



CITY OF
PORTLAND, OREGON

**OFFICIAL
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 11TH DAY OF MARCH, 1998 AT 9:30 A.M.

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

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

On a Y-4 roll call, the balance of the Consent Agenda was adopted as follows:

CONSENT AGENDA - NO DISCUSSION

- 242 Accept bid of TPS Technologies, Inc. for stormwater sediment disposal or recycling for the Bureau of Environmental Services for an estimated annual amount of \$200,000 (Purchasing Report - Bid 98102)

Disposition: Accepted; prepare contract.

- 243 Reject all bids for NE 92nd Drive and NE Marx Drive sanitary sewer extension (Purchasing Report - Bid 98111)

Disposition: Accepted.

Mayor Vera Katz

- 244 Confirm reappointment of Linda Barnes, Mark Beckius, Michael Feves, Wayne Glasnapp, Ernest Grigsby and Patrick Kelly to the Building Code Board of Appeals (Report)

Disposition: Confirmed.

- 245 Confirm appointment of Lisa Miller and Eric Schmidt to the Advisory Board for Special Inspections (Report)

Disposition: Confirmed.

- 246 Report on demographic profile of City of Portland board and commission members as of December 31, 1997 (Report)

Disposition: Placed on File.

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***247** Pay claim of Sylvia Clairmont (Ordinance)

Disposition: Ordinance No. 172042. (Y-4)

***248** Authorize the Purchasing Agent to sign a contract with Candle Corporation for a three and one-half year licensing agreement without advertising for bids (Ordinance)

Disposition: Ordinance No. 172043. (Y-4)

***249** Authorize temporary appointment of Patricia Tighe to the position of Senior Debt Analyst at a rate of pay above mid-range (Ordinance)

Disposition: Ordinance No. 172044. (Y-4)

***250** Extend Legal Services Agreement with Lehner, Mitchell, Rodrigues and Sears (Ordinance; amend Agreement No. 31530)

Disposition: Ordinance No. 172045. (Y-4)

Commissioner Jim Francesconi

251 Confirm appointment of Dennis Nelson to the Taxicab Board of Review effective March 4, 1998 (Report)

Disposition: Confirmed.

***252** Grant permits to provide Specially Attended Transportation services in the city (Ordinance)

Disposition: Ordinance No. 172046. (Y-4)

***253** Increase landscape architectural flexible services contract with Ceccacci Associates in order to complete design services for the Hoyt Arboretum Visitor Center landscaping and parking lot by \$3,950 (Ordinance; amend Contract No. 30101)

Disposition: Ordinance No. 172047. (Y-4)

***254** Authorize payment for tenant improvement allowance for Oregon Baking Company at City Hall (Ordinance)

Disposition: Ordinance No. 172048. (Y-4)

Commissioner Charlie Hales

***255** Authorize a contract and provide for payment to construct the NW Westover traffic mitigation device, the Chapman School safety project, and the SW 57th/Dolph traffic safety project (Ordinance)

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Disposition: Ordinance No. 172049. (Y-4)

- *256 Accept grants from the Oregon Department of Transportation in the amounts of \$95,600 to implement the Vancouver/Williams Bikeway project and \$10,000 to develop and print a family-oriented bicycle map (Ordinance)

Disposition: Ordinance No. 172050. (Y-4)

- *257 Define property owner responsibility for streets (Ordinance; amend City Code Title 17)

Disposition: Ordinance No. 172051. (Y-4)

Commissioner Gretchen Miller Kafoury

- *258 Amend agreement with the Housing Authority of Portland to increase compensation by \$1,777,865 and provide for payment (Ordinance; amend Agreement No. 31468)

Disposition: Ordinance No. 172052. (Y-4)

Commissioner Erik Sten

- *259 Authorize the Water Bureau to enter into a contract with Maddaus Water Management to develop a regional conservation project tracking and measurement program for the Regional Water Providers Consortium, not to exceed \$50,000 (Ordinance)

Disposition: Ordinance No. 172053. (Y-4)

- *260 Authorize agreements for the conveyance of property to the Bureau of Environmental Services, subject to certain conditions being fulfilled, and authorize acceptance of deeds and payments of expenses (Ordinance)

Disposition: Ordinance No. 172054. (Y-4)

- *261 Authorize the Bureau of Environmental Services to enter into a Consent Decree in settlement of a lawsuit involving combined sewer overflow discharges (Ordinance)

Disposition: Ordinance No. 172055. (Y-4)

- 262 Authorize a contract with the lowest responsible bidder for the Hayden Meadows pump station improvements and Holgate pump station fencing for the Bureau of Environmental Services and provide for payment (Ordinance)

Disposition: Passed to Second Reading March 18, 1998 at 9:30 a.m.

