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CITY OF  
**PORTLAND, OREGON**

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**OFFICIAL  
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 22ND DAY OF OCTOBER, 1997 AT 9:30 A.M.

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

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

**Note:** Due to the presence of only three Council members, no Consent Calendar or Emergency Ordinances were considered this week.

**REGULAR AGENDA**

**1605** Accept proposal of Byron Wood Enterprises, Inc. for concession services at the Heron Lakes Golf Course (Purchasing Report - Bid 98037)

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

**1606** Accept bid of S-2 Contractors, Inc. for North Portland sanitary sewer extension No. 2 for \$167,853 (Purchasing Report - Bid 98039)

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

**1607** Accept bid of McCoy Electric Co., Inc. for Fazio, Russellville and Airport Way #1 control system and tower installation for \$165,524 (Purchasing Report - Bid 98044)

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

**Commissioner Erik Sten**

**1608** Authorize a contract with Kruger, Inc. to furnish and operate a pilot wastewater treatment plant utilizing an emerging wet weather treatment technology as part of the Willamette River CSO Predesign Project (Ordinance)

**Discussion:** Lissa Brubeck, Bureau of Environmental Services, said this is a three-week pilot project testing an emerging technology that directly treats Combined Sewer Overflows. She said the process had been tested in the lab but not operationally as yet.

**Disposition:** Passed to Second Reading October 30, 1997 at 2:00 p.m.

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**City Auditor Barbara Clark**

**1609** Assess benefitted property for the cost of constructing street and storm sewer improvements in the SE 81st Avenue/SE Claybourne Street HCD Local Improvement District (Hearing; Ordinance; C-9897)

**Disposition:** Passed to Second Reading October 30, 1997 at 2:00 p.m.

**Communications**

**1610** Request of Linda Bauer to address Council regarding Planning Bureau concerns (Communication)

**Discussion:** Linda Bauer, 6232 SE 158th, objected to having staff accept as its own a report written and submitted by the applicant in a recent land use case. That report granted 129 percent of the density allowed by the zone. She said the case was not appealed and will not come to Council.

David Knowles, Planning Bureau Director, explained the process used by staff. He said most of the time staff will rework the applicant's submittal if the approval criteria are met. This is an efficiency measure staff has been forced to take in order to meet State requirements for handling expedited land divisions. These requirements give the City very little time for review.

Mayor Katz said the issue is whether the public has a right to know who wrote the report. If this is standard practice, then the report should note that it was written by the developer.

Mr. Knowles said the application is public record and the burden of proof is on the applicant to show that he/she has met the approval criteria.

Susan Feldman, Planning Bureau, described the standard way in which applications are handled and noted that 90 percent of the time the staff has to do the work of the applicant. To note which information is provided by the applicant and which by staff would be quite difficult. In the case cited by Ms. Bauer, staff initially negotiated with the applicant over the use of private property for easements in order to provide sidewalks and that is what increased the density. The applicant then reapplied and submitted an application which staff believed to be very good. There was nothing undercover about it.

Commissioner Sten said the issue for the public is how to assess whether staff approached the application with due diligence.

Mr. Knowles said any implication that staff did not look at the applicant's information is false. The application was reviewed against the City's approval criteria and following staff approval would be appealable to the Hearings Officer.

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Mayor Katz said it is more a perception that the staff is taking an applicant's disk and stamping it as the staff report. She said staff needs to reference the source of information.

Mr. Knowles and Ms. Feldman said they could specifically state what they have done when such situations occur. Ms. Feldman added that happens only about 10 percent of the time.

Ms. Bauer said she does not see how a developer can write a staff report and state that all bureaus have had input on the proposal. She said the public cannot tell if other bureaus had input and she would like a balanced report.

Mayor Katz said the report should cite the source of its information.

Ms. Bauer said she wants to make sure the applications are reviewed independently by staff. The Code calls for the Planning Director or his/her delegate to sign off on the applications.

Commissioner Sten said this is largely a perception problem that will occur more often as the City is pressured into processing permits faster. He said staff has to rely more and more on the applicant unless it has additional resources.

Mr. Knowles said part of the neighborhood's frustration is due to the fact that there are no local appeals of expedited land divisions. He said the Bureau's clear direction from Council was to expedite approval of applications that meet the Code.

Commissioner Kafoury said Ms. Bauer's complaint is symbolic of larger issues which are of concern to neighborhoods.

Mr. Knowles said a Citywide land-use group is meeting to discuss these concerns, mostly with respect to larger community planning efforts, not individual projects. He said often the law does not allow the City to deny applications.

Commissioner Sten said Council's goal has been to promote more development and as a result it is beginning to see more stress associated with that.

Mayor Katz said to use added density alone as a justification for development is wrong as there are lots of other goals the City is trying to meet and input from all bureaus is needed.

Commissioner Sten said Ms. Bauer is angry about both the outcome (29 percent more density) and the process, which raises totally different questions.

Ms. Bauer said the report is inaccurate but is not appealable now.

Mayor Katz asked if the new application violates the Code.

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Ms. Bauer said the draft letter from Richard Whitman, attorney for the applicant, admits he did not have time to go through the proper process.

Mr. Knowles pointed out that at this point Council has no jurisdiction.

Commissioner Sten and Mayor Katz expressed concern about future applications handled in this way. Mayor Katz said it would be easy to add language, making the source of the information clear.

**Disposition:** Placed on File.

At 10:15 a.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 22ND DAY OF OCTOBER, 1997 AT 2:00 P.M.

