



CITY OF
PORTLAND, OREGON

**OFFICIAL
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 16TH DAY OF APRIL, 1997 AT 9:30 A.M.

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

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

Agenda No. 505 was pulled from Consent. On a Y-4 roll call, the balance of the Consent Agenda was adopted as follows:

CONSENT AGENDA - NO DISCUSSION

- 502** Cash investment balances March 6 through April 2, 1997 (Report; Treasurer)
Disposition: Placed on File.
- 503** Accept bid of Silco Construction Co. for Laurelhurst Park - Ankeny Building and annex improvements for \$560,000 (Purchasing Report - Bid 110)
Disposition: Accepted; prepare contract.
- 504** Reject all bids for Laurelhurst Park - Firwood Lake and landscape improvements for the Bureau of Parks and Recreation (Purchasing Report - Bid 111)
Disposition: Accepted.
- 506** Accept bid of Silco Construction Co. for St. Johns Community Center improvements for \$840,000 (Purchasing Report - Bid 132)
Disposition: Accepted; prepare contract.
- 507** Accept bid of Davis Landscape Nursery, Inc. for Woodstock Park improvements for \$174,500 (Purchasing Report - Bid 140)
Disposition: Accepted; prepare contract.

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508 Reject all bids for Gabriel Park improvements for the Bureau of Parks and Recreation (Purchasing Report - Bid 145)

Disposition: Accepted.

509 Accept bid of Boyington Construction, Inc. for Matt Dishman Community Center phase II improvements for \$75,542 (Purchasing Report - Bid 146)

Disposition: Accepted; prepare contract.

510 Accept bid of Brundidge Construction, Inc. for Fiske B Basin CSO Pollution Reduction Facility for \$368,216 (Purchasing Report - Bid 147)

Disposition: Accepted; prepare contract.

511 Accept bid of Insituform West Inc. for SW 19th and Burnside sewer reconstruction for \$112,480 (Purchasing Report - Bid 151)

Disposition: Accepted; prepare contract.

Commissioner Jim Francesconi

512 Accept Kerby Garage Hydraulic Elevator work as substantially complete, waive delinquency, release retainage and make payment to Northwest Elevator Co. (Report; Contract No. 30316)

Disposition: Accepted.

513 Accept Contract with Commercial Affiliates dba Carpet Resource Center for installation of carpet on the 14th and 15th floors of the Portland Building as complete and authorize final payment and release of retainage for a total of \$110,275 (Report; Contract No. 31078)

Disposition: Accepted.

***514** Grant permit to provide Specially Attended Transportation services in the City (Ordinance)

Disposition: Ordinance No. 171069. (Y-4)

Commissioner Charlie Hales

515 Accept completion of Kern Park renovation, make final payment and release retainage to Custom Sprinkling Specialists, Inc. (Report; Contract No. 30823)

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Disposition: Accepted.

- *516** Contract with four professional, technical and expert service firms for special inspection services as required in support of Parks and Recreation projects (Ordinance)

Disposition: Ordinance No. 171070. (Y-4)

- *517** Approve Change Order No. 4 in contract with G. R. Morgan Construction, for Glenwood Park and provide for payment (Ordinance; amend Contract No. 30703)

Disposition: Ordinance No. 171071. (Y-4)

- *518** Authorize a contract with Copenhagen Utilities & Construction, Inc., for emergency slide repair on SW Boones Ferry Road and provide for payment (Ordinance)

Disposition: Ordinance No. 171072. (Y-4)

- *519** Agreement with the Oregon Department of Transportation to undertake the Hillsdale Transportation Improvements Project (Ordinance)

Disposition: Ordinance No. 171073. (Y-4)

- *520** Agreement with the Oregon Department of Transportation Highway Division to provide for the preliminary engineering and right-of-way acquisition for the Lower Albina Railroad Overcrossing Improvement Project (Ordinance)

Disposition: Ordinance No. 171074. (Y-4)

Commissioner Gretchen Miller Kafoury

- 521** Accept contract with Reimers & Jolivette, Inc. as complete for restroom renovation at Fire Station 1, and make final payment (Report; Contract No. 30716)

Disposition: Accepted.

- 522** Accept contract with Von Lom & Griffin, Inc. as complete for restroom renovation at the Fire Bureau Training Center and make final payment (Report; Contract No. 30694)

Disposition: Accepted.

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Commissioner Erik Sten

523 Accept Contract with Werbin West Contracting, Inc. for 6-inch and 8-inch water mains in N Decatur, N Banks, N James, N Crawford and NW Midway as complete and authorize final payment (Report; Contract No. 30706)

Disposition: Accepted.

524 Accept completion of the Insley Basin CSO Sump Project, Unit 2 - Phase II Project No. 5967, and authorize final payment to S-2 Contractors, Inc. (Report; Contract No. 31019)

Disposition: Accepted.

