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Portland, Oregon

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

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

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

REGULAR AGENDA

- 1606** Reject bid of Capital Concrete Construction, Inc. for Progress Downs sidewalk improvements (Purchasing Report - Bid 26)

Disposition: Accepted.

- 1607** Reject all bids for road repair at Japanese Garden in Washington Park (Purchasing Report - Bid 31)

Disposition: Accepted.

- 1608** Accept bid of Coliseum Ford Leasing for furnishing a one-year lease of 25 used vehicles for \$115,308 (Purchasing Report - Bid 35)

Disposition: Accepted; prepare contract.

Mayor Vera Katz

- 1609** Confirm appointment of Robert Edmiston to the Hospital Facilities Authority (Report)

Disposition: Confirmed. (Y-3)

- 1610** Confirm appointment of Lillian Bell, Harry Bruton, Ramon Falber, Dick French, Ann Johnson and Thelma Skelton to the Portland/Multnomah Commission on Aging (Report)

Disposition: Confirmed. (Y-3)

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Commissioner Charlie Hales

1611 Accept contract with Andersen Pacific Contractors, Inc. for N Greeley Avenue slide repair as complete, approve Change Order No. 1 and make final payment (Report; Contract No. 30728)

Disposition: Accepted.

1612 Set hearing date for Wednesday, 9:30 a.m., November 13, 1996, for the vacation of portions of SE Alder Street and SE Yamhill Street west of SE 111th Avenue (Resolution; C-9924)

Disposition: Resolution No. 35553. (Y-3)

Commissioner Gretchen Miller Kafoury

1613 Accept contract with McDonald & Witte, Inc. for the Guilds Lake reroofing project as substantially complete, authorize payment of \$38,950 and release of retainage (Report; Contract No. 30236)

Disposition: Accepted.

1614 Update City Code Title 31 and adopt most recent edition of the Uniform Fire Code and Oregon Amendments (Ordinance; amend Chapters 31.10 and 31.40)

Discussion: Jim Crawford, Fire Marshall, said this adds flexibility to the Fire Code by allowing local solutions to local problems. There are also new regulations regarding violations of special events permits that can be used as an enforcement tool. He said this was added on the recommendation of the Large Event Task Force which sought ways to deal with repeated violations by the same parties.

Disposition: Passed to Second Reading October 16, 1996 at 9:30 a.m.

1615 Increase fees for possession of hazardous substances (Ordinance; amend City Code Chapters 31.40 and 31.80)

Discussion: Jim Crawford, Fire Marshall, said the budget for dealing with hazardous substances was reduced \$130,000 this year and the Bureau is now scaling down and integrating what it does more effectively with other enforcement efforts. The City needs to raise fees to be compatible with the State program and to achieve 100 percent cost recovery. He said 90 percent of businesses will see an increase of under \$100. He disagreed with complaints that the City's program duplicates the State's. Fire Marshall

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Crawford said the City is responsible for Code enforcement at the local level and the Bureau is working to make sure its efforts do not duplicate the State program. Most of the complaints, however, are about the fee structure itself which some believe is inequitable because a number of businesses creating the problem are not paying fees. He said the Fire Bureau has made a commitment to the business community to try to fix this situation at the State legislature.

Fire Marshall Crawford said the State collects information about the amount of hazardous substances businesses have and the City takes that information and shares it with emergency responders. The City also does some Code enforcement and emergency planning.

Commissioner Hales asked if this is an example of a business creating costs but paying no fees.

Mr. Crawford said retailers that sell hazardous substances to the general public are exempt even though their warehouse facilities may hold as much hazardous materials as the wholesalers who pay the fees.

Commissioner Hales asked what will happen regarding the regulations for fire department access and water supply as a result of the change to Article 9, where an Oregon amendment is being replaced by the Model Code.

Jim Schwager, Fire Bureau Prevention Division, said the State Fire Marshall does not have authority to regulate those issues and so when local jurisdictions adopt their version of the Model Code, they reinstitute those portions. This just maintains the City's existing authority.