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- 263** Amend the Intergovernmental Agreement among the cities of Gresham, Fairview, Portland, Troutdale and Wood Village and Multnomah County which created the Mt. Hood Cable Regulatory Commission (Second Reading Agenda 239; amend Agreement No. 50042)

Disposition: Ordinance No. 172056. (Y-4)

City Auditor Barbara Clark

- *264** Authorize permanent bonded lien interest rates for installment payment contracts financed by 1998 Series A Limited Tax Improvement Bonds (Ordinance)

Disposition: Ordinance No. 172057. (Y-4)

- *265** Assess system development charge contracts and deferrals (Ordinance; T0001, T0002)

Disposition: Ordinance No. 172058. (Y-4)

REGULAR AGENDA

Mayor Vera Katz

- 266** Authorize preparation of substantial amendments to existing urban renewal plans (Resolution)

Discussion: Chris Scherer, Finance Director, Portland Development Commission, said this resolution reflects the City's need to satisfy the conditions of Measure 50 and identify the projects needed to complete the existing plans in each of the five urban renewal areas. The amendments will set forth the maximum indebtedness that the City cannot exceed under the existing plans, although it will not be required to reach that level. The projects conform to the plans as they existed on December 5, 1996 as required.

Mayor Katz said this does not approve specific projects. The next step will be a five-year plan, which should be completed in the fall, and the next review for Council will be through next year's budget process. She said this is a very complicated issue and hard for everyone to understand what the result will be.

Commissioner Francesconi said the crunch time will come when Council has to decide how much to authorize in the tax increment plans versus ongoing general funds. The public should help Council determine what is funded in these plans.

Disposition: Resolution No. 35677. (Y-4)

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Commissioner Jim Francesconi

*267

Adopt findings, approve an alternate contracting process and create an exemption to the competitive bidding requirements of ORS Chapter 279 for Classical Chinese Garden project construction manager/general contractor procurement (Ordinance)

Discussion: Steve Sivage, Bureau of General Services (BGS), explained why this exemption is being requested. He said the bases and foundations of the Chinese Gardens are being constructed here while the rockeries, bridges and buildings are being designed and built in China. To make that all work together, a contractor needs to be on board early to help with construction issues, value engineering and schedule. Up to 60 Chinese workers will come here to work on the Gardens.

Mr. Sivage said the contractor selected will act as a consultant, oversee construction of the lake and walls, and provide assistance to the Chinese workers.

Commissioner Kafoury asked why BGS is doing this, instead of PDC.

Mr. Sivage said PDC asked BGS to do the project management as it no longer has its old project management section. The contract is actually held by the Executive Committee of the Classical Chinese Garden Trust, of which PDC is a member.

Bob Naito, Chair, Classical Chinese Garden Trust, said finding the right contractor is critical because of the need to carefully coordinate the work of the Chinese artisans who will be working side-by-side with U.S. construction workers. Cultural sensitivity training will be important too before construction begins.

Mayor Katz said she is trying to tape the conversations with the Chinese who are involved so there will be some record later of how two different cultures were able to work together.

Commissioner Francesconi asked why will the cost be lower than it would with competitive bidding.

Mr. Sivage said the cost will be lower due to the ability of the contractor to work directly with the designer in the early stages and better coordinate the scheduling.

Mr. Naito said this is the lowest cost way to do this kind of project. All the subcontracting on the Garden work will be bid out, representing probably 80 percent of the contract cost.

Commissioner Francesconi asked when Council will know the true cost for the American side of the construction.

Dick Raglund, Project Manager, BGS, said the Chinese portion is now estimated to cost \$2.43 million, but that could change when the construction drawings are finished in May. The cost for both the American and Chinese pieces will be presented in one package, probably in June.

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Commissioner Francesconi asked how the City checks the Chinese numbers.

Mr. Raglund said they will provide a schedule of values.

Mr. Naito said the Chinese were prepared to sign a lump sum contract for \$2.3 million in November but the City was not prepared to do so then. The increase from the original \$2.1 million results largely from an increase in the amount of building space and Chinese currency inflation. He does not anticipate any more significant increases.

