



CITY OF
PORTLAND, OREGON

**OFFICIAL
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 17TH DAY OF DECEMBER, 1997 AT 9:30 A.M.

THOSE PRESENT WERE: Mayor Katz, Presiding; Commissioners Francesconi, Hales, Kafoury and Sten, 5.

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

On a Y-5 roll call, the Consent Agenda was adopted as follows:

CONSENT AGENDA - NO DISCUSSION

- 1884 · Vacate certain portions of SW 2nd Avenue and SW Richardson Street, under certain conditions (Ordinance by Order of Council; C-9920)

Disposition: Passed to Second Reading December 31, 1997 at 9:30 a.m.

Mayor Vera Katz

- 1885 Accept application of Slauson & Co. LLC for a ten year property tax exemption for new transit supportive residential development (Code Chapter 3.103) located at Burnside and SE 160th Avenue (Report)

Disposition: Accepted.

- 1886 Approve application of Slauson & Co. LLC for a ten year property tax exemption for a transit oriented development project that includes 51 units of multifamily housing located near SE 162nd Avenue and Burnside Street (Resolution)

Disposition: Resolution No. 35664. (Y-5)

- *1887 · Accept agreement with Oregon Arena Corporation for traffic control and a visible police presence during scheduled events (Ordinance)

Disposition: Ordinance No. 171850. (Y-5)

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- *1888** Amend agreement with Columbia Occupational Health Associates for medical evaluations of Police officer candidates (Ordinance; amend Contract No. 31160)
Disposition: Ordinance No. 171851. (Y-5)
- *1889** Accept donation of physical fitness equipment from the Lloyd District to the Police Bureau (Ordinance)
Disposition: Ordinance No. 171852. (Y-5)
- *1890** Accept agreement with US Department of Justice, Drug Enforcement Administration for an ATF Task Force (Ordinance)
Disposition: Ordinance No. 171853. (Y-5)
- *1891** Authorize contract with PublishRight, Inc. for software and services to automate publication of City budget documents (Ordinance)
Disposition: Ordinance No. 171854. (Y-5)
- *1892** Establish one Sr. Administrative Specialist position, one Administrative Assistant position, one MIS Support Analyst position and one Assistant Financial Analyst position in the Bureau of Buildings in accordance with the Personnel Rules adopted by the City Council (Ordinance)
Disposition: Ordinance No. 171855. (Y-5)
- *1893** Authorize Revenue Bonds for various City projects (Ordinance)
Disposition: Ordinance No. 171856. (Y-5)

Commissioner Jim Francesconi

- 1894** Accept contract with Thyssen Elevator Corp. for elevator modernization work at First and Jefferson and Tenth and Yamhill garages as substantially complete and make payment (Report; Contract No. 31317)
Disposition: Accepted.
- 1895** Confirm appointment of Ramon Corona and the re-appointment of Clyde Earl, Patricia Montgomery and George Van Hoomissen to the Taxicab Board of Review effective January 1, 1998 (Report)
Disposition: Confirmed.

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- *1896** Authorize agreement for acquisition of the Edith M. Kalberer Trust property in southwest Portland on SW Cheltenham adjacent to Terwilliger Parkway in the Marquam-Terwilliger Local Share Target Area (Ordinance)
- Disposition:** Ordinance No. 171857. (Y-5)
- *1897** Authorize agreements for the conveyance of donated properties to the City for addition to the natural area park inventory and authorize acceptance of deeds and payments of expenses (Ordinance)
- Disposition:** Ordinance No. 171858. (Y-5)
- *1898** Contribute \$67,500 towards the purchase price of a property owned by Heritage Properties and Arcon Group in southwest Portland in the Fanno Creek Regional Target Area (Ordinance)
- Disposition:** Ordinance No. 171859. (Y-5)
- *1899** Call for bids for the Renovation of Portland Community Music Center - Phase II (Ordinance)
- Disposition:** Ordinance No. 171860. (Y-5)
- *1900** Contract with ten professional, technical and expert service firms for design and space planning services as required in support of the Bureau of General Services projects (Ordinance)
- Disposition:** Ordinance No. 171861. (Y-5)
- *1901** Authorize agreement with Anderson Krygier, Inc. to provide graphic design/way-finding services for the Smart Park Garages (Ordinance)
- Disposition:** Ordinance No. 171862. (Y-5)

Commissioner Charlie Hales

- 1902** Accept the W Burnside Street at NW Hermosa Boulevard slide repair project as complete, approve Change Order No. 1, make final payment and release retainage to Andersen Pacific, Inc. (Report; Contract No. 31332)
- Disposition:** Accepted.
- *1903** Authorize a contract and provide for payment for the renovation of Aprilhill Park (Ordinance)
- Disposition:** Ordinance No. 171863. (Y-5)

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- *1904** Contract with Northwest Engineering Service, Inc. for the commissioning and balancing of the Southwest Portland Community Center in the amount of \$32,694 (Ordinance)

Disposition: Ordinance No. 171864. (Y-5)

- *1905** Amend agreement with Oregon Department of Transportation to provide for the SW/NW Front Avenue, Harrison-Everett Streets project (Ordinance; amend Contract No. 50661)

Disposition: Ordinance No. 171865. (Y-5)

- *1906** Increase contract with HNTB Corporation for design of the Steel Bridge pedestrian/bicycle project (Ordinance; amend Contract No. 30209)

Disposition: Ordinance No. 171866. (Y-5)

- *1907** Agreement for cooperative assistance in public works during emergency conditions with the Oregon Highway Division and others (Ordinance)

Disposition: Ordinance No. 171867. (Y-5)

Commissioner Gretchen Miller Kafoury

- *1908** Authorize settlement of Bureau of Emergency Communications supervisor claims under Equal Pay Act and Title VII (Ordinance)

Disposition: Ordinance No. 171868. (Y-5)

Commissioner Erik Sten

- 1909** Accept completion of the N Missouri and Alberta sewer reconstruction, Project No. 5734, and authorize final payment to Moore Excavation, Inc. (Report; Contract No. 31130)

Disposition: Accepted.

- 1910** Accept contract with Highlite Construction Co. for 2-inch PVC conduit at Water Bureau Operations Yard as complete, authorize final payment and release of retainage (Report; Contract No. 31209)

Disposition: Accepted.

- 1911** Intergovernmental agreement with Metropolitan Service District which authorizes the City to adopt a Waste Reduction Program and thereby receive Metro Reduction Challenge funds (Ordinance)

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Disposition: Passed to Second Reading December 31, 1997 at 9:30 a.m.

- 1912** Contract with Brown and Caldwell for professional engineering services for Columbia Boulevard Wastewater Treatment Plant repair, rehabilitation and modification projects and provide for payment (Ordinance)

Disposition: Passed to Second Reading December 31, 1997 at 9:30 a.m.

- 1913** Consent to adjust solid waste franchise boundaries between Portland Disposal & Recycling and Weisenfluh Sanitary Service (Ordinance)

Disposition: Passed to Second Reading December 31, 1997 at 9:30 a.m.