Scott Ascom, Ted Hughes & Associates, representing the Pacific Northwest Paint Council, said the legislature has tried at several sessions to deal with the equity issue regarding those who pay no fees and Portland was caught in the cross fire, as its program is better than most if not all the Community Right to Know programs. A hazardous possession fee was created in 1987 to fund the Community Right to Know program which indicates the location of hazardous chemicals. However, in 1989 the already existing fee became a convenient way to fund the two other Department of Environmental Quality (DEQ) programs. The Toxic Use Reduction Act is a technical assistance program to companies to help them reduce their use of toxic materials. The DEQ does not charge fees for this program and this has created an inequity as many companies that pay fees benefit in no way from the program. The Orphan Site clean-up program is also partially funded by fees and benefits the general public. Mr. Ascom said it is not fair for companies paying the Hazardous Substance Possession fees to have to bear a disproportionate amount of the funding for this program as well. He said a coalition of

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businesses will introduce legislation in the next session to remove the Toxic Use Reduction Act funding and Orphan Site components from the Hazardous Substance Possession Fee, leaving it to fund Community Right to Know and replacing it with a more equitable fee, such as a per page or registration fee. He noted that of 25,000 companies that have to report, only 4,000 to 5,000 of those pay the fee.

Don Cruikshank, President, Chemical Distributors, Inc., 2727 NW Industrial, said his company and the Paint Council, of which he is a member, are very anxious to eliminate the fee inequities. He noted that his company, a private warehouse, must pay fees while a competitor, a public warehouse, does not. His company has paid as much as \$4,800 annually and does not believe it should be responsible for that much of the total program cost. He asked for Council support for changes to eliminate some of the inequities, such as a small registration fee spread among everyone. He said it is unfair that 2,000 to 3,000 companies pay between \$4,000 and \$5,000 each while 25,000 companies pay \$100 a year. He said the Community Right to Know program is mandated by the federal government and needs to be adequately funded but it is becoming more and more difficult for some companies to pay for it while their competitors do not.

Grant Watkinson, President, Paulson & Rolls Laboratories, 1836 NE 7th Avenue, and a member of the Fire Bureau Advisory Committee and Fire Board Code of Appeals, said SERA Title 3 is good legislation and because of the intense regulation the business community is a lot safer now than the home. However, the hazardous products his company sells are mostly now also available retail and that is the problem. He said he paid \$1,451 in fees to the State last year, of which \$512 went to the City. With passage of this fee increase, his bill will go up \$644, all because he stocks an ice melter product that is also available at the retail level. He supports the program but believes some companies are paying far more than their fair share for a program that is designed to protect first responders and the public generally.

Commissioner Kafoury suggested this as an issue for Council's legislative package.

Fire Marshall Crawford said the Bureau already submitted it.

Mayor Katz said the City may need to actually sponsor legislation.

Disposition: Passed to Second Reading October 16, 1996 at 9:30 a.m.

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Commissioner Mike Lindberg

1616 Accept completion of the Ramsey Lake stormwater wetlands and authorize final payment to Coffman Excavation, Inc. (Report; Contract No. 30110)

Disposition: Accepted. (Y-3)

1617 Accept contract with Marshall Associated Contractors, Inc. for 8-, 6- and 4-inch water mains in SW Fulton, SW Idaho and SW Ormandy as complete and authorize final payment (Report; Contract No. 30527)

Disposition: Accepted. (Y-3)

City Auditor Barbara Clark

1618 Certify abstract of votes for the Municipal Non-Partisan Special Election held on September 17, 1996 (Report)

Disposition: Accepted. (Y-3)

At 10:20 a.m. Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 9TH DAY OF OCTOBER, 1996 AT 2:00 P.M.

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

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

- 1619** **TIME CERTAIN: 2:00 PM** - Appeal of The Landing at Macadam, LLC, applicant, against the Design Commission's decision to deny application to build 360 units of housing with parking, driveways and greenway improvements at 3840 SW Bond Avenue between SW Lane (vacated) and SW Lowell Streets (Hearing; 96-00475 DZ GW AD)

Discussion: Mayor Katz said she talked to the City Attorney and it has been decided to set this item over and ask those unable to return on November 6 to submit their testimony in writing.

Commissioner Hales said this reflects applicant's request for a setover to a date when more Council members will be present.

Disposition: Rescheduled to November 6, 1996 at 2:00 p.m., Time Certain.

Commissioner Charlie Hales

- 1620** Tentatively grant appeal, with conditions, of North Harbour Corporation, applicant, against Hearings Officer's denial of a seven-lot residential and commercial development on property facing north to the Portland North Harbour of the Columbia River, south of Hayden Island, east of Interstate 5 and north of Marine Drive (Findings; 96-00374 SU DZ)

Discussion: Commissioner Hales said another week has been requested for completion of the findings.

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Disposition: Continued to October 16, 1996 at 2:00 p.m.

At 2:05 p.m., Council adjourned.

BARBARA CLARK
Auditor of the City of Portland

Cay Kershner
By Cay Kershner
Clerk of the Council