525 Accept completion of the Ankeny Pump Station Updates, Project No. 5687, and authorize final payment to Oregon Electric Group (Report; Contract No. 30787)

Disposition: Accepted.

526 Accept completion of the Willamette River Basin test sump project, Project No. 5931, and authorize payment to Moore Excavation, Inc. (Report; Contract No. 30996)

Disposition: Accepted.

527 Accept contract with Coffman Excavation for the Inverness Force Main, Section A Sanitary Sewer Project as complete, approve change orders and provide for final payment (Report; Contract No. 30468)

Disposition: Accepted.

***528** Amend contract with R2 Resource Consultants for \$25,000 to provide additional fisheries consulting services for the Bull Run/Sandy River fisheries study (Ordinance; amend Contract No. 29876)

Disposition: Ordinance No. 171075. (Y-4)

***529** Contract with 1) Kiewit Pacific for stabilization and repair at the estimated amount of \$1,000,000; and 2) Landslide Technology (Cornforth) Consultants for consultant services at the estimated amount of \$30,000 for a total estimated amount of \$1,030,000 without advertising for bids and provide for payment (Ordinance)

Disposition: Ordinance No. 171076. (Y-4)

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- *530** Increase contract with Public Knowledge, Inc. by \$15,000 to provide financial analysis concerning the potential revenue impact of telecommunications and energy deregulation and transfer funds from Contingency (Ordinance; amend Contract No. 31051)

Disposition: Ordinance No. 171077. (Y-4)

City Auditor Barbara Clark

- *531** Cancel one sidewalk repair assessment (Ordinance; amend Ordinance No. 170867)

Disposition: Ordinance No. 171078. (Y-4)

REGULAR AGENDA

- 505** Accept proposal of Bank of America for procurement card services (Purchasing Report - RFP 122)

Discussion: Mayor Katz said this is the first recommendation of the consortium group that has been reworking the City's procurement system. This will allow Bank of America to offer purchase card services to all the consortium members and will replace the current petty cash slips, limited purchase orders and payment authorizations. The City is also expected to receive approximately \$37,500 in purchase rebates. Savings of about \$472,000 are expected as a result of efficiencies in the ordering and payment process. The City has been working with both public and private partners, including Intel and PGE, to rework its system.

Linda Bidwell, Purchasing Division Manager, said the key element enabling such a proposal is the \$29 million that members of the consortium spend on small purchases. Of the seven proposals received for these services, the Bank of America's was found to be best as no transaction fees are attached and a 1/4 percent rebate is offered. And while the vendors will receive payment within two to three days, the City will have a 30-day billing cycle and a 25-day payment cycle. The procurement cards will also be used for travel.

Mike Hutchins, Purchasing Director, Portland Public Schools, said they are very glad to be part of this consortium and plan to use the card services to purchase supplies and instructional aids.

John Nobriga, Purchasing Manager, Portland General Electric, a member of the advisory group on procurement, said this is a very good deal for the consortium members, one his own company would envy.

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Barbara Gibbs, Vice President, Public Finance Division, Bank of America, said they believe this is the largest government purchase card consortium that has been formed to date. She said this will speed up the traditional paper-based process, while at the same time offering substantial built-in controls and savings to the consortium members. They expect this program to serve as a model for other municipalities.

Ms. Bidwell said some bureaus have built the projected savings into next year's budget as an expected decrease in FTEs (Full Time Employees). She noted that transactions can be restricted and detailed reports can be more easily provided than under the current system.

Commissioner Francesconi asked what makes this a good deal for Bank of America.

Ms. Gibbs described how the interchange network works, giving the Bank a small percentage of every transaction made.

Disposition: Accepted; prepare contract. (Y-4)

501 **TIME CERTAIN: 9:30 AM** - Adopt the proposed SE Tacoma Street, 28th to 32nd Avenues Street Improvement Project (Resolution introduced by Charlie Hales)

Discussion: Commissioner Hales said all over the City residents are faced with the problem of roads needing to become streets where people can walk and bike safely. This is one example.

Brett Kesterson, Office of Transportation, described the planned improvements, including the addition of two bike lanes and sidewalk. It will complete the missing link between SE Johnson Creek and Tacoma. He said the project has been reviewed and is supported by the Ardenwald Neighborhood Association as well as individual neighbors. The estimated cost is \$511,000 and may be funded partially through transportation development charges, if that program is approved when it comes to Council later this Spring.

Disposition: Resolution No. 35601. (Y-4)

Mayor Vera Katz

***532** Accept a modified grant award of an additional \$970,113 funded by the U.S. Department of Justice, COPS More 96 grant program (Previous Agenda 491)

Discussion: Mayor Katz said this proposal will implement City plans to

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put 42 police officers currently doing desk jobs out into the field. Because of good management, the Police Bureau has the resources available to match this grant. However, the continuation of those funds will have to be programmed through the five-year forecast.