- *1914** Authorize a contract to Brundidge Construction for the N Blandena sewer reconstruction project, Project No. 6297, for \$54,800 and provide for payment (Ordinance)

Disposition: Ordinance No. 171869. (Y-5)

- *1915** Authorize a contract and provide for payment for the SE Portland sanitary sewer extension, Project No. 1, Project No. 5875 (Ordinance)

Disposition: Ordinance No. 171870. (Y-5)

- 1916** Authorize a contract with Central Northeast Neighbors, Inc. to provide a neighborhood-based pilot project for bulky waste pickup at the curb for reuse and disposal with the Bureau of Environmental Services in the amount of \$30,000 (Ordinance)

Disposition: Passed to Second Reading December 31, 1997 at 9:30 a.m.

- 1917** Contract with White Shield/Cooper JV for professional engineering services for Tryon Creek Wastewater Treatment Plant repair, rehabilitation and modification projects and provide for payment (Ordinance)

Disposition: Passed to Second Reading December 31, 1997 at 9:30 a.m.

- 1918** Authorize the Purchasing Agent to sign a Purchase Order as a contract with Grinnell Supply Sales Company for eight 20" Winn butterfly valves, four Bettis actuators, related equipment and shipping at the quoted amount of \$101,665 without advertising for bids and provide for payment (Ordinance)

Disposition: Passed to Second Reading December 31, 1997 at 9:30 a.m.

- *1919** Amend contract with Computer People, Inc. to increase the hourly compensation rate for the Fiscal Year 1997-98 without increasing the total contract cost (Ordinance; amend Contract No. 30747)

Disposition: Ordinance No. 171871. (Y-5)

- 1920** Consent to transfer of Pacific Garbage Service solid waste and recycling franchise to Metropolitan Disposal Corporation, a subsidiary of USA Waste Services, Inc. (Second Reading Agenda 1873)

Disposition: Ordinance No. 171872. (Y-5)

REGULAR AGENDA

- *1882** **TIME CERTAIN: 9:30 AM** - Revise Taxicab Regulations (Ordinance introduced by Commissioner Francesconi; amend City Code Title 16)

Discussion: Commissioner Francesconi said after the recent debate over the Smart Cab application he asked the License Bureau to respond to the issue of town car regulation enforcement and to prepare a Code amendment which removes language giving the right of first refusal to existing taxicab companies. Another issue is how often the City will take new taxicab applications. Currently, the Taxicab Board has a rule allowing new applications every two years.

Dennis Nelson, Manager, Bureau of Licenses, said this ordinance aligns the process for receiving new company applications with the current process allowing existing taxicab companies to seek additional permits. Both will now be done at the same time. The ordinance also amends the Code to make it easier for new companies to gain entry into the market by removing the requirement that they must prove that existing companies cannot meet the need. If approved, in mid-March the Taxicab Board will bring recommendations to Council on both new company applications and additional permits for existing companies. Regarding shuttles, Mr. Nelson noted that Council had asked the Bureau to set up a process to work with the Port of Portland on economic equity and public safety issues. The Taxicab Board has named a committee to work on that process and has had several meaningful conversations with Port officials regarding these issues. Finally, new enforcement tools were approved by Council November 19 to allow the Bureau to address non-taxi cab company Code violations. That process, which includes progressive discipline, has begun. Letters have been sent to town car operators and others explaining the rules and informational inspections have been conducted at the Airport, where they found a lot of apparent violations.

Mr. Nelson said the ground transportation industry has changed dramatically in the last five years and there is now a new fleet of providers, including medical-attended providers, town cars and shuttle vehicles, which now total 330 vehicles, outnumbering the existing taxicab fleet. These have provided a substantial range of

new transportation options for residents and visitors and also given individuals and small businesses the ability to enter the ground transportation market relatively free of government regulation. Meanwhile, the taxicab fleet has survived the competition, serving about 2,000,000 customers a year at rates comparable to those in other cities. Twenty percent of the fleet is wheelchair accessible. Adoption of today's ordinance is one more positive step that encourages competition, expands the potential range of services and yet allows for a stable taxicab industry. One issue still unresolved is whether the Board rule allowing new applications to be made only every two years is too limiting. The Board believes strongly that it is and seeks direction from Council as to whether it agrees.

Commissioner Francesconi said it should be more frequent and flexible and he asked the Board to develop a mechanism to do that.

The remaining Council members also supported Commissioner Francesconi's position.

Mayor Katz asked Mr. Nelson if the City is heading in the right direction.

Mr. Nelson said yes, although it is a bumpy ride. There is a delicate balance between providing increased competition and market entry while still trying to keep a stable, vital taxicab industry, which is a critical part of the City's transportation system.

Ed Trompke, attorney for Smart Cab, supported the revised regulations. He said Smart Cab is the company whose application for a new cab license was rejected by Council last month. This ordinance will allow more competition and a better response to market forces. Competition is necessary to promote innovation, increase tourism and support a multi-modal transportation system. In the past the taxicab industry has not had that kind of competition or innovation and so the innovation took place outside the regulated market with town cars, shuttles, etc.

Randy Owens, Portland Taxi Company, said the two-year window was set up to accompany the independent biannual demand study that determines how many vehicles are needed. The increases have been small. He noted that his company, which has been in business since 1976, has been allowed to increase its fleet by 11 vehicles since then. They do not believe a bunch of small companies running around will serve the customer properly. It would be better to build up the smaller, existing cab companies than add new ones. He said his company's customers have to wait longer than if they call the larger companies like Radio and Broadway Cab because those companies have five times as many vehicles.

Mayor Katz asked how many cars are needed to serve the public and respond to dispatch demands citywide. She noted that smaller companies tend to go to the airport and hotels because they do not have enough cabs. She said the City needs to look at area demographics and not just respond to the taxi companies.

Mr. Owens said since his company has gone from 15 to 24 taxis, they have been able to do a lot better job of putting cars on the street. Personally, he believes 50 or 60 cars are needed to properly service the City. His company has tried to grow but has never been allowed as many permits as they have requested.

Frank Chiotto, a former cab driver who now operates a six-vehicle town car business, said he always wanted to get a permit to set up his own cab company but was never able to do so because of the monopoly in the transportation industry, which is rationalized in terms of efficiency and public service. He said it now looks as if Council is willing to open up the industry for new companies and he would like to see the process opened up even more so people can switch from town cars to taxis without unnecessary impediments and thus be eligible to use the parking spaces currently designated only for taxis. With cabs one can also serve the general public and not just a specialized niche.

Commissioner Francesconi said this is the right way to make public policy in a complicated area, unless the City chooses to deregulate.

Commissioner Hales said he looks forward to the Board's response to Council's direction. He is not interested in deregulation and wants to regulate quality and service so the public does not suffer. But the City should not be in the business of deciding who gets to be in the business. Instead it should set service standards and deal harshly with those who fail to meet them.

Commissioner Kafoury said a few years ago industry was asked to provide specially-equipped vehicles to transport handicapped individuals. She felt then that the City had to guarantee them some market share for taking on this added cost until they could recoup their investment. That was one reason for restricting the market but she does not object to these changes now.

Mayor Katz said the key question will be the ability of the cab companies to provide services to citizens. If smaller companies are granted permits, the City needs to be very clear about what kind of service they will be able to provide. Smaller companies, for instance, will not necessarily be able to provide dispatch service 24 hours a day. Still, she thinks it is important to open up the market.

