCH 6, 1996**

Mr. Parisi said their stores sell some very large items and people need trucks to carry away their purchases. However, they are now planning "virtual stores" showing full size houses which do not actually sell things and will not require parking for 500 or 600 cars. He said the Tigard store is particularly attractive, but very costly, because PacTrust had very restrictive CC&Rs.

Don Ossey, real estate broker, Norris & Stevens, said there needs to be a balance between social guidelines and market-driven development. He said he does not foresee many video or general consumer retail stores going along Airport Way. Instead it will attract retail that thrives on a business environment, such as office supplies. He said the required conditional use process will be time consuming, expensive and cumbersome, and will prohibit a lot of activity. It leaves too many questions to subjective interpretation and non-conforming uses create problems in the lending community and for property sales. He said not enough time has been taken to look at the real needs of the area. Not enough attention has been given to market factors and too much attention to politically-driven motives.

Mayor Katz said if the City lets the market drive use, it will never meet its 2040 regional goals or see the market respond as rapidly as needed on transit-oriented mixed-use developments.

Mr. Ossey said he advocates a balance; no one is in favor of a Houston or Los Angeles.

Commissioner Hales said to translate the Metro plan into something that makes sense at the neighborhood level, the City is rezoning single-family houses for four-story apartment buildings. This is policy driven, not market driven, and the City's job is to translate that policy into permits and all the other mechanics.

Mr. Ossey said the process may be more applicable in a residential area than in a commercial one because the way people live has remained relatively constant but the way businesses operate has changed dramatically. The Central Industrial Eastside is an example where multi-level warehouses worked beautifully for years but are obsolete today.

Robert Liberty, 1000 Friends of Oregon, said in 1977 the Friends accepted the inclusion of the Columbia South Shore within the UGB, based on the need for jobs, specifically manufacturing. It subjected itself to considerable criticism from citizens in other parts of the state who felt the zoning of the South Shore illustrated the hypocrisy of the Portland elite because it favored the protection of less productive farm lands in other regions while superior farm land along the Columbia

**MARCH 6, 1996**

South Shore was zoned for urbanization. The issue of the compatibility of industrial development with the natural resources in that area was extensively debated in the 1980s and some aspects carried over into periodic review of the City's plan. As part of that review the Department of Land Conservation and Development asked the City to review its increased river exposure in industrial development opportunities in the Columbia South Shore. It said the additional river front could conceivably offer prospects for major new expansion or diversification of the City's attractiveness as a place to visit. In other words, it was asking if the City was going to continue to use Columbia South Shore for employment or as a natural resource area. The City responded that it would continue to be an employment center and the land would be available for industrial development. He said if 1000 Friends had been told then or in 1977 that this area was being reserved for large scale retail development they would have opposed it vigorously and he questions whether it would be in the UGB today if that had been its proposed use. The proposed amendments honor prior commitments and should be approved, limiting the size of retail establishments in the EG2 zone to 20,000 square feet.

Commissioner Hales asked about the Schutte Road case in Washington County where 1,200 acres was added for industrial development and a shopping mall was then planned. He said he remembers that 1000 Friends argued that was a violation of the Comprehensive Plan and asked if the City would face a similar challenge here if it set aside land for one purpose and then used it for another.

Mr. Liberty said this technique is called "bait and switch," which was used during the recession in the 1980s to justify industrial land expansions. The City needs to stick to a "truth in planning" creed.

Dennis Sivers, Sivers Company, said they are currently developing 110,000 square feet of offices on Airport Way and have a building permit in process for a 24,500 foot office supply store and a strip retail center on Airport Way. He said the City hit them with a sucker punch when it said 3,000 square feet was the maximum allowed retail in the South Shore. He said the EG zoning at I-205 near the airport should be separated from the industrial sanctuary as this was never meant to be an industrial sanctuary, contrary to what staff has said. He objected to the way the Columbia Corridor Association was treated in this matter by City staff. He said he is satisfied that he can continue with construction of the office supply store but is seriously worried about the effect on the Spada property, which would be good for commercial uses, given its proximity to the freeway, but is now being snatched away at this late stage. That is pretty rotten.

Dick Loffelmacher, PacTrust, said PacTrust bought 19.5 acres in 1995

**MARCH 6, 1996**

adjoining the Home Depot property, for a mixed-use development, paying more than it would have for industrial property. He said they will give up the zoning on 11.5 acres without contest but request the right to continue with two deals currently underway. He said they have been working with staff to try to come up with a solution to this problem but have been unsuccessful to date, partly due to the intricacies of retail development. The property must have zoning certainty or people will not buy it, lenders will not lend, etc. He said they do support the vesting language proposed by the Columbia Corridor Association.