Bruce Fronk, Assistant Police Chief, said the Bureau has been notified of a grant award of \$959,049, retroactive to October, 1996. This will allow the Police Bureau to be reimbursed for the desk clerks who have been employed at the precincts since October. They currently have 12 to 16 in place and once the grant is on line they hope to relieve those officers currently in front desk positions.

Commissioner Francesconi asked if it would be possible to get more money from the federal government so the City could take over the school police.

Commander Fronk said they will be meeting soon with staff at the Department of Justice to see what is available and will then develop strategies for pursuing further grants.

Mayor Katz noted the reluctance of the School Board the last time this issue arose.

Commissioner Kafoury asked if the shifts in position have already been made.

Officer Fronk said the program began in October and was then placed on hold until the grant confirmation came through. They were able to pay for the initial desk clerks out of personnel savings and now, with the grant, the City will be reimbursed for the salaries spent thus far.

Commissioner Kafoury said she thought this program was frozen.

Mayor Katz said she had raised that issue with the Chief.

Assistant Chief Fronk said that is why no additional desk clerks were hired until the grant came through. They will be reimbursed for those already working. The federal COPS Office has indicated that, contingent on congressional approval, funds for renewal will be provided at least through 1999. They will also identify the efficiencies resulting from taking police officers off the desk.

Commissioner Kafoury asked if the \$323,000 shown from General Fund contingency is Police Bureau contingency or the City's. The ordinance says these positions were provided by the Police Bureau's budget.

Mayor Katz said originally they did think that was coming out of

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contingency and they may want to transfer some of the Police Bureau's money back into the contingency fund.

Assistant Chief Fronk said they will work with the Office of Finance and Administration to get that resolved.

David Ream, 909 SW 12th Ave., 97205, objected to Council's failure to make the pledge of allegiance and also to passage of emergency ordinances without public comment.

Disposition: Ordinance No. 171079. (Y-4)

Commissioner Charlie Hales

533 Consider vacating an unnamed street lying west of NW Bridge Avenue, at the request of Marian Blackford (Hearing; Report; C-9786)

Discussion: Commissioner Hales noted that the Linnton Neighborhood Association originally requested postponement of this street vacation but has now resolved their issues.

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

Commissioner Gretchen Miller Kafoury

534 Support the Housing Authority of Portland's application to HUD to be selected for the national "Moving to Work" Demonstration (Resolution)

Discussion: Dennis West, Executive Director, Housing Authority of Portland (HAP), outlined the proposal and noted that a huge number of Section 8 housing subsidy contracts will be expiring this year. To continue at the present level, an estimated increase in the HUD budget of about \$10 billion will be needed. While the Appropriations Committee has indicated a willingness to appropriate money for Section 8 contracts, there is no consensus that the money will not be taken out of other HUD programs, raising questions about the viability of public housing. Of the 12,000 subsidized rental units in Multnomah County, better than half are at risk in this process. He said 13 agencies concerned about this issue have joined together to put together an action packet to educate the community about this issue. HAP has decided it should be able to run public housing at the same per unit annual cost that it runs tax credit projects. By doing that, HAP could absorb a five percent budget reduction annually for six years and would have operating costs comparable to the private sector. This grant will help them pursue that strategy and selection for the demonstration would mean they could negotiate with HUD over the removal of a number of regulatory barriers. Selection would also allow

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them to move money between subsidized housing programs as needed. Finally, agencies selected for the program will be seen as leaders nationally.

Commissioner Francesconi asked Mr. West why he thinks Portland has a chance to be selected.

Commissioner Kafoury said because HAP is a highly credible public housing agency, not racked by scandal.

Mr. West said HAP is also willing to try new ideas and address cost reductions more aggressively to offset lost appropriations. Regarding housing needs, he noted that the waiting list for Section 8 housing is closed from time to time, while in public housing the waiting list for two-bedroom units is 15 years long. He said they are only serving a fraction of the people whose need is very great.

Commissioner Francesconi said in the past the focus has been on the amount and depth of public subsidy. He asked if there are other policies, beyond subsidies and the type of units constructed, that the City should be considering.

Mr. West said they really need to study what kind of housing needs what level of public subsidy. They do not really know how to allocate public subsidies among the various income levels or how much housing will really make a difference. Another important question is how to account for changes between income and rents over time. Finally, what is the trickle down effect of something that has such a long life.

Mayor Katz said the question of how much housing will make a difference is a really important one.

Mr. West said he believes they can answer that question and also get housing group advocates to buy into one strategy.