Disposition: Ordinance No. 171873. (Y-5)

***1926** Accept a grant from the Intel Foundation, Intel Corporation and the American Association for the Advancement of Science in the amount of \$278,395 for FY 1997-98 through FY 1998-99 for a technology lab to serve primarily African-American youth at University Park Community Center (Ordinance)

Discussion: David Judd, Parks Bureau, said Portland is looking for innovative ways to reach young people and this grant from Intel will provide \$60,000 for computer labs that young people can use.

Paige Tooney, Intel Foundation, said the Foundation wants to increase the numbers of minorities in the fields of science and technology. He said employees surveyed City sites and chose University Park because of its willingness to allow other organizations to use the facility.

Lee Jenkins, Director, University Park Community Center, said athletics is the hook used to get kids into the Center and then they move on to involvement in other programs. Another benefit will occur by allowing existing partners with the Center to use the computer labs as well.

Aurelia Brown, sophomore, Roosevelt High School, described how she planned to use the computers.

Mayor Katz asked Mr. Tooney if any students had progressed to the point where they could be hired by Intel.

Mr. Tooney said Intel only hires people with either associate degrees from community colleges or regular four-year college graduates. He said they are trying to tie the summer youth program in with this, however, with the prospect of future employment for those participants who go on.

Disposition: Ordinance No. 171874. (Y-5)

***1883** **TIME CERTAIN: 10:30 AM** - Authorize Intergovernmental Agreement with the Port of Portland for Regional Small Business Mentoring Program (Ordinance introduced by Mayor Katz)

Discussion: Mayor Katz said the goal of this strategy is to provide minorities and low-income persons with entrepreneurial skills through mentoring.

Sue Klobertanz, Bureau of Purchasing, outlined the priority items in the fair marketing program. Item 8, the Regional Mentoring Program, is what is being presented today.

Madelyn Wessell, Chief Deputy City Attorney, said this ordinance proposes a long-term relationship with the Port that will cost the City only about \$75,000 a year. The aim here is to provide training and capacity development in order to "grow" more capable contractors.

Ms. Klobertanz said most mentor programs across the country are dying and agreements such as this, especially with Associated General Contractors (AGC) participation, are almost unheard of.

Judy Trotter, Port of Portland, said this will allow a doubling of the Port's protege program which provides technical and financial assistance and matches up small businesses with larger ones. Two business mentors are assigned per protege and the

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Port hires consultants to provide bidding support. Firms chosen for the program are those the Port potentially can do business with but that is not guaranteed. The program has been in existence for four years and three businesses now have contracts with the Port.

Ms. Klobertanz said the mentor protege program is intended to grow a firm and is not directly tied to contracts with particular firms.

Commissioner Francesconi asked how the firms are selected.

Ms. Trotter said a company must have been in business two years, be up-to-date on tax payments and willing to make the necessary time commitment.

Ed Holmes, owner, Ebony Iron Works, said his firm has grown from two to 30 employees. He was the first graduate of the program and is now a member of the AGC and plans to be a mentor himself in the future.

David Douthwaite, AGC, said the AGC will provide mentoring and workshops along with AGC memberships to supplement the Port's program.

Commissioner Francesconi asked if more resources should be added to this program and less to something else. How does one evaluate them?

Mayor Katz said it is critical to track the results. She thanked AGC for its participation in a program that works and is glad to see it being expanded.

Disposition: Ordinance No. 171875. (Y-5)

Mayor Vera Katz

***1921** Authorize the Mayor and Auditor to execute a Subsurface Lease with the City of Portland Development Commission for space beneath portions of SW Morrison Street, SW Yamhill Street, SW Fourth Avenue and SW Third Avenue adjacent to Block 50, Portland, in connection with the Pioneer Place Phase II project (Ordinance)

Disposition: Ordinance No. 171876. (Y-5)

***1922** Authorize the Mayor and Auditor to execute an Air-Rights Lease with the City of Portland Development Commission for a skybridge and other structural purposes above a portion of SW Fourth Avenue in connection with the Pioneer Place Phase II project (Ordinance)

Discussion: Les Prentice, Portland Development Commission (PDC), Pioneer Place Project Manager, said authority for both the air-rights and subsurface leases was approved in 1984 according to the City's current encroachment policy and based on

recommendations from the Design Review Commission and the City Engineer. The City Engineer has submitted a letter stating that both leases meet the encroachment criteria of the prior approval. He said PDC owns this property, the last block in the Pioneer Place project. Because of the skybridge, the air rights lease is probably of more concern than the subsurface lease. He submitted a letter from the Downtown Community Association which unanimously endorsed this project after lively debate about the skybridge.

Laird Bocardo, Development Director for the Rouse Company's Pioneer Place Project, stressed the importance of the skybridge to Phase 2 of the project. He said it boils down to having sufficient retail massing to make the project work as a downtown destination. He said Phase 1 has been very successful but as suburban malls have responded to what Rouse did downtown, the company has felt the need to bring in more unique retailers and enhance the massing. He said with two-hundred-square-foot blocks, one has to have multi-levels, as high as four floors, to make the massing work. To make the two projects work as one requires a skybridge, as it did with Phase 1. As one gets farther away from street traffic it is more difficult to lease the upper levels and the company needs to generate sufficient circulation and a solidified identity between tenants in the new block and those in the very successful Phase 1. They believe this approach, as addressed in their design for Phase 2, would actually generate more street traffic through the use of corner entrances and lots of windows. He noted that in the current phase the third floor outperforms the second floor, which they attribute to the presence of the skybridge, even though there may not be a lot of foot traffic. Without the bridge connection, it will very difficult to lease four levels above grade. It is difficult even with a skybridge.

Bing Sheldon, SERA Architects, said when the original Downtown Plan was adopted an extensive investigation of skybridges was undertaken and it was discovered that they negatively impact street-frontage development. A decision was then made to discourage skybridges and that language in the Code has been strengthened over the years. He said Portland's downtown is recognized as one of the most successful in the country and its Downtown Plan is in large part responsible. Connecting Pioneer Place at the basement and third floor levels will really internalize the circulation and go against the current policy. Mr. Sheldon asked Council not to adopt the air-rights ordinance until the Design Commission has reviewed the legitimacy of the skybridge.

John Spencer, Chair, Design Commission, said the debate over the skybridge was the most divisive issue the Design Commission faced when it approved Phase I of Pioneer Place in 1984. He said since then a number of conditions have changed. This skybridge will connect retail with an entertainment building, rather than a hotel as originally proposed. He noted the charge Commissioner Hales issued to the Design Commission to raise the bar for design quality to make sure projects are of the highest quality possible. There is also a design guideline that actively discourages skybridges which means they should have as much scrutiny as possible prior to any approval. He called for review by the Design Commission, including a discussion of whether the skybridge is actually needed and whether it will contribute

to the viability of the public realm in the downtown as a whole.