Steve Daneman, Daneman Realty, and CCA Board member, said Council should take seriously CCA's objections to the process, the results and the precedent. The staff report fails to state the promises made during annexation. Retail was to be allowed outright under the zoning and if there is any bait and switch it is to landowners who thought they had certainty about the zoning. He said first of all, this is not an industrial sanctuary. It is a mixed employment zone and EG zoning is not the same as an industrial sanctuary. He said the staff report makes a lot of assertions but has no facts about transportation, purported conflicts or to support the 20,000 square-foot cap instead of the RUGGO cap of 50,000. He said one of the criteria in the conditional use process is simply unprovable for businesses and will not work. He said retail is a higher value land use and this proposal will decrease property values because of the downzoning. It also sets a bad precedent for implementation of 2040 and the process failed to provide for adequate citizen involvement.

Jim McClaskey, Columbia South Shore property owner, said 20,000 square feet will be too small even for his two parcels, zoned EG2 and about an acre each, much too small for big box retail. He said if the City does not want big box retail then it should specifically ban it rather than doing it with this cap and the provision that conditional-use approval must be based on the use's ability to support other industrial uses in the area.

Commissioner Kafoury asked why 20,000 square feet was chosen as the magic number.

Mr. Knowles said staff originally recommended 12,000, which is the amount of retail allowed in the IG zone. The Planning Commission increased that to 20,000 for the EG zone in the Columbia South Shore District.

Commissioner Kafoury asked why the Planning Commission went with a standard lower than RUGGO's 50,000.



**MARCH 6, 1996**

Mr. Knowles said the Metro standard also talks about precluding destination retail within employment zones. He said the Planning Commissioner who proposed the 20,000 standard thought it made more sense than the 12,000. They have been told that 20,000 is the largest amount of square footage one could get on a one acre site.

Commissioner Kafoury said all of this is imperfect science and noted the long process that went on to settle how the South Shore would be used. She said she does not question the refocus to make sure this is an employment area but is struggling with what the City is trying to do here. She said she does not want retail that draws people from out of the area but having restaurants, hotels and office supply outlets for the businesses there makes a lot of sense.

Commissioner Hales said the long term expectation in zoning this area for employment was probably not to have 100,000 square foot retail stores there but the market has changed. He said the question is, what did the City have in mind when it took this area within the UGB and spent so many millions for improvements. Also, what were the property owners' expectations about what they could develop. Another question is what is a reasonable response to a regional planning effort that changes everyone's expectations. He said it is a judgment call.

Commissioner Kafoury said after all the time that is spent on community plans she thinks more time could be spent here to get to resolution. She is troubled by seeing this much unhappiness expressed. She does not want this to preclude workers from having places to eat or exercise.

Mr. Knowles said he is not totally comfortable with this approach because he believes in providing predictability about zoning to property owners. He said it is a matter of finding the right balance between shifting what a zone allows and protecting property owner expectations. He said the City is close to an agreement with PacTrust and Mr. Sivers' application for a building permit would immediately vest him under the existing regulations. The 20,000 cap would allow almost every conceivable retail use that would support an employment area. However, the City cannot respond satisfactorily to those who claim the zoning change precludes them from a retail use. There is no perfect solution for them if the City changes direction.

Commissioner Kafoury said the City needs to make it clearer that this is the right decision. She would like to see a satisfactory resolution for people who literally have deals in the works. She suggested that staff meet with the CCA again to try to ensure the language allows the right kind of support businesses. She said she does not know what the magic number is but perhaps another week or two of work would resolve this.

**MARCH 6, 1996**

Commissioner Hales suggested setting this over for three weeks to allow more time to work this out.

Mayor Katz said this meets regional goals but will not please everyone. She said she hopes staff can bring the partners to the table and get to closure on this issue over the next three weeks.

Commissioner Kafoury told Mr. Knowles she knows Planning has been very responsive.

Mr. Knowles said they will be happy to continue talking with people about this.

Commissioner Kafoury said does not object to the shift in how land within the UGB is used but it seems like more can be done here.

Commissioner Lindberg said he thought the original intent of Council in designating this as an employment center and making a multi-million (perhaps \$70 million) investment here was to have a large area to create good paying, manufacturing jobs. At that time "big box" retail jobs were lower paying. However, during the COSTCO hearing he learned that a lot of those jobs paid more than the new high-tech manufacturing jobs. He asked if one factor here is the level of jobs created, whether industrial or retail.