Commissioner Kafoury said because of market changes, growth and other factors, they need to get more sophisticated about goals.

Mr. West said there is a real desire to see an affordable housing coalition in this community.

Commissioner Francesconi asked if people in Lake Oswego are on board about the need to provide affordable housing.

Mr. West said that is not his impression but that issue can be raised more effectively if Multnomah County has a more concrete plan in place that reflects the market place dynamics that drive the need for this kind of

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housing. You cannot just say that Portland will build 20,000 units and another city will build 10,000 when everyone knows that will not happen.

Disposition: Resolution No. 35602. (Y-4)

City Auditor Barbara Clark

535 Assess sewer system development charges to property benefitted August 28, 1991 (Hearing; Ordinance; Z0658)

Disposition: Withdrawn.

536 Assess property for sewer system development contracts for the period ending March 11, 1997, for the Mid-County Sewer Project and Non Mid-County area (Hearing; Ordinance; Z0651, Z0652, Z0653)

Discussion: Dan Vizzini, Auditor's Office, said this needs to be amended. Commissioner Hales moved the amendment. Commissioner Kafoury seconded and, hearing no objections, the Mayor so ordered.

Disposition: Passed to Second Reading as amended April 23, 1997 at 9:30 a.m.

537 Assess property for sewer connection contract processed through the Private Plumbing Loan Program for the period ending April 7, 1997 (Hearing; Ordinance; P0025)

Discussion: Mr. Vizzini noted that no objections had been filed.

Disposition: Passed to Second Reading April 23, 1997 at 9:30 a.m.

538 Assess property for sidewalk repair by the Bureau of Maintenance for billing processed through March 11, 1997 (Hearing; Ordinance; Y1016)

Discussion: Mr. Vizzini said all objections have been referred to the Maintenance Bureau for review. He noted that the sidewalk assessment process is currently being reviewed. Taking Council out of the loop will require a Charter Amendment but the other suggested changes will not.

Disposition: Passed to Second Reading April 23, 1997 at 9:30 a.m.

539 Assess benefitted property for the cost of constructing street and storm sewer improvements in the SW 47th Avenue/Palatine district Local Improvement District (Second Reading Agenda 497; C-9823)

Disposition: Ordinance No. 171080. (Y-4)

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At 10:35 p.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 16th DAY OF APRIL, 1997 AT 2:00 P.M.

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

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

Commissioner Charlie Hales

- 541** Amend the Zoning Code to allow ownership to be separated in Multi-Dwelling Zones and allow density limits to be exceeded in some situations (Second Reading Agenda 499)

Disposition: Ordinance No. 171081. (Y-4)

- 542** Amend Comprehensive Plan Map and change the zone of property between N Columbia Boulevard and Bank Street, Barr Street and Oswego Avenue from OS (Open Space) and R5 (Residential) to R2 (Residential) (Previous Agenda 500)

Disposition: Ordinance No. 171082. (Y-3; Commissioner Francesconi abstaining)

- 540** **TIME CERTAIN: 2:00 PM** - Appeal of Roseway Neighborhood Association against Hearings Officer's decision to approve application of Frank A. Bitar and Associates for a conditional use and adjustment to install a permanent, unnamed cellular telecommunications broadcast facility at 3427 NE 72nd Avenue (Hearing; LUR 96-01113 CU AD)

Discussion: Ruth Spetter, Senior Deputy City Attorney, outlined the procedures to be followed during an on-the-record appeal.

Steve Gerber, Planning Bureau, showed slides to indicate the location of the proposed cellular facility, in a commercial zone adjacent to residential areas, and the existing neighborhood infrastructure. Utility poles in the area can reach about 85 feet. He said the proposal meets the Code approval criteria for radio and television broadcast facilities as do the requested adjustments. He said the applicant proposes to install additional landscaping along the south perimeter between the facility and the nearest residential use. Applicant has also proposed to mount the antennae in a cylindrical antennae rack to further reduce the visual mass of the facility.

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The facility is designed to have as minimal an impact as possible and will not significantly alter the appearance and character of the area. It is consistent with the existing infrastructure found within the general commercial zone and the use has insignificant offsite impacts and no impact on transportation. Both staff and the Hearings Officer recommend approval with conditions as noted. The applicant has submitted evidence that there are no other nearby opportunities for collocation on other wireless facilities and demonstrated the need for locating this facility in this area. It has also assessed opportunities for locating on existing buildings in the area and found them inadequate. Mr. Gerber described the measures planned by the applicant to lessen the visual impact and noted the numerous utility poles already located in this area. The tower will be located in a relatively narrow commercial band of zoning even though the majority of the area suitable for this facility's location is residential. Applicant has followed the City's policy of locating first in an industrial zone if possible and then in a commercial zone. The appellants have expressed concern about the evidence submitted regarding collocation elsewhere and about the facility's impact on the character of the area.