Gary Papers, Chair, Urban Design Committee, Portland American Institute of Architects (AIA), said the committee has long opposed all skybridges because they rob streets of pedestrian vitality and create a privatized circulation system. This opposition is also reflected in City policy. He said the committee vehemently opposes this skybridge and believes Council should not approve it until it is reviewed by the Design Commission. He said the project does not really need a skybridge to encourage pedestrian traffic because no stand-alone retail is proposed for the third floor. The destinations on that floor are self-supporting -- a restaurant, ticketing lobby and the upper level of another retailer. He noted that this agreement is 13 years old and times have changed enough to merit Council's reversal of the earlier approval. He said this view is shared by other small retailers who rely on the street to keep their businesses alive.

Irwin and Lili Mandel, 1511 SW Park Avenue, said there is no need for skybridges in Portland. They add visual pollution that interferes with the ambiance of the City. They too called for Design Commission review.

Commissioner Hales asked why PDC is acting on the lease now when the design will be reviewed by the Design Commission in January. The need for the bridge seems to be tied to design issues and what the uses are.

Mr. Prentice said the critical issue is that the leases come to PDC which would then assign them to Rouse. The assignment of those leases is a precondition to the closing of the property.

Commissioner Hales asked if Design Review was not also a precondition.

Mr. Prentice said yes but the deadline for closing is January 16 and the Design Commission hearing is set for January 29 with a probable continuation to February 19. Construction must begin in March if Rouse is to complete the project by the critical target date in the fall of 1999. This issue must be resolved prior to closing. The company proceeded on the assumption that Council had approved this before and thought this was a relatively minor issue as it had been approved by the City Attorney and City Engineer.

Mayor Katz asked what would happen if Council did not act on the leases today and it went to the Design Commission.

Mr. Prentice said the agreement would terminate and would need to be renegotiated. One key issue would be how the scope of the project might change. At a minimum, the company would lose the opportunity to begin construction in March.

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Commissioner Hales noted that design approval and permits would still be needed before the project is built so he does not understand why delaying this agreement would hold things up.

Mr. Prentice said Rouse considers the skybridge of such importance that they are looking for early resolution. If the skybridge is eliminated, the company will have to start at ground zero on a reconfiguration plan.

Mr. Bocardo said Rouse spent a lot of money to get where they are today, all based on the understanding that the skybridge itself, although not its design, was preapproved. They are working around the clock to be able to start construction in March but will stop if the skybridge is eliminated. They believe they can resolve all other design issues but do not think the project will work without the skybridge.

Mayor Katz asked why a skybridge is needed if only the second floor is retail and the rest is an entertainment section. Also, how would the design change if there was no skybridge.

Mr. Bocardo said the only reason a cinema would locate on the fourth level is because it sees the project as an anchor that brings in traffic. A restaurant, even with a skybridge, is a long shot because historically they do not do well without street exposure. Without a skybridge, it is an impossibility and he does not believe Rouse would build a third floor without one.

Jeanette Launer, Stoel Rives, representing PDC, said from a legal standpoint, the agreement PDC has with the Rouse Company has always specifically stated there would be these connections between the current project and Block 50. While 1984 sounds like a long time ago, this project was contemplated to take this length of time, allowing Block 50 to be developed as a second phase. Regarding possible legal liability, she said Rouse has relied on an agreement entered into in good faith and could bring claims against the City for the costs it has sustained in reliance on that agreement.

Commissioner Francesconi asked what would happen if the March deadline is missed because Council wants more input from the Design Commission.

Mr. Bocardo said Pioneer Place has been the company's highest performing urban project but in the last few years sales have flattened as competition has increased elsewhere. If the project is delayed, some retailers might look elsewhere and anchor stores, which are very time sensitive, could be lost. If they are not able to start in March, they will not be able to open in November, 1999.

Mayor Katz asked if the Design Commission has the authority to negate the skybridge entirely or, because the contracts are legally binding, just review its design.

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Commissioner Hales asked if one reason to be here today is an assumption that prior Council approval of the lease would preclude a land-use appeal over a Design Commission decision on whether a skybridge is allowed.

Ms. Launer said in her opinion approval of the leases specifically refer to a skybridge and the existence of that in conjunction with the leasing of the air rights would be a Council statement to the Design Commission that those are approved and that use of the public right-of-way has been given.

Commissioner Hales said that would not preclude a private party appealing the Design Commission decision on the basis that it failed to apply the criterion that discourages skybridges.

Ms. Launer said it is not a precluding action to an appeal.

Commissioner Hales does not like skybridges but is concerned about the results if the City does not keep faith with its own process. He would like the Design Commission to review the merits of the design to see whether the concession of a skybridge is warranted before the issue comes to Council. He asked Rouse to have enough faith that the City can get to yes on this. He noted that City policy has hardened since 1984 and it is now almost impossible to get approval for a skybridge.

Mayor Katz asked if the Design Commission can deny the skybridge.

Mr. Prentice said the Design Commission can offer its opinion and reject the skybridge and only on appeal to Council could that decision be overruled.

Commissioner Sten said he is not that upset about the skybridge but believes there should be a Design Commission hearing and is also unsure its existence means the life or death of the project. He does not buy the assertion that Rouse cannot make the deadline if there is a Design Review Commission hearing unless Rouse is seriously considering pulling out.

Mr. Prentice said even though a new design guideline for skybridges has occurred making them nearly impossible to get, the criteria for making the decision has not changed since 1982. The encroachment policy in 1982 talks about very limited circumstances for skybridges -- retail to retail is about the only justification.

Commissioner Sten said unless there is a counter proposal, Council will have to take a vote on this ugly choice.

Commissioner Francesconi asked if the City could call for quicker Design Commission Review and for some verification of the economics. Will the alternative be a two-story retail building without the skybridge?

Mayor Katz said she will not bring forward a two-story project on a very valuable

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City block where a hotel was originally envisioned.

Mr. Prentice asked Council to consider where else there is third and fourth street retail except in a department store like Meier and Frank. He said both Rouse's and PDC's experience is that there is not enough foot traffic at upper levels to make retail successful there.

Commissioner Francesconi asked if this would set a precedent for other skybridges.

Mr. Prentice said no, they are pretty much effectively precluded because of the criteria in place today.

Commissioner Hales said he will ask the Design Commission to hear this January 29 and make a decision that night and then return both leases for Council action on February 4.

Mayor Katz said she will accept that although there is some legal liability. She said the key for retailers is to build a critical mass and they do have difficulty with the upper levels. There is also a tremendous amount of competition for the same clients that Rouse attracts. However, she is willing to return these items to her office as she senses some discomfort on Council's part.

Commissioner Kafoury objected. She said there has to be some predictability on these long-term projects because of the commitments that have been made by earlier Councils. She would be willing to go ahead and vote today.

Mr. Bocardo said perhaps it would help if Council could take action today, subject to Design Review Commission recommendation. He has not heard anything yet that leads him to believe there is any incentive for the Design Commission to approve the skybridge.

Larry Dully, PDC, said the tough issue here is whether Council stands behind the existing agreements. Whatever is done today will have a big impact on Rouse and the sooner the decision about the skybridge can be made the better. Rouse will probably be reluctant to spend any money with this hanging in the air.

Commissioner Hales said he hopes Rouse would react to today's hearing by going all out to impress the Design Commission with the design of the whole project and, failing to do that, impress Council, which has the authority to overrule the Commission.

Mr. Bocardo said even without the skybridge issue, Rouse will go above and beyond to satisfy the Design Commission on the project's design. They have already expended a great deal of effort to come up with something acceptable to the Design Commission.