Mr. Sivage said at some point the American designers, contractor and project manager will go to China to evaluate their progress.

Commissioner Francesconi asked whether the \$3 million in non-construction costs is firm and who is in charge of that part.

Mr. Sivage said BGS is determining now who is going to do the various project management pieces. Some will be assigned to BGS while others will be done by the Trust and the Mayor's office.

Commissioner Francesconi asked how the gap between tax increment funding and the total cost, including the non-construction, would be covered.

Mr. Naito said the difference will be covered by fund raising. A little over \$1 million still needs to be raised and they expect to receive some foundation grants in addition to individual and corporate gifts.

Commissioner Francesconi said he cannot imagine a more appropriate project for exemption from the competitive bidding process.

Disposition: Ordinance No. 172059. (Y-4)

Commissioner Charlie Hales

268

Establish \$141,350 as the maximum price for a newly constructed single family house eligible for limited property tax exemption in a distressed area (Resolution)

Discussion: Mike Saba, Planning Bureau, said this resolution is a required part of one of the City's housing assistance programs. In this case, the Code allows the City to grant a limited 10-year property tax exemption to promote the construction of new single-family housing in areas designated as "distressed" by the Planning Commission. The program has been in effect since 1991 and every year the Council is asked to establish a new maximum price limit for qualifying properties. A 10 percent raise is requested this year to reflect a similar increase in the cost of homes sold in the County last year.

Commissioner Sten asked for a quick review of the program.

Mr. Saba said a telephone survey of recipients was conducted and 100 responses were

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received from among 700 program participants. They found that 88 percent of the respondents owned their houses and 77 percent were first-time home buyers. The overwhelming majority came from other City neighborhoods and income ranged from low to middle levels. A very small percentage made over 100 percent median income. The program appears to be fulfilling its purpose, which is to promote new single family housing in distressed areas, some of which had not seen any new construction for decades. Periodically, the areas designated as distressed are reexamined as part of the Planning Bureau's community planning efforts. Participation rates are fairly well distributed among the neighborhoods and new houses have been built, not only in northeast Portland, the original target area, but also in outer southeast and North Portland. At year end there were 674 active accounts benefiting from the program.

Mayor Katz said she thought the issues were income qualification and actual home ownership as opposed to renting out after purchase.

Commissioner Sten said his concern is whether, as prices creep up, the City ends up subsidizing people who do not need it. As the price of the homes increases, so will the incomes of the buyers. He said Council needs to keep a close eye on this because in some cases the character of the eligible neighborhoods is very different now than when the program was first started. Also, he believes this program no longer provides home ownership opportunity at 80 percent median income or under and he is trying to figure out ways to get the income rate down.

Commissioner Kafoury said the continuing home ownership numbers signify to her occupancy by the original buyer.

Commissioner Sten noted that many of these neighborhoods are 70 percent rental, while the City average is 50/50.

Mayor Katz asked why transfers to rentals would be allowed if the program's aim is to encourage home ownership.

Mr. Saba said the original purpose was to encourage housing construction and there was discussion then about whether to require home occupancy. Council decided then that it was more important to provide an incentive for construction than to monitor their continued owner occupancy. That could be changed, however.

Mayor Katz asked if there were multiple owners of some homes.

Mr. Saba said the only multiple owners are non-profit organizations such as Habitat for Humanity and Host, and their homes are slated for home ownership.

Mayor Katz asked if there were any warning signals.

Mr. Saba said Commissioner Sten and others have questioned whether the program is necessary in this housing market. Staff believes that this is an effective tool to make sure Portland accommodates its regional share of housing.

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Jeff Fish, Fish Construction Northwest, said this is a very valuable tool to upgrade neighborhoods, despite fears about gentrification. The majority of home buyers are people who probably would not be able to qualify without some incentive. He noted that lot costs have gone up dramatically and "clean" lots have become increasingly hard to find.

Denny Ralston, Heartstone Properties, said he builds inner City homes in northeast and most of his home buyers would have a hard time qualifying but are diligent people who keep their properties up, which is what is needed in these distressed areas.

Commissioner Francesconi asked how many developers are doing low cost, infill housing in Portland for first-time home buyers.