Commissioner Francesconi asked why it is obvious that there is no other place to locate.

Mr. Gerber said a number of graphic depictions have been submitted to show the area of coverage that needs to be filled as well as the areas covered by the nearest collocated facilities. They do not coincide. The nearest facility is three-quarters of a mile from this site, a significant distance when one is talking about a hole in the coverage.

Mayor Katz asked for further discussion about holes in coverage and for a review of reasons Council could deny this.

Mr. Gerber said Council can deny this if it does not meet the approval criteria. For instance, if it finds the proposal does not fit with the character of the area there would have to be specific findings to document the extent to which the monopole was not in compliance with the approval criteria. In the past, the City has denied proposals for wireless facilities because the sites were too small or they failed to provide adequate separation from residential use.

Audrey Symes, Vice-Chair, Roseway Neighborhood Association, said the height of the telephone poles on the North side of Fremont are 75 feet, not 85 feet. She said the Roseway Neighborhood Association is not opposed to Western's installation of a cellular facility in the neighborhood but believes there needs to be a greater balance between the need to provide such facilities and the preservation of the surrounding community. Based on this need, they believe the current proposal fails to meet several approval

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criteria. First, they do not believe Western PCS has sufficiently explored alternatives for erecting a monopole that would lessen the impact and they believe that the antennae could be mounted on existing utility poles. She said the Hearings Officer's report unfairly dismisses this option, stating that "there is no evidence that such an opportunity is imminent." She submitted a letter from Pacific Power establishing that it is their current practice to allow cellular antenna to be mounted on their structures. This alternative would close the coverage gap and avoid tower proliferation. The 75-foot poles on the north side of Fremont could accommodate Western's needs. Ms. Symes also noted that other cellular providers are successfully locating antenna on other structures within a one block area of this site without the need for erecting a large monopole.

Ms. Spetter noted that an item has been raised that is outside the record. She said no testimony can be given that was not a part of the hearing before the Hearings Officer.

Mayor Katz said those issues which Mr. Gerber believes are outside the record should be raised at the end of the testimony and Council will take a vote on whether it concurs.

Second, Ms. Symes said they disagree with applicant's assertion that the proposal will not significantly alter the desired character and appearance of this commercial area. She said the area around 72nd and Sandy Boulevard is considered the gateway to the Roseway neighborhood and is zoned general commercial, restricting structures to 45 feet. The monopole, as currently proposed, would be over 122 percent taller than the majority of structures and 33 percent higher than even the tallest utility poles. She also contended that this tower will negatively impact the ability of Sandy Boulevard to fulfill its designation by Metro as a Main Street with a unique identity within a larger regional context.

Ms. Symes described the sketches (on display) which were revised after the Hearings Officer heard this case because there was some concern that they were out of proportion. The depiction of the tower is accurate, if not conservative, in relation to the surrounding facility.

Ms. Symes also challenged Western's assumption of a need for the tower in the first place. She noted that Western increased the height of the tower at the urging of the Planning Bureau even though Planning Bureau staff confirmed that collocation would be possible at the originally intended height. She said applicant has stated that it would be amenable to mitigating the visual impact of the tower through the use of a unicell or flush mount antenna yet the Hearings Officer's report does not eliminate the use of more visually obtrusive antennae, such as the whip style.

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Ms. Symes called for a moratorium on approvals of cellular towers until more reasonable criteria can be developed to deal with the infrastructure impacts on residential areas and before more appeals come to Council from concerned neighbors. She noted that Clark County and the cities of Eugene, Salem and Lake Oswego have all adopted moratoria in order to rewrite ordinances pertaining to the placement of cellular towers. However, if Council chooses not to adopt a moratorium, Roseway Neighborhood requests that the Hearings Officer's decision be repealed.

Other citizens testifying against approval of this application included:

Bob Ueland, 4411 NE Sandy Blvd., 97213
Peter Meijer, 2936 NE 66th Ave., 97213
Robert Price, 3935 NE 72nd Ave., 97213
Johnnie Corrie, 3414 NE 73rd Ave., 97213
Allen Webb, 2935 NE 67th Ave., 97213
Alison Stoll, 5540 NE Sandy Blvd., 97213
Michael Roche, Land-use Chair, Southwest Neighborhood
Association, 8920 SW 40th, 97219
Ted Baird, 3810 NE 60th Ave., 97213
Eric Moreland, 3424 NE 74th, 97213
Greg Titsworth, 6924 NE Stanton, 97213

Opponents said the facility will have a severe and negative impact on a primarily residential neighborhood, adding to the visual pollution of the area and degrading livability. They suggested that co-location or siting on existing buildings be explored more aggressively and supported a moratorium on approval of any monopolies pending a study of the livability impacts.