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Mayor Katz said she is not sure the Design Commission would support one hearing and is beginning to have second thoughts about extending the process.

Commissioner Francesconi said he would like input from the Design Commission but the City needs to be consistent and avoid legal exposure. He said if the tradeoff is the skybridge versus two stories or nothing, he will go with the skybridge in order to get more activity. He said it is very important that downtown retail be competitive with the suburbs and he does not believe this sets a precedent for skybridges all over downtown.

On the first vote, the Council voted Y-3, N-2 (Commissioners Hales and Sten).

Mayor Katz moved to remove the emergency clause and Commissioner Kafoury seconded. (Y-5).

Disposition: Passed to Second Reading as amended December 31, 1997 at 9:30 a.m.

***1923** Amend the City Code to update the City's Deferred Compensation Plan (Ordinance; amend Code Section 4.44.080)

Disposition: Ordinance No. 171877. (Y-5)

Commissioner Jim Francesconi

1924 Authorize a new Intergovernmental Agreement with Multnomah County for the Bureau of Licenses to administer the Multnomah County Business Income Tax program (Ordinance)

Discussion: Dennis Nelson, Manager, License Bureau, said this is a happy partnership between the City and County.

Disposition: Passed to Second Reading December 31, 1997 at 9:30 a.m.

1925 Amend the Business License Law to incorporate technical and housekeeping changes (Ordinance; amend Code Chapter 7.02)

Disposition: Passed to Second Reading December 31, 1997 at 9:30 a.m.

Commissioner Charlie Hales

1927 Consider vacating a portion of NE 50th Avenue north of NE Beech Street at the request of Rose City Cemetery (Hearing; Report; C-9941)

Disposition: Approved; City Engineer prepare ordinance. (Y-5)

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Commissioner Erik Sten

- *1928** Three year contract with Merina, McCoy & Co. CPAs, P.C. not to exceed \$150,000 to conduct annual financial reviews of franchised solid waste and recycling companies and provide advisory services for City rate review and other analytical purposes (Ordinance)

Disposition: Ordinance No. 171878. (Y-5)

- 1929** Grant a franchise to Qwest Communications Corporation for a period of ten years (Second Reading Agenda 1845)

Disposition: Continued to January 7, 1998 at 9:30 a.m.

Communications

- 1930** Request of Oleg Mandrikov of Metro Towncar Service Company to address Council regarding towncar regulations (Communication)

Discussion: Oleg Mandrikov, Metro Towncar Service Company, said in the seven months since the towncar regulations have been in existence, the number of towncars at the airport has grown dramatically. In November, John Hamilton notified the companies that he is entitled to enforce the regulations and outlined the penalties. Mr. Mandrikov said the standards regarding such practices as appropriate dress are vague and not in the Code. He also questioned why he must charge higher rates than taxicabs in order to protect them from competition.

Mayor Katz noted that Council has held a thorough discussion on the differences between towncars and taxicabs.

Commissioner Francesconi said the standards about dress and so forth do need to be clearer but the City requires taxicabs to do certain things that are not required of towncars and therefore there needs to be a way to differentiate between the two.

Disposition: Placed on File.

- 1931** Request of Wendy Loren to address Council regarding Mayor Katz (Communication)

Discussion: Wendy Loren requested that Mayor Katz be removed from office for various alleged offenses.

Disposition: Placed on file for no further consideration.

At 12:10 p.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 17TH DAY OF DECEMBER, 1997 AT 2:00 P.M.

THOSE PRESENT WERE: Mayor Katz, Presiding; Commissioners Francesconi, Hales, Kafoury and Sten, 5.

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

- 1937** Tentatively deny appeal of Madison South Neighborhood Association and approve with conditions the application of Chet Antonsen for a subdivision, conditional use and zone change in order to develop the property with 128 units in multi-unit structures located northeast of NE 84th Avenue and Russell Street at 84th Avenue (Findings; 97-00390 SU CU ZC)

Disposition: Continued to December 31, 1997 at 9:30 a.m.

- S-1936** Amend Chapter 33.205 Accessory Rental Units and related provisions of the Portland Zoning Code (Second Reading Agenda 1878; amend Title 33)

Discussion: Roll was called on this item. Council members made no additional comments.

Disposition: Substitute Ordinance No. 171879. (Y-3; N-2, Francesconi and Katz)

- *1932** **TIME CERTAIN: 2:00 PM** - Remove condition of approval applied in granting a Comprehensive Plan Map Amendment and Zone Change on property at 7238 SE Foster Road from R1 Residential to M3 Manufacturing and approve adjustments (Ordinance; amend Ordinance No. 164304; LUR 97-00747 CP ZC AD)

Discussion: Ruth Spetter, Senior Deputy City Attorney, outlined the procedures to be followed.

Nan Stark, Planning Bureau, said the applicant seeks to replace a prior condition to provide internal parking and more flexibility in the way he does business. She showed slides and noted that both staff and the Hearings Officer agreed with the applicant that removal of the condition would allow greater internal circulation and more flexibility without negative impacts to the surrounding area.

Peter Fry, representing the applicant, Metro Auto Wholesale, explained the circumstances which caused a single lot in this commercial area to be designated

residential, forcing the applicant to apply for zone change, which was granted with a condition that forced cars onto adjacent streets. Now the applicant seeks removal of that condition.

Disposition: Ordinance No. 171880. (Y-5)

1934 Accept interim report on Blueprint 2000 and commend the commitment of time and energy contributed by the stakeholders and Interbureau Task Force toward this effort (Report)

Discussion: Margaret Mahoney, Director, Bureau of Buildings and Chair of the Blueprint 2000 Interbureau Task Force, said the stakeholders and Interbureau Task Force reached tentative consensus on all issues except space and organizational structure. Following a public forum scheduled by the Stakeholders in January, a draft report will be prepared for discussion with the Portland Planning Commission. She said the consultant's contract needs to be extended because the number of meetings increased by about fifty percent over what was anticipated.

George Oremus, Blueprint 2000 consultant, said this has been a very difficult process requiring non-stop work because of the number of bureaus involved and the complexity of the issues.

Commissioner Kafoury asked about time and predictability for the public.

Ms. Mahoney said predictability and accountability are very important goals for everyone. Clarity is also needed regarding conflict resolution and appeals. Both the Stakeholders and the Task Force stress the need for very clear directions about all the pieces needed as the whole range of processes has never been covered before.

Commissioner Sten said the City has two types of customers -- those who want the work done as quickly as possible and citizens who want the work done in a way that is compatible with the neighborhood. How will speeding up the process affect them?

Mr. Oremus said the process should be neutral. A lot of issues arising around predictability deal with having a point of contact where both the developer and the community can get information. One idea is to assign project managers. He assured Council that the Stakeholders group is well represented by all viewpoints.

Commissioner Hales said the process can be improved by specifying some performance measures. He asked how consistent the City is in enforcing conditions in the field.

Commissioner Francesconi asked how Code conflicts are resolved.

Ms. Mahoney said their charge was to look at the process, not the regulations, but the need for some kind of clearing house has been identified. One of the work groups

may review alternatives but there is no recommendation as yet.