Mr. Fish guessed there are about 25, who do from two to 25 homes a year. The number is slowly shrinking as young builders are more likely to go to the newer subdivisions.

Commissioner Francesconi asked about the role of the non-profits versus that of the small developer.

Mr. Fish said it is hard for a small developer to compete with the non-profits when they receive land donated or sold to them at less than market price.

Mr. Ralston agreed about the escalation in lot prices and the lack of good lots that remain.

Commissioner Kafoury said these developers deserve a lot of accolades as the non-profits cannot even begin to meet the demand for affordable housing.

Commissioner Francesconi said Council should talk more about what the City could do for small developers in this area.

Commissioner Kafoury said one issue is what steps might be taken to encourage developers of affordable housing, realizing that the non-profits get fee waivers and are exempt from Service Development Charges (SDCs).

Commissioner Sten said he has concluded that the private sector seems to be more efficient in building homes in the 80 to 100 percent median income range. Around 50 percent median income, a charitable contribution is needed. It was not his intention to support a SDC unless it exempted all affordable housing, regardless of who built it. He thought the exemption was based on price, not just for non-profits, and would like to go back and amend the Transportation SDC to do that.

Mayor Katz said one big hole is the potential financial impact of the waivers now provided for non-profits on SDCs.

Disposition: Resolution No. 35678. (Y-4)

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269 Adopt the Citizens Advisory Committee recommendation for the proposed SE Foster Road, SE 162nd Avenue to SE Jenne Road street improvement project and direct City staff to seek permits to implement the recommended option (Resolution)

Discussion: The Clerk said Commissioner Hales had asked that this be referred back to his office.

Disposition: Referred to Commissioner of Public Safety.

City Auditor Barbara Clark

270 Create a local improvement district to construct street and sewer improvements in the revised SW Evans Street/19th Avenue Local Improvement District (Hearing; Ordinance; C-9911)

Discussion: Lola Gailey, Portland Office of Transportation (PDOT), said this project was brought to Council in May, 1997 at which time Council asked why 19th Avenue could not be completed to Moss, rather than ending mid-block. PDOT explained that when the District was formed the City did not have enough neighborhood support to do the entire project but recently some interest had been expressed in expanding this district. Council then continued the session to allow staff to discuss the expansion with neighbors and recirculate a new petition. After receiving a petition with signatures representing 53 percent support for the expanded district, PDOT designed the remainder of the project, which they bring to Council today.

Kurt Weindorff, owner of Tax Lot 19 on the northwest corner of the proposed LID, opposed the extension. He questioned the petition process, noting that the original petition in 1996 resulted in the exclusion of the northern portion of SW 19th from the LID because there was no support for improving 19th between Evans and Moss. He said his is one of four properties, only one of which favors the proposal, that will be affected by the expanded new proposal. He said the petition now before Council specifically calls for constructing sidewalks on one side. The project has now expanded beyond what was requested in the petition and he and the other opponents believe it misled those who signed it.

Commissioner Francesconi asked what his portion would cost.

Mr. Weindorff said \$32,940 for two tax lots.

Louise Reynolds, owner of Tax Lots 169 and 24, said she never saw either of the petitions circulated. On the second petition she was told they would be doing Evans and the lower half of 19th and that she was excluded from the project. She said the project is very unfair and should be taken back for a revote.

Michael Roche, Land-Use Chair, Multnomah Neighborhood Association and Southwest Neighborhood Association, said he is before Council at the request of neighbors who brought this issue to him last weekend. The people on 19th oppose the project, while the majority of those signing the petition live on SW Evans. He suggested that the City do the

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project on Evans, where people clearly want it, and exclude both south and north 19th. He said the project is unclear about how stormwater is going to be dealt with and there is concern that water coming down Moss and 19th will be piped into Tryon Creek untreated. The bigger question is LIDs in general, which for the Multnomah Neighborhood Association area alone could cost between \$20 and \$30 million. To complete infrastructure in the Southwest Community Plan area will take millions of dollars and pit neighbors against neighbors in fights about waivers of remonstrance. He asked Council to consider using a capital bond project as was recommended well over a year ago. The City must address how it is going to pay for infrastructure if it is going to proceed with the pace of development in these neighborhoods.