Commissioner Hales said one factor is wage rates and another is job density.

Mr. Knowles said a Home Depot devotes 60 percent of its site to parking, something that is not necessary for industrial uses.

Mr. Clemmons said if one looks at individual companies there are some discrepancies but the average pay in retail employment is half the rate for manufacturing jobs. Home Depot pays upwards of \$10 an hour but the question is how representative that is of all retail going into that area. The City needs to decide if it goes on averages or specifics.

Commissioner Lindberg asked if statistics were available regarding the average number of manufacturing jobs per acre. He said if the goal is to create the maximum number of good paying jobs, the original assumptions need to be tested over time.

Mayor Katz asked Mr. Knowles to come back with that information as well as a comparison of densities for different job types.

Commissioner Lindberg said if the economy changes and there is more service and less manufacturing, then perhaps the City needs to reassess

how it best meets its goals.

Mr. Clemmons said manufacturing brings new income into the area which is then redistributed into retail as opposed to filling up the land with jobs that just circulate existing dollars. However, another type of business now selling its services outside the region is export services so one does not want to say the only good job is a manufacturing job. Instead, one should look at whether the product generates more income and how it is redistributed.

Mayor Katz said 10 years ago the rhetoric was that only manufacturing jobs were good jobs. Now that is not the case and the challenge is whether, as the City rezones, it is anticipating what the job situation will be in 20 years.

**Disposition:** Passed to Second Reading March 27, 1996 at 2:00 p.m.

358

Appeal of Denise Shaw, applicant, against Hearings Officer's decision to deny application for a six-lot cluster subdivision at 12528 SE Bush Street (Hearing; 95-00264 SU)

**Discussion:** Michael Holstun, Senior Deputy City Attorney, reviewed the procedures to be followed in a quasi-judicial hearing.

Al Burns, Planning Bureau, said this proposed subdivision is on a large block with existing development around the perimeter and open land in the center. Applicant's property is in the middle of the block, in an area where the City needs connecting public streets. The Hearings Officer, in her decision, was concerned about how to provide connecting streets in accordance with existing policies and approval criteria without taking so much property from a small lot as to make the project inviable. Planning and Transportation staff have provided an innovative design calling for a 30-foot substandard street to be dedicated now. The remaining 10 feet would be donated by an adjoining property, if and when it is ever developed. This new public street would also provide a connection to SE Center Street. The problem for the Hearings Officer was that the proposal before her was for a six-lot design and there was not enough distance between the end of the public street and the back building face of the house on Lot 6 to meet Fire Code standards. Applicant is now proposing a five-lot subdivision and, with that change, all City standards are met and staff recommends approval with three conditions. He read those conditions into the record.

Jeff Senkel, CSA Consulting Engineers, representing the property owners, said they have worked this out with various staff persons and have agreed to the compromise and the three conditions. He said they tried to come up with the best design possible, keeping the surrounding

**MARCH 6, 1996**

properties in mind. That is why they propose the half street improvement with the little squiggle.

Larry Guzman, 12510 SE Bush, owner of the lot contiguous to the west, said because the annexation of this area is in question, this is not the proper jurisdiction to consider this proposal. However, the main issue here is that this subdivision should not be approved with so many exceptions, all of which benefit the developer. He said at the east corner of this lot there is an intersection with a six-lot development across the street on Bush. And yet the developer wants to put the street down the west side of this development. The Hearings Officer said a house would have to be torn down to put it elsewhere but he does not think that is true and does not understand why an exception to a safety intersection is being made. He also objected to allowing the developer to build a duplex, something generally not allowed in subdivision clusters.

Mr. Guzman said the plan places an unnecessary burden on adjoining property, principally his. The developer wants to squiggle the road onto his property, which will not benefit him or the future owner of the property at all. It creates a condition on the future sale and value. The applicant wants to be the first one to develop but does not want to build the full 400 feet of street because it is too expensive. He understands that but questions why the future owner of the adjoining lot bears that expense without any compensation. The road is also substandard, 20 instead of the customary 25 feet. In addition, the applicant does not want to do a geotechnical survey of the soil even though about 10 years ago the property owner bulldozed a big hole and shoved car parts, drums, etc. into it, creating an illegal landfill. Mr. Guzman said if the duplex is allowed, six dwellings will be put on the property, making the density higher here than anywhere else in the area and too many cars will be parking along 400 feet of street that ends in a temporary dead end driveway, creating a safety problem for police. He requested more time to submit a detailed proposal.