Mr. Oremus said the project manager was seen as the point person to resolve conflicts.

Regarding Code conflicts, Ms. Mahoney said there is a process for resolving conflicts for Buildings, Fire and Transportation codes but not for the others.

Commissioner Hales said the hard part is balancing authority and accountability and right now there is no way to resolve those conflicts, as they raise threatening turf and power issues for the bureaus.

Disposition: Accepted.

***1935** Enact temporary prohibition on new painted wall decorations and new painted wall signs (Ordinance; waive Code Chapters 33.730 and 33.740, if applicable)

Discussion: David Knowles, Director, Bureau of Planning, said this ordinance would enact a temporary moratorium on new painted walls. It would go into effect 60 days after a final decision is made in a case now pending before the Oregon Court of Appeals. The moratorium would be applied to all painted wall images, or what people think of as signs and murals. It would apply only in the Central City Plan District. He said some final amendments will be introduced to make it clear the City proposes not to accept any new applications for painted wall images either for design review, adjustments or building permits.

Mr. Knowles said this is needed because in the last few months there has been a substantial increase in the number of illegal painted wall signs. They come in two forms: 1) murals that are then converted to signage, typically in excess of the sign size that would be allowed for a freestanding sign like a billboard; or 2) signs that are painted without a permit of any kind and which also tend to exceed the allowable size although sometimes a permit has been issued for a 32-foot sign which is what is allowed by right in the Central City without design review. He cited a Sun-Microsoft Systems sign at the end of the Steel Bridge that is at least 1,000 square feet, and was put up without a permit, as an example of the kind of sign they have seen a big increase in over the past few months. Over the last year, there has been a fairly significant increase in the number of applications for wall signs. In the last 20 years, only 40 wall signs were permitted in the Central City. However, in the last year alone, there have been design applications for 14. This does not include any illegal signs and since news of the proposed moratorium was published, the Permit Center has received 20 new applications. There is clearly an inventory of walls out there that the sign companies have been getting ready to paint.

Mr. Knowles said new murals, most typically of whales and fruit, are being put up to serve as placeholders for new signs and then later a company will come along, paint over them and suddenly signs appear. Or there is a sign in the corner of the image.

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He said this kind of thing has just begun to explode in the past several months and the Bureau finds itself without a lot of good choices and in a difficult regulatory situation because sometimes common sense is a little elusive in the law. There is an interpretation of the Oregon Constitution which argues that government is not permitted to make regulatory distinctions based on the content of an image, in this case between signage and art. However, staff and the City Attorney believe an opening may be presented by a case now pending in the Court of Appeals that may be appealed to the Supreme Court. If it opens the door in a way that allows the City to make a common-sense distinction between art and signage, Planning Bureau staff certainly wants to keep that option open. Pending that decision, the Bureau is asking Council to enact a moratorium.

Commissioner Sten asked if the case to date had been decided in a way that would allow the City to distinguish (between the two).

Mr. Knowles said it cracks open the door although it does not clearly hold that the City could make the kind of regulatory distinction it would like.

Commissioner Sten said it is a very odd strategy to place a moratorium on a piece of property until a case is decided by the court on an undetermined date. He asked why the City, since it had already prevailed at one level, would not go ahead and write a law that distinguishes between painted walls/murals and signs. Why not write something based on the first decision?

Bill Manlove, Deputy City Attorney, said the Oregon Court of Appeals did decide this case in a way his office thinks is favorable for the City's current regulations. Nonetheless, the losing party in that case filed a petition for review by the Supreme Court and, given the extensive debate among Oregon lawyers about the scope of this particular Constitutional section, the City Attorney's office believes getting a final decision from a higher court would provide needed clarity and be the best route to take.

Commissioner Francesconi asked if the moratorium is on art as well.

Mr. Knowles said it is on all new painted images. He said the Regional Arts Commission board has endorsed the moratorium in part because they do not know of any pending art proposals that would be affected by this.

Commissioner Francesconi asked if the City has the constitutional right to put a moratorium on aesthetic art.

Mr. Manlove said the City under its police powers has the right to regulate to protect aesthetic interests.

Mr. Knowles said the City can regulate whether there is an image of any kind on the side of a building although it may not be able to distinguish what that image may be.

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Commissioner Hales said it is the difficulty of deciding these borderline issues that argues in favor of a moratorium so the City can get on with the difficult headscratching about what is art and what is commerce. At this point both are swept together until they can be defined precisely.

Commissioner Francesconi said he likes the idea but wants to make sure it is legal. He read Chris Thomas' legal opinion and needs someone to tell him that is wrong and that the City has the legal ability to do this while seeking clarity from the courts.

Mr. Manlove said he just saw Mr. Thomas' opinion but believes the City does have the right to pass this moratorium. The moratorium is temporary in nature and geographically limited. Images already in place can continue in place and changes in copy can be made as long as the signs do not grow in size. In fact, this moratorium arguably steps closer to being a completely content-neutral application of a regulation than what currently exists in the City Code. The City is concerned about the aesthetic effect of large images on walls. Are a building's architectural features obliterated by them? There is some sense that they are and that is why the current regulations attempt to limit the size of those images. Regarding application of Statewide planning goals, the ordinance was drafted by three lawyers in the City Attorney's office and the findings were drafted by Kathryn Beaumont, who he believes would also conclude that Chris Thomas' comments are inapplicable.

Commissioner Francesconi said getting clarity from the Supreme Court in such cases is very helpful.

Commissioner Sten said staff is saying that a large number of these signs are illegal but the City is not enforcing this. What will staff do under this moratorium to change that? Will they be more illegal?

Mr. Knowles said it will not affect existing signs in terms of enforcement. For signs that have already been put up without permits, citations will be issued and then considered by the enforcement officer. If new wall images are put up in the future, enforcement will proceed under this ordinance.

Commissioner Sten said he thought staff said the regulations were not being enforced. Are the vast majority of the signs causing the problem now illegal?

Mr. Knowles said there are two different characteristics to them. It is clearly not okay to put up signage without permits. A more difficult area concerns situations where a mural is converted to a sign well in excess of the size allowed by City Code or where there is a mural with a sign in the corner of it. The question is at what point does a mural become a sign and vice versa.

Mayor Katz asked if the City can identify all those murals that are in violation of the Code because they do not have permits.

Mr. Knowles said it is a complaint-driven system. The Bureau of Buildings has a list of complaints and has an enforcement proceeding going against some of them. However, Buildings does not have the enforcement resources it needs to proceed on all the complaints in a timely manner. That is an issue for all Zoning Code violations. He added that he does not believe there is an inventory of signs without permits.

Mayor Katz said if there is no inventory and the system is complaint driven, what is the final result if a complaint is sustained. Does the mural have to be taken down?

Mr. Knowles said either that or get it legalized through a design review or adjustment process through the Planning Bureau.

Mayor Katz asked how many murals have actually come down or been approved?

Mr. Knowles said he does not know of any that have gone all the way through the enforcement process.

Commissioner Sten said opposition has been raised to the Planning Commission process. The Commission held one hearing on this and it was continued and another one is scheduled several weeks from now. Why is passing this so pressing?