Christopher Rand, 1300 SW 5th Avenue, 97201, representing Scott Edwards of Barbur Boulevard Rentals, said earlier they had raised two issues: 1) the scope of the district boundary; and 2) deferment of the assessment on the Edwards family. In 1991, when the Edwards sought a building permit they were asked to sign a waiver stating that they would not object to the cost of any roads designed to serve their property. Those waivers have been used to bring the Edwards property within the LID boundary and to assess the family more than \$80,000 for an improvement that their properties will gain no benefit from. He noted there was no way for them to access SW 19th from their building. Also, the City has stated that as long as the building is in commercial use the Edwards cannot tap a road into Evans to gain benefit from the \$80,000 they are paying for its improvement.

Scott Edwards, Barbur Boulevard Rentals, said they try to be a good neighbor but taking an \$80,000 hit for something they cannot use is very tough. He said they are denied access into Evans because of their truck traffic.

Commissioner Sten noted that the family signed a waiver that clearly speaks to that, even though he understands why they would not want to pay \$80,000.

Mr. Rand said the waiver states that the property owner agrees to have his/her property counted in favor of any street improvement planned by the City and designed to serve this property. Since there is no access to either of their tax lots, they believe the road is not designed to serve them.

Mayor Katz noted that the description of why this will benefit the property refers to the "future" use of the property.

Mr. Rand said the City has defined that as "highest and best use" and this property will benefit if it is converted to residential use. One parcel is designated R1 while the lower one is designated General Commercial. When the Edwards came in to apply for a commercial building permit they were asked to sign the waiver even though they have no intention of converting the property to residential use at any point in the future.

Commissioner Sten said the documents indicate that when the Edwards got their building permit they were required by Code to improve the adjacent streets. They signed a waiver to get out of that Code requirement and are now interpreting some of the wording pretty liberally to support reneging on their agreement not to enter a remonstrance.

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Mr. Rand said the Edwards thought the waiver was designed for projects on Capitol Way, the street in front of their store. The Edwards would have no problem being included in the LID if it would give them access to SW 19th but they have been expressly told by the City that they could not access either SW 19th or Evans unless the property is converted to residential use. He said they had talked to Dan Vizzini last year about a potential deferral until the property became residential. Now Mr. Vizzini has left and the Auditor's Office has indicated that is no longer a viable option.

Frank Dufay, Assessments Manager, Auditor's Office, said while it is probably a good idea to have some kind of deferral program, no funding source has been identified for it. He said the City has many properties where the assessment is based on highest and best use and the question is how many property owners would be allowed to defer. That could require a huge deferral program. The City Attorney has advised that the City had no authority to grant a deferral.

Commissioner Sten asked whether the improvement will serve the property.

Mr. Dufay said it will serve the property at some point, when it is developed to its highest and best use. The issue of waivers has been before Council a number of times.

Harry Auerbach, Deputy City Attorney, said he is unaware of any case that deals specifically with this issue. Development of street infrastructure has always been the responsibility of the property owners. Waivers of remonstrance represent trade offs, with the City agreeing not to require property owners to improve the streets abutting their property in return for an agreement that when those improvements do occur, they will agree to participate, through a LID.

Mayor Katz said but in this case the Edwards will not benefit unless they revert to a higher and best use. Does the City make decisions based on what the property owner might do five or ten years later?

Mr. Auerbach said yes.

Commissioner Francesconi asked what percentage of assessments are not based on current use but on future highest and best use.

Mr. Dufay said a fairly high percentage, probably over 50 percent, because there is a lot of development going on.

Jean Craycroft, owner of Tax Lot 11 on SW 19th Street, said 19th is two blocks long and the City is demanding sidewalks on both sides of one block, the only place on the hill that will have them. Also, the people on 19th are paying 60 percent of the cost of the entire project, which began with SW Evans only. Estimates have risen 40 percent since inception of the project two years ago. She said this is a very heavy hit for her, especially as her property was not originally included.

Margaret Schumaker, owner of Tax Lot 1 on SW 19th Street, supported the project,

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although she does not agree that the sidewalk is needed on both sides. She said property owners will benefit indirectly from these improvements because they give emergency vehicles better access.

Mayor Katz asked staff to address the issues raised.

Lola Gailey, Office of Transportation, said the majority of support for this project does come from Evans Street and Transportation was not able to do the entire street on the first petition because of the lack of support from residents on 19th. At that time, the southern portion of 19th was included because there are several apartment complexes there which had no vehicular access to Barbur Boulevard so all the apartment dwellers used 19th to access it. There was not enough support at that time to do the northern portion of 19th so it was excluded. Since that time, however, a second petition in support of the project was signed by three property owners, representing 66 percent of the property on the northern piece.