Commissioner Francesconi asked Mr. Roche what resolution might be expected if Council granted a moratorium.

Mr. Roche said the City could get resolution about the impact of such poles on residential zones and noted that as cell phone use increases, holes in the service areas will increase and more poles will be needed.

Mayor Katz asked how many towers the City will have to accept with the increased use of cell phones.

Commissioner Kafoury objected to testimony not part of the record and said it sets a bad precedent when Council allows new information to be presented.

Jim Barta, Zoning Specialist, Western Wireless, said his company worked closely with Planning staff on this proposal and on the pending Code

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amendments for radio and broadcast facilities. He said they did explore other sites, with the help of Heidi Oakley, a site acquisition specialist with their consultant, Cole Telecommunications Services.

Mayor Katz asked if the City does an independent review of these additional sites.

Mr. Barta said Cole Telecommunications was hired by Western to help it get its system up and running in the Portland area. Regarding collocation on Pacific Power poles, Mr. Barta said they would not allow them to collocate above their wires, precluding collocation. He said his company's coverage needs are different than other carriers and they need the height to allow radio signals to reach the inside of customers' homes. He said the architectural drawings provided by his company indicate that the pole will be slimmer than what the appellant has depicted and the antennas will be mounted flush. The pole will about be three feet at the base. He said there is a need for extra coverage in the area to respond to complaints. He said they are required to remove towers when leases are ended and have been trying to cut down on the number of towers by increasing collocation efforts. Allowing this tower to be 100-foot tall provides an opportunity for two extra antennas to be located on it. Since there is no industrial use in the area they seek to cover, their proposal to locate in the only commercial zone in the area seems more appropriate than residential. He said there is no moratorium in Eugene, which has now passed a wireless code. The company's FCC license requires it to provide service in residential areas and that is why sometimes they must locate in commercial or even on churches and schools in residential zones, with conditional uses. He challenged the photo simulations as they have not had a chance to look at those. Regarding the comparison with Sprint tower on 82nd, he said Western uses a much slimmer pole and they believe the galvanized steel coating would blend in most with the neighborhood but if other colors are deemed more appropriate they have no objection. He concluded that at 100 feet, the monopole is just 25 feet above the adjacent power poles on Fremont Avenue and will not dominate the commercial area. The monopole will meet Western's coverage needs in the area without additional sites and allow for collocation opportunities. Many other sites were considered and disqualified prior to the selection of this site. The Sprint tower on 82nd was too far away.

Austin Roberts, radiofrequency engineer for Western Wireless, said they have made quite a few compromises in this design as a standard one would have a large antenna and a large rack. Instead they chose to use newer technologies which allow them to hold the antennae flush with the tower, greatly reducing the visual impact. He explained what a hole in coverage means and why collocation at an adjacent site would not provide adequate service. He said the company's infrastructure at this time forces them to

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build a taller site than some other company's, such as U.S. West, which has different needs and uses a different technology.

Elissa Gertler, Western Wireless, said siting is a complex balance of zoning, engineering, construction and community needs. This site meets zoning and engineering requirements with the least impact on the community of any of the possible sites. The company does not wish to negatively impact neighborhoods and is working to find ways that its technology can have a positive impact on neighborhoods, such as community foot patrols.

Commissioner Francesconi asked what other cities have done to address this and what Portland is planning to do.

Mr. Barta said Portland is in the process of updating its radio broadcasting Code and a hearing by the Portland Planning Commission is scheduled soon. Many other communities have adopted codes but there is no standard one.

Commissioner Francesconi asked if they addressed height limits and if any prohibited 100-foot towers.

Mr. Barta said many prohibit 100-foot towers in residential areas but allow them as conditional uses in commercial areas.

Commissioner Francesconi asked why they must use the taller towers.

Mr. Barta said it is because of the infrastructure of their network and where the other tower placements are. Because of that, and limitations on how far they can cover, they are forced to use a tower that has a significant height over the adjoining clutter. The site was originally designed with a minimum height of 75 feet but, after working with Planning staff, they concluded that 100 feet would allow collocation by other companies and reduce the need for future towers. He said coverage depends on density and whether one is serving just automobiles or houses, too. The average height of monopoles is usually 100 to 130 feet.

Commissioner Francesconi asked about the time schedule if a moratorium were imposed.

Mr. Barta said they are required by their FCC license to provide full coverage within five years.

Ms. Gertler said Western's network is mostly in place and at this point they are primarily doing infill in areas where coverage is weak or unavailable. The few remaining requests for poles are scattered widely across the City.

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Mr. Barta said the FCC requires that within five years they provide full coverage to their entire service area.

Commissioner Francesconi asked if technology could make the need for further towers obsolete in the future.