Regarding the equity issue, Commissioner Hales said it appears that Mr. Guzman's property would access the street once the reserve strip was removed and the rest of the street section was dedicated. He said this applicant would pay approximately half the cost of the full section of the street and Mr. Guzman, or a future owner, would pay his half only when his property was developed. He asked what is inequitable about that.

Mr. Guzman said the economic equity is even but their purpose is to make money while his is to live there without a safety problem or increased density.

**MARCH 6, 1996**

Commissioner Hales noted that his financial responsibility is not triggered until the property is developed.

Mr. Guzman said that was right. If the street went straight through it would line up on the lot behind Lot 13 and there is a 20-foot alley that goes all the way to the end of that lot and would not line up with the squiggle.

Mr. Holstun said until the District Court directs deannexation by the City, this property remains subject to City planning and zoning designations and Council is the appropriate body to review this application.

Tim Strand, 12546 SE Bush, 97236, said he supported the original Hearings Officer's alternative to the applicant's six-lot and squiggle road development. The alternative was five lots and a road, all on their property. He would still like to see that happen as it is unfair to put this squiggle on another neighbor. He also objected to placement of a duplex on the corner lot until it actually becomes a corner lot rather than having a duplex at the tail end. Right now it would be at the end of a road to nowhere. He said he objects to duplexes because they attract transient tenants.

Ethan Guzman, 12510 SE Bush, 97236, said his family would hope to sell their property to someone who will not add density or cut the trees down, as has happened on the development across the street. It brings the neighborhood down.

In rebuttal. Mr. Senkel said the design meets the intent of the zoning and all City standards. The squiggle, rather than a half street improvement going full length, means that Lot 23 (Mr. Guzman's), does not have to bear any cost until development occurs there. He said this is a good design with nice houses.

Mayor Katz asked about removing all the trees, a concern raised in the Outer Southeast Plan process. She said she too is concerned about what the area would look like if all the trees were removed.

Commissioner Hales said tree preservation does not apply in new development.

Mr. Burns said there are no significant trees on this site and all the trees on the site plan will eventually be cut down although the trees would be subject to some interim protection until the City Engineer issued a permit for the road or until final plat approval.

Commissioner Hales said there are some policy issues here. Council

**MARCH 6, 1996**

told the Planning Bureau to come up with a zoning plan that makes sense for Outer Southeast Portland and the Portland Office of Transportation has been charged with building a connected street network in areas which do not have it now. He asked what options for the street were available here and why this solution is being proposed.

Glen Pierce, Transportation Engineering, said they assumed that someday Center Street, which has no current outlet, would be extended to the west outlet and that this was a way of providing one. He reviewed the available options, from requiring the full 40-foot right-of-way from this site or construction of complete street improvements from one end to the other. However, these parcels are quite narrow and using more land for a road creates zoning problems on the lots and reduces the density. A partial street improvement was also considered. What is proposed here is not a substandard street but is the width appropriate for the zoning. They are proposing to obtain a portion of the the full width of right-of-way from the adjoining property owner when it is developed. The first proposal would have continued the partial street straight back to the future Center Street and again, the property to the west, with future development, would have been required to dedicate some additional right-of-way to construct the strip and sidewalk to complete that improvement. This is an equitable compromise which acknowledges the need for access by a 20-foot road that can reasonably be extended and accessed by the few remaining lots to the far south. In the best of all worlds, both properties would develop together and the road would split right down the middle, with each paying for half.

Commissioner Kafoury asked if Center will eventually go through and if that means one of the existing houses will be knocked down.

Mr. Pierce said the conditions require the half street dedication for the future Center Street. It would be 25 feet off the south end of this property.

Mr. Holstun noted the request to leave the record open for seven days, until March 13, 1996 at 2:00 p.m. Applicant would then have an additional seven days to reply.

Commissioner Hales moved to tentatively approve the modified proposal and adopt the revised conditions submitted today. Commissioner Kafoury seconded.

Commissioner Hales said many of these areas were built at pretty low densities and this is a hard transition for everyone to make. Transportation planners have also been asked to create a street network where none exists today and that is hard too. This is a commendable

**MARCH 6, 1996**

and equitable solution under the circumstances.

**Disposition:** Tentatively grant appeal and approve application with conditions; prepare findings for March 27, 1996 at 2:00 p.m.

At 4:10 p.m., Council adjourned.

**BARBARA CLARK**  
Auditor of the City of Portland

*Cay Kershner*

By Cay Kershner  
Clerk of the Council