Commissioner Kafoury asked how a building permit was granted for the apartments on Lot 10 without the street improvements.

Ms. Gailey said it was one property, with no pavement to connect to so it did not make sense at the time to do a little bit of street frontage.

Regarding the petition of support, Ms. Gailey said the original petitioner agreed to circulate a second one and was required only to collect enough signatures in support from a majority of property owners, not every single one. He knew who was opposed and did not approach them. She said this is not a project that can proceed based only on waivers as they have signatures in support from 53 percent of property owners with another 25 percent based on waivers.

Commissioner Kafoury asked about sidewalks on both sides.

Ms. Gailey said the City's standard policy is to require sidewalks on both sides of all street improvement projects wherever practical. There will be sidewalks on both sides of the northern half of 19th and all along Evans. On the lower half of 19th, there is only 30 feet of right-of-way and the Barbur Boulevard Rentals building is directly on the property line so there will be sidewalk on one side only there.

Mayor Katz asked why the improvement did not just stop on Evans.

Ms. Gailey said there are 10 homes and a small business on Evans, while there are 33 apartments on 19th with the possibility of having up to 66 on Tax Lot 124. The City did not feel it was equitable to have the people on Evans carry the full cost of the improvement. Drainage problems on 19th will be taken care of as well.

Commissioner Francesconi asked why the northern portion of 19th was included.

Ms. Gailey said it connects to Moss, a substandard asphalt street, and they have signatures in support from property owners there.

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Commissioner Francesconi asked about the difference in cost between having sidewalks on both sides of the street, rather than one.

Ms. Gailey said the cost would be insignificant, probably \$300 to \$500, as the cost is assessed to everyone in the district. The assessments on residential properties are averaging between \$15,000 and \$19,000 each.

Mayor Katz asked for a breakout of the cost, especially for those who did not see the petition.

John Wolfe, Bureau of Environmental Services (BES), noted that when the project began in 1994 there were no standards in place requiring stormwater treatment. Since then more stringent requirements have been imposed by the Department of Environmental Quality. He said water comes down the right-of-way area on Moss, a gravel road, carrying sediment down the hill. A pipe system in the right-of-way will improve this situation but it will still empty out into the creek.

Commissioner Sten said it looks like this design may not meet the new standards which have not yet been adopted, but it is better than what is currently there. He asked if the new requirements will cost property owners more.

Mr. Wolfe said they may.

Commissioner Francesconi asked how much the other assessments for the other property owners (Tax Lots 24, 169 and 11) on 19th would cost.

Ms. Gailey said the first two combined is \$32,000 while the assessment for Tax Lot 11 is \$28,000. However, the City is purchasing 20 feet of property on Tax Lot 11 so that property owner will be reimbursed for the additional right-of-way needed.

Commissioner Francesconi asked how many cars will use Moss.

Ms. Gailey said the majority of traffic will be generated by the apartments on Tax Lots 10 and Tax Lot 124, if it is developed. They have the option of going out Evans or going up to Moss. A trip generation analysis is included in the report.

Mayor Katz said she has a problem with assessing people who have not been notified, those on Lots 169, 24 and 11.

Ms. Gailey said after the second petition was circulated, a neighborhood meeting was held and everyone in the new district was notified and given the new preliminary plan.

Commissioner Kafoury said if people know a particular person is opposed to the project, she is not sure they should be required to make one-on-one contact as long as there is notification.

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Ms. Gailey described the reasons why the properties on the upper half of SW 19th wished to be included.

Commissioner Francesconi said he is a little troubled that there are no numbers to show how connectivity is advanced by improving the northern portion. He would like to see better numbers as to how many people will use it to justify the added burden on people. He has no problem with proceeding with Evans and the southern portion of 19th.

Commissioner Sten said the other point to consider is how much consideration should be given a minority block when a majority of the neighborhood wants to pay its own money to improve the street. If the City only improves Evans will that cause all the apartment dwellers to use it and the people who paid for the improvement get the benefit of all the added traffic. Will that traffic take the bumpy road on Moss to get to 19th?

Mr. Weindorff said he heard two misstatements. First, SW 19th is paved, not gravel. Second, they were not invited to the meeting.