Mr. Roberts said the technology is defined by the phone used. It only has a certain power level so sites must be within a certain distance of the phone. As coverage holes shrink, pole heights will decrease. Right now they still have large holes, which require large poles. His company expects to add five more in North and Northeast Portland, out of 40 already built.

Commissioner Kafoury asked why this one is being heard, if the Planning Commission is reviewing the Code next week.

Commissioner Hales said this applicant is judged by the standards in effect today and the current standard calls for mitigation of negative impacts to the maximum extent possible. The company proposed a monopole and the City in turn asked it to make the pole 25 feet higher so that co-location would be possible. He said other technological solutions are available to solve that problem, such as two or three poles at lower elevations on existing buildings. That would be another way to meet the mitigation standard.

Mr. Barta said it could also mean some type of facility in a residential zone, which they have been pushed away from.

Mr. Roberts said except for power poles, there are not a lot of tall structures in the area on which to locate.

Commissioner Francesconi asked if 75 feet would work for them, if Council so directed.

Mr. Barta said yes, that would be the minimum acceptable.

Mr. Roberts said that will eliminate collocation opportunities.

In rebuttal, Ms. Symes said at the February 18 hearing, staff testified that two other additional facilities could collocate on a 75-foot pole. There has been little dialogue between the neighborhood and Western even though the neighborhood has tried. She said the photos submitted by the neighborhood are not new but were submitted seven days after the hearing, while the record was still open. She said the neighborhood wants to be assured that all steps to locate elsewhere have been taken and that this is really the only possible option. She said the current Code inadequately considers the viewpoints of those impacted by such facilities because as demand

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increases, the infrastructure will continue to encroach on more residential areas and Council will see more appeals of this nature. She asked Council to adopt a temporary moratorium until more reasonable criteria can be developed, as has been done in Clark County, Salem and Lake Oswego, contending that it would not violate FCC regulations because of the need to consider long term land-use impacts and facilitate the orderly handling of facility-siting requests. If Council does not adopt a moratorium, she asked it to repeal the Hearings Officer's decision based on Western's failure to meet three specific approval criteria and other ordinances regarding neighborhood preservation, identity and quality of life. Some new evidence brought up by Western states that they were not able to locate on the utility poles as the neighborhood suggested. The neighborhood submitted that information while the record was still open and Western had seven days to respond, but chose not to. If Council does not repeal the decision they ask for two additional conditions: 1) disallow whip-style antennae; and 2) lower the height of the monopole to stay in character with the neighborhood. Western has been amenable to changing the structure of the antennae.

Commissioner Francesconi asked if there was a specific height they wanted.

Ms. Symes said 75 feet.

Mayor Katz asked if there were any objections to the introduction of testimony not on the record before the Hearings Officer.

Mr. Gerber said it was suggested that staff said that the neighborhood was against all towers but staff has no recollection of that.

Ms. Symes said that was stated in a briefing to commissioners' assistants but not before the Hearings Officer.

Mr. Gerber also objected to assertions that he said collocation was possible at a height of 75 feet.

Ms. Symes said she had that on tape and the Hearings Officer specifically addresses that question.

Mr. Gerber said Ms. Symes is playing fairly fast and loose with the words of choice.

Council said that issue is not particularly germane.

Mr. Gerber said the legislative issues are not germane to the approval criteria and are not on the record. Health concerns are also not on the record. He said virtually nothing Mr. Roche brought up was from the record. Discussion of other sites or other towers are not on the record

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except regarding those possible for co-location. He said discussions of Portland's lack of an appropriate Code is not on the record. The graphics shown by the appellant are still not accurate as there is a significant difference between the width of the tower shown and the width of the tower proposed.

Mayor Katz asked if these graphics were presented to the Hearings Officer.

Mr. Gerber said they were presented after the hearing but are in the record.

Both the appellant and Western indicated they had no objections to any other material on the record.

Commissioner Kafoury noted that the photos (and testimony) submitted were not in the record.

Mayor Katz said all that has been rejected.

Commissioner Francesconi asked what the neighborhood felt about Western having more than one tower at lower heights, versus one at 100 feet.

Ms. Symes said collocation is possible at 75 feet and the applicant states they would not need an additional tower at 75 feet. As the last available option, a 75-foot tower with the type of antennae applicant has agreed to mount would be preferable to an additional pole.

Mayor Katz asked if it is possible to collocate on a 75-foot tower and how many more poles will the City need.

Mr. Gerber said on some 75-foot towers, yes. No one can give a definitive answer about the number but with every collocatable tower, there will be one less. The City's goal is to reduce proliferation by providing towers for co-location or by locating on existing buildings.

Mayor Katz said the City should be able to make a rough estimate of the anticipated growth in use of cell phones over the next few years.