Mr. Knowles said the Planning Commission did not take this up in December because of the press of other business. It will take it up in January and he feels sure will then render some advice to City Council. From the testimony and comments he heard, he believes it will say that the City's preference is to make a distinction between signs and art or signs and murals. If that is not a legal alternative, the Commission will say there are two choices. One is to regulate all images as signs and restrict their size to about 200 square feet under the current Code. That would include both art and signage. The other choice is to regulate them as murals are now regulated, with no permit required and no size limitations. Those are really the only policy choices available. He suspects that on a split vote, the Commission will choose between one of those two.

Commissioner Sten said if the Commission is going to do that in January, why not wait until then.

Mr. Knowles said because in the meantime, a number of new wall images will go up, either with or without permits.

Commissioner Sten noted that 20 requests for permits came in since Friday, when this was filed.

Mr. Knowles said there were 15 applications in the Planning Bureau which were denied. There are also a number of freshly painted murals that are meant to serve as placeholders.

Commissioner Sten said he has some problems with this but because this is an emergency ordinance does not want to delay the Council's wishes 30 days. If this were a City policy, he would unequivocally vote against it because if the price of banning some advertising is losing art, he will not go for it. He is struggling to see what is gained by doing something for an undescribed amount of time until the Court decision is made.

Commissioner Hales said if the only choices are to regulate art in order to regulate signs or to let a lot of things happen, he will probably reluctantly decide to let a lot of things happen. But if the Court or other law allows the City to exercise common sense and define a sign and art in a reasonable way, then there will be a whole lot less catch-up to do and less damage to undo if this moratorium is enacted now. That would avoid having a huge number of enforcement cases to deal with.

Commissioner Francesconi said he has a hard time believing the Supreme Court will allow the City to regulate art. He does not understand how the City has gotten where it has with its sign ordinance. It does make sense to call a moratorium, if legally possible, while the City seeks some guidance on this.

Mayor Katz asked Mr. Knowles to refresh Council's memory about the discussion about whether to include wall signs under the billboard regulations. She recalls Commissioner Kafoury asking when a sign is art and when is it a billboard.

Mr. Knowles said in September, 1996, Council decided to enact sign regulations that would limit the size of all new freestanding signs to about 200 square feet in commercial zones. It chose not to deal with wall signs at that time because of the difficulty of dealing with the art versus signage question. Council acknowledged that there were differences in downtown buildings and that this was a tricky area to get into because they felt the City Code, which did distinguish between the two, might not be defensible. The City has been living with that distinction since 1991 without too many problems but recently some companies have gotten pretty entrepreneurial and decided there may be some legal loopholes they can take advantage of. That explains the fairly dramatic increase in the number of wall sign applications.

Commissioner Hales said no one has been eager to deal with this issue, but it comes down to a choice between greed versus the aesthetics of the community. He believes Portlanders do not want to live in billboard hell as a result of no regulation. On the other hand, no one wants to regulate art and if it comes down to regulating what most people agree is art, he is out of that position, too.

Commissioner Francesconi said he is, too.

Mayor Katz said she will be very interested in seeing how that distinction will be made.

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Commissioner Hales said his version is that if you are trying to sell something it "ain't art." He believes people exercising common sense can distinguish between people trying to sell something and people trying to beautify the community.

Commissioner Sten asked what kind of public discussion will take place from the day this moratorium passes and whenever the Supreme Court rules and the moratorium ends.

Mr. Knowles said the Planning Commission is going to debate this and make a recommendation to Council. When Council gets that it can then revisit this question and hold a hearing before making a policy judgment. The Planning Commission has taken the issue about as far as it can. If the law does not change, the City has pretty stark choices and that is probably why the Planning Commission was unable to come to grips with it by December as it had no good solution. If the time frame here seems a little uncertain, then perhaps Council would prefer to schedule a hearing after the Planning Commission makes its recommendation.

Commissioner Sten said he thought the Planning Bureau and legal staff were going to make these distinctions but what was stopping them was current Oregon law. What is the proposal going to be? All the Supreme Court decision does is give a basis for a proposal. He does not even vaguely understand what the City is going to try and distinguish during this moratorium. Will there be a discussion on how to make the distinction between art and advertising in the next 18 months?

Mr. Knowles said during the moratorium period the City would say no to any more images and no distinction would have to be made. When the Court makes a decision in this case and the City knows better what the law is, then it can make a decision about how to regulate.

Commissioner Sten said he is lost now. One alternative would be to have the City write an ordinance distinguishing between the signs and murals which states that it believes it has such authority based on the lower court ruling. He said he is quite certain the Supreme Court is not going to give any kind of clear guidance on how to do it and what is missing is any statement from the City about what kind of law it would like to have. All the Council members have stated they would not support this law as long-standing policy. However, he has no conception of what kind of policy Council would support if it was allowed under Oregon law. That is the reason for the moratorium -- to see if a common-sense law can be passed based on Supreme Court authority.

Mr. Knowles said Planning has assumed that the current Code is the law that makes sense because of its distinction between murals and commercial signage. It is calling for a moratorium on any new images because of the uncertainty that the Code is defensible under current court interpretations.

Commissioner Francesconi asked if it will be clear whether the Code is right once that Court decision is made. He said now he is very confused.

Mr. Manlove said during the moratorium, the City is essentially backing away from making distinctions between wall signs and painted wall decorations (murals). The existing court case provides more authority to do the kinds of things he believes the Planning Commission and Council would like to do, i.e. make more distinctions between signs and murals. But because the case is still in litigation, the City Attorney's office decided the better course is to wait and get as much clarity as possible on what exactly this Council can do on this particular issue. Common sense would indicate that the City ought to be able to make a distinction between art and commercial signage but that is not the law now and may not be the law after this case is decided. In Oregon, commercial and non-commercial speech are treated equally. The City Code attempts to do something that is somewhat problematic and that is why staff is eager to see what happens with this case.

Mayor Katz asked if the City Attorney had ruled that our current Code will not stand up.

Mr. Manlove said his office feels the Code is tough to defend because of the way a wall sign is defined. It is defined as something with text, numbers, logo or trademark. A mural is defined as an image without those characteristics. His office felt that such distinctions might be content-based and therefore an impermissible distinction. But in this recent case there is some sense that making that kind of analysis is not impermissible. The case involves billboards along Oregon highways and there is a state law that says on-premise advertising along highways is permissible but off-premise advertising is regulated. The sign company challenged that distinction and the Court of Appeals said that distinction is not impermissible. It said the State Highway Department can require signs to be locationally based to relate to the use of the property and that regulating, not prohibiting, off-premise signs, was permissible under the Oregon constitution.

Mayor Katz asked what happens if Council does nothing today.

Mr. Knowles said applications will continue to be submitted for design review but he also suspects that signs will be put up that start as murals and are then converted to signage. He said one example of many is at 4th and Washington which began as a mural of Mt. Hood. Then an ad for a bicycle shop was placed over less than half of it; recently the entire image was painted over with a sign for Yellow Pages. He also cited the Miller Beer ad which had earlier been a mural. It does not have a permit.

Commissioner Francesconi asked if the City knew which companies were doing this.

Mr. Knowles said there are a number of companies.

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Commissioner Sten asked if speedy action could be taken against the building owners who lack permits.