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

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**

- 1611** Adopt and implement the Hillsdale Town Center Plan (Second Reading Agenda 1602; amend Code Title 33)

**Disposition:** Ordinance No. 171699. (Y-3)

- 1612** Adopt the Implementation Action Charts of the Hillsdale Town Center Plan (Previous Agenda 1603)

**Disposition:** Resolution No. 35649. (Y-3)

- 1613** Amend Title 33, Planning and Zoning, to modify the regulations for radio and television broadcast facilities (Second Reading Agenda 1604)

**Discussion:** Shannon Buono, Planning Bureau, reviewed the amendments Council proposed at the last hearing. The first removes the language requiring a ring of trees and outlines the methods by which the visual impact of towers can be minimized. The second modifies the landscaping requirement required in C, E or I zones more than 50 feet from an R zone, while the third revises the requirement that antennae mounted on existing buildings be hidden from view and grants discretionary review authority in some cases.

Commissioner Kafoury moved the amendments. Commissioner Sten seconded and the motion carried. (Y-3)

**Disposition:** Continued to Second Reading as amended October 30, 1997 at 2:00 p.m.

At 2:15 p.m., Council recessed.

OCTOBER 23, 1997

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 23RD DAY OF OCTOBER, 1997 AT 2:00 P.M.

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

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

**Commissioner Charlie Hales**

- 1614** Tentatively deny appeal of Roseway Neighborhood Association against Hearings Officer's decision to approve with conditions the application of the City of Portland Bureau of Parks and Recreation for a conditional use with adjustments to add a soccer field to Wellington Park at 6635 NE Mason (Previous Agenda 1521; Findings: 97-00552 CU AD; **Rescheduled to October 30, 1997 at 2:00 p.m.**)

**Disposition:** Continued to October 30, 1997 at 2:00 p.m.

- 1615** Appeal of Lifegate Baptist Church, applicant, against Hearings Officer's decision to deny a conditional use with design review and adjustments in order to expand the existing facilities at 208 SE 148th Avenue (Previous Agenda 1555; 97-00553 CU DZ AD)

**Discussion:** Pete Kasting, Senior Deputy City Attorney, noted that a split vote had occurred at the hearing two weeks ago and the matter had to be carried over as the Code requires three votes to either accept or reject an appeal. In the meantime, the applicant filed an alternative writ of mandamus yesterday in Multnomah County circuit court based on expiration of the 120 day rule. There is, however, some disagreement as to when the 120 days expired. He said the City Attorney's Office recommends that Council vote, if it can get three votes one way or the other, and dispose of this matter at the City Council level. If the court finds the 120 days has not expired, that decision can be appealed to LUBA. If the court find the 120 days has expired, the Council's decision will be advisory to the judge, who will determine if the approval criteria have been met.

Commissioner Kafoury said although she was not present at the prior hearing, she has extensively reviewed the record and is prepared to make a decision in this matter.

Nan Stark, Planning Bureau staff, said the applicant presented a modified proposal earlier this week which staff believes does not provide adequate mitigation to find it approvable.

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Mr. Kasting said this case is being heard on the record so no new evidence can be presented at this point.

Mayor Katz noted that Council had asked the Church if its architect could work something out.

Jimmy M. Gleason, Lifegate Baptist Church, said the church determined that a pedestrian plaza was the only way to provide mitigation and still allow use of the existing structures to accommodate easy access for the handicapped and other people. That proposal was made last Friday to Planning staff and the implication then was that it would not even require an architect. This proposal would provide wider sidewalks to the building, landscaping and benches. As a result of that meeting, the church determined that it should file the writ of mandamus. He said, according to their calculations, the 120 days expired last week.

Commissioner Kafoury asked staff if the Albina Community Plan design guidelines were being applied here.

Ms. Stark said yes, because there are no design guidelines for Outer Southeast.

Commissioner Sten moved to grant the appeal. He said he drove by the site and found that it is one of the better-looking buildings on the street, which includes an auto wrecking yard and a new-looking AM/PM that is nothing but asphalt. He said he believes it is unreasonable to push the church as far as the City is pushing it, although he would like to see improvements in the pedestrian access.

There was no second and the motion failed.

Commissioner Kafoury moved to uphold the Hearings Officer's decision. Mayor Katz seconded.

Commissioner Kafoury said it is clear to her that the criteria are not met and whether or not Council agrees that there should be a Gateway Plan is irrelevant because the Bureau and Hearings Officer reviewed the case in light of the existing requirements. For that reason, she cannot support overturning the appeal although she believes there must be a way to work this out.

Mayor Katz asked if the church would have to submit a new application if it wanted to present any new ideas.

Ms. Stark said yes, if the Hearings Officer's decision is upheld.

Mr. Gleason said he does not believe the Hearings Officer's record sustains her decision.

Commissioner Sten voted to deny the appeal in spite of his original motion, based

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on his belief that if all the Council members were present the vote would be four to one. He said he thinks this is unfortunate and hopes the two sides can come together.

Ms. Stark noted that there are findings in support of this decision. The Order must be signed tomorrow in order to meet the 120-day deadline, as they interpret it.

Commissioner Kafoury moved to adopt the findings. Mayor Katz seconded.

**Disposition:** Appeal denied; findings adopted. (Y-3)

At 2:15 p.m., Council adjourned.

BARBARA CLARK  
Auditor of the City of Portland

*Cay Kershner*

By Cay Kershner  
Clerk of the Council