Mr. Gerber said the FCC estimates approximately 16,000 facilities will exist in the nation when the systems just auctioned off are complete. More systems may be auctioned off while others are subsumed as competition increases. There will be between 8 and 12 infrastructure providers in this jurisdiction, with a possibility of even more service providers. He said the City will run into not only coverage holes in the system but also capacity holes as some systems become overloaded.

Mayor Katz asked if the City had any ability to independently review sites

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to see if other sites are applicable.

Mr. Gerber said evidence was presented to indicate why some sites, such as 82nd, were not applicable but the only way to verify that would be to contract with its own site acquisition crews and its own engineering firm.

Mayor Katz predicted that some neighborhoods will do that.

Ms. Symes said that is a concern but it will be difficult to find an independent reviewer.

Commissioner Hales said cell tower proliferation is a very tough national issue. While he does not think the City needs a moratorium, the Code does need a tune-up even though Portland's is probably better than just about anyplace else in the country, thanks largely to Mr. Gerber. He noted that there are currently 155 cell phone sites in the City, all but 47 on existing buildings. The question is whether the standard can be met with this monopole. He reviewed the options available and suggested either granting the appeal, overturning the Hearings Officer's decision, or granting the application at a lower height. He leans towards granting the appeal because he does not believe Western can meet the City's criteria in this situation. One, the standard states public benefits of the use must outweigh any impacts which cannot be mitigated. That is a tough standard. Western is solving the problem by building one monopole instead of locating on several buildings, which would be more expensive but less intrusive. Second, the Code does not say the "existing" character of the area, it says the "desired" character. This is a mixed neighborhood zone where a monopole does not fit well with the desired character the zoning map is attempting to create. Staff has done a good job but there is more than one way to interpret the Code.

Commissioner Kafoury said she would be much more comfortable modifying the conditions rather than granting the appeal.

Commissioner Francesconi agreed. He said the Code language that calls for an impact that "does not significantly lessen the desired character of the neighborhood" is too ambiguous and needs review. He said the applicant came in with a 75-foot proposal and the City said no, go to 100 feet. A large part of the finding that this "significantly lessens the character" was based on the height. That issue needs to be addressed via Code review, not through an individual land use hearing, especially when the applicants first came in with something he believes would have been permissible. He suggested granting the application with modified conditions regarding the mount and with a height limit of 75 feet.

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Mayor Katz said she would tend to grant the appeal but does not think that will fly.

Commissioner Hales suggested upholding the Hearings Officer's decision but adding four conditions: 1) require that the antennas be flush-mounted; 2) limit tower height to 75 feet; 3) reduce the Code requirement for two parking spaces from two to zero; and 4) deny the landscaping requirement adjustment.

Mr. Gerber said the applicant requested an adjustment from two to one parking space because there was one parking space available on site. Staff would have no problem adjusting away that space. Regarding the adjustment to the landscaping, it refers to the parking lot perimeter and interior landscaping which is non-conforming. In that situation the Planning Bureau has frequently granted adjustments to preserve parking in areas where there was a lack. That is one of the concerns in this area, though not necessarily this site.

Mr. Barta said the company would be happy to go to zero parking spaces and to provide additional landscaping to mitigate the impact.

Ms. Symes said they had no objection to those conditions.

Commissioner Hales moved to tentatively deny the appeal and uphold the Hearings Officer's decision with four modified conditions: 1) add requirements for flush-mounting the antennae; 2) restrict the height to 75 feet; 3) reduce required parking to zero; and 4) require fully compliance with non-conforming use landscaping requirements.

Commissioner Kafoury seconded.

Mr. Barta said the extra landscaping may end up reducing parking for the property owner, who may not agree.

Commissioner Hales said because of the City's efforts to promote collocation, it would be something of a "bait and switch" for the City to ask the applicants to go up to 100 feet and then deny them because of that. Regarding the landscaping requirements, any property owner is faced with that problem no matter what kind of redevelopment is done because the parking lot fails to comply with today's landscaping standards. Property owners will have to see if meeting those standards still pencils out the deal with the cell phone provider.

Disposition: Tentatively deny appeal and uphold Hearings Officer's approval, with conditions (Y-4); Prepare findings for May 7, 1997 at 2:00 p.m.

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At 4:05 p.m., Council adjourned.

BARBARA CLARK
Auditor of the City of Portland

Cay Kershner

By Cay Kershner
Clerk of the Council

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Due to the official withdrawal of Item 543 prior to the meeting, the Council did not meet.

543 TIME CERTAIN: 2:00 PM - Appeal of Robison Construction, Inc. of determination that they are not qualified to bid on Bureau of Environmental Services Columbia Slough Consolidation Conduit, Segment 2 Project (Hearing on appeal)

Disposition: Withdrawn.