Mr. Knowles said the Bureau of Buildings could be asked to accelerate the enforcement process.

Mr. Manlove said that involves applying existing regulations which the City Attorney is concerned are not defensible.

Mayor Katz said the issue is whether the Code would hold up to aggressive enforcement.

Mr. Manlove said the City Attorney's office is more comfortable with the moratorium than defending the Code.

Commissioner Kafoury said earlier Mr. Knowles said staff wanted to wait and see if the City's existing Code was enforceable as a result of the court case. During the interim period she assumes staff will be working to rewrite it.

Mr. Knowles said staff is concerned about whether it can defend the current Code and does not believe it can carry out the desired policy objective unless the Constitutional interpretation changes, which may happen as a result of this case. If it does not, or if the City decides not to wait, then the Council will need to decide either to regulate or not regulate signs.

Mayor Katz said the current court case is being used in this case as an opportunity to advance a moratorium because the Code is faulty.

Mr. Knowles said it is the one slim hope staff has of maintaining the policy distinction between signs and art. Otherwise they would have proposed new Code language. Council will have to make a policy choice based on the Planning Commission recommendation unless the Constitutional interpretation changes.

Commissioner Sten asked why is this being applied just to the Central City and about its potential impacts on other neighborhoods.

Mr. Knowles said during Planning Commission testimony a concern was raised that community murals would be impacted by any restrictions on painted-wall images. Those are not happening in the Central City. Some new painted wall signs will be going up outside the Central City, however. Regarding the impact on sign painters, the moratorium does allow existing images to be painted over, although they cannot be expanded.

Remedios Rappaport, Cosmo Graphics, said her company takes great pride in the quality of its design and art work. She is also an artist who does paintings and murals so she is torn on this issue. She said she cannot easily distinguish when she

is a sign painter and when she is a muralist. As vice president of the Portland Chapter of the Graphics Artists Guild, she works to protect artists' rights and economic interests. She said the City is restricting artists' rights as they are having to battle for physical space in which to create. She is worried about the Planning Bureau's concern for control of painted walls when she is not convinced there is a problem. An increase in painted walls is not a public safety issue and she does not think citizens would agree that these paintings are unacceptable or a problem. Is there a need to control public art? If visual quality is a concern, why is there not increased concern about public art education so people are prepared to make better aesthetic choices? She said education is the key to good common-sense decisions and is better than regulation. If the City were to do nothing, she believes there would be an increase in painted signs for a certain period of time because people panicked and ran out to grab space before it was gone. Once everything calms down, business owners will make more common-sense decisions.

Commissioner Hales moved the amendments. Commissioner Kafoury seconded and, hearing no objections, the Mayor so ordered.

Commissioner Francesconi said he would vote aye because he believes the City needs some guidance from the Supreme Court. He asked staff to prepare some potential options in the meantime rather than just waiting for this decision. He said he is willing to go with the moratorium as he thinks damage may be occurring to the City's livability.

Commissioner Sten said he is not convinced this is a great strategy but will support it rather than thwart the will of the rest of Council because it would be significantly worse to adopt the moratorium and then delay its effectiveness by 30 days (by removing the emergency clause), giving people a window as wide as a truck. The City has gone to great lengths to restore the murals on Albers Mill and people are very proud of full-size advertising signs because they are old, i.e. White Stag. He said the other thing that swung him to support this was that too many people are doing this without permits and not following the rules.

Mayor Katz said she would like to see people go through a legal process here.

Disposition: Ordinance No. 171881 as amended. (Y-5)

***1933** **TIME CERTAIN: 3:00 PM** - Authorize an intergovernmental agreement with Multnomah County Health Department for services related to implementation of the Lead Hazard Reduction Program (Ordinance)

Discussion: Commissioner Sten said the Water Bureau is required by federal law to constantly work to decrease the chances of lead poisoning. Portland does not have traces of lead in its water except from pipes in the homes. The Bureau concluded there was a lot more danger from lead paint and fixtures in houses and so it requested that the federal government allow it to spend some of the money in this

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program that would have a higher impact. The money will be targeted to doing community outreach to identify houses with lead paint and fixtures that need abatement. The Bureau has also helped start Clear Corps, composed mainly of young people trained to identify where the lead is and educate people about what to do.

Rosemary Menard, Director of Water Resources, Water Bureau, said this implements a program the City began exploring 3-1/2 years ago and is an innovative approach to meeting one of the requirements of the Federal Lead and Copper Rule. The program has been designed to partner with other jurisdictions' lead poisoning prevention programs, including Multnomah County which just received a \$2.9 million HUD grant for lead paint abatement. Staff has also been working with Humboldt Neighborhood and Northeast Portland community representatives, where most of the targeted neighborhoods for this program are located. An evaluation has also been built in to determine the effectiveness of the program and demonstrate that better public health benefits are achieved from this kind of activity than from putting the money into treatment programs. She described some of the monitoring that is planned. She said this program is designed to prevent the problem and educate parents rather than taking steps after children have already been exposed.

Narda Tolentina, Director, Epidemiology Section, Oregon Health Division, said full abatement is very costly and the alternative is a less expensive, common-sense set of maintenance steps that can be taken at home. Some of those steps, such as keeping the dust down, is what the Clearcorp will teach families to do. Compared to Eastern states, Oregon's problem is very manageable and this program is an exemplary example of how agencies can work together.

Hilda Adams, Health Director, Multnomah County, described the effect of lead exposure on children's development. Previous programs have all used kids as "canaries", those who have already been poisoned, to reduce further exposure. This program prevents exposure in the first place, not just by covering the chipping in a wall, but by raising the awareness of parents about how children are exposed to lead. Since over 50 percent of the City's homes were built before 1950, the majority of its children are exposed to lead paint daily. Lead abatement becomes especially important when older homes are remodeled to ensure that it does not get into the environment.

Mayor Katz questioned whether people could be educated about asbestos abatement programs as well.

Stacey Drake Edwards, community outreach coordinator, described the efforts staff is making to build partnerships with Clear Corps other organizations to help establish community support for the program.

Commissioner Francesconi asked how many children in Portland are estimated to have a lead problem.

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Ms. Edwards said approximately 2,000 are estimated to be poisoned now and the key is to prevent the other 60,000 children in the County from exposure. Children living in poverty in rental homes built before 1950 are judged as high risk and about 25 percent are estimated to have elevated blood lead. Most of the time they find that lead dust causes the problem.

Ms. Menard said a lot of people are unaware now of the need to have their children tested.

Commissioner Francesconi asked if the cost was coming from the savings that would otherwise been spent on the water program.

Ms. Menard said the cost for the first year is higher because of the evaluations but is expected to then go down.

Commissioner Sten said these are Parts Three and Four of a package the Water Bureau presented in response to the federal government which also included water treatment and capital changes in the water system.

Mayor Katz asked if Clear Corps was part of the Water Bureau's apprenticeship program.

Ms. Menard said not directly but opportunities may well develop in the future.

Shawn LaVantra, Clear Corps member, said Oregon State University has provided some of their training in hazard reduction.

Disposition: Ordinance No. 171882. (Y-5)

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

BARBARA CLARK
Auditor of the City of Portland

Cay Kershner

By Cay Kershner
Clerk of the Council