Mayor Katz said more information is needed and then Council will deal with the remonstrances.

Disposition: Continued to March 18, 1998 at 9:30 a.m.

Communications

271

Request of Wesley C. Risher, President of Hillsdale Neighborhood Association, to update Council on efforts to create a Utility Underground District (Communication)

Discussion: Wesley C. Risher, Hillsdale Neighborhood Association, updated Council on efforts to underground utilities along Capitol Highway. He now has a better estimate of what it would cost to do within the commercial right-of-way, about \$890,000. No other underground utility district has ever been created in the State and this is a new concept allowed by the Public Utilities Commission. He said they hope to do an advisory ballot of the neighborhood to measure support and then determine whether the district should proceed.

Mayor Katz asked about the cost to ratepayers.

Mr. Risher said they expect it to cost about \$2.25 a month more for a residential household for 20 years. He described the outreach efforts that are being made to residents and the voting process. If the undergrounding is done, it should coincide with the Capitol Highway improvements in the Hillsdale commercial district, where property owners are committing \$300,000 to a Local Improvement District. He held 10 focus group meetings in different sections of the neighborhood to talk about this project and later did surveys which showed about 80 percent in favor. Along the geographic fringes of the neighborhood, however, there was less support because people do not feel as connected with the district.

Mayor Katz asked what transportation projects will assist in getting this done.

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Mr. Risher said \$645,000 in funds has been allocated to the mid-block crossing at Hillsdale and the realignment of the Capitol Highway/Sunset intersection, plus sidewalk improvements on the north side of the commercial area. As part of that project, the utility poles will be moved and removing them should also be explored as this is the most economical time to do it.

Commissioner Sten said he will ask the Energy Office if it can help as this could save serious money for the utilities on emergency repairs.

Mr. Risher said undergrounding should be a part of all the Town Centers to ensure a better urban environment as more density is added. One issue will be whether to include School District properties.

Mayor Katz requested a check list for developing such a district so this model can be used for others. She asked what other support the City might provide to make this a success.

Mr. Risher said the City Auditor has offered funding for the balloting.

Disposition: Placed on File.

At 11:25 a.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 11TH DAY OF MARCH, 1998 AT 2:00 P.M.

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

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

Commissioner Charlie Hales

***275** Adopt Comprehensive Plan designations and zoning in Sellwood (Ordinance; **Continued to Thursday, March 12, 1998 at 2:00 pm**)

Disposition: Continued to March 12, 1998 at 2:00 p.m.

272 **TIME CERTAIN: 2:00 PM** - Per City Code 3.21.085(4)(d) review appeal of Donna Ziegler to the Police Internal Investigations Auditing Committee (PIIAC #97-22) (Report introduced by Mayor Katz)

Discussion: Robert Wells, Citizens Advisor, PIIAC, summarized the incident leading to this appeal. He noted that the appellant and her husband were arrested for growing marijuana during service of a warrant but the appellant complains about police conduct during a "knock and talk" procedure conducted by the Marijuana Task Force prior to issuance of the warrant. She also alleges that an officer from the City of Vancouver acted improperly, causing the warrant to be invalidated and the charges to be dismissed, and that other Portland officers failed to take actions against those improprieties. The appellant accuses the other four Portland officers as being deceitful as to the Vancouver officer's misconduct and seems to include the Internal Affairs Division (IAD) sergeant as well. Mr. Wells said the officers acted properly in obtaining a formal search warrant, as requested by the appellant, and the Advisors found the IAD investigation was conducted in a fair and reasonable manner and concluded there was no misconduct by the Bureau.

Lisa Botsko, PIIAC staffperson, said some of the allegations stem from the police "knock and talk" procedure, rather than from specific misconduct by the officers. The appellant was dismayed that the police knocked on her door several times and at one point removed her from her house. She said, under the law, the officers' conduct is allowable. There was also concern that Internal Affairs did not interview all the neighbors. However, the appellant did provide Internal Affairs with a private investigative report conducted by her attorney which included interviews with the neighbors, except for one who was unavailable.

Mayor Katz noted that the appellant has requested that Dan Handelman represent her. That has never been done before and the Code is unclear as to whether that is acceptable. She asked for Council input.

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Commissioner Francesconi said he views Mr. Handelman as an advocate on a broad number of PIIAC issues rather than a spokesperson for a single client. He also questioned who would represent the other side. He would therefore say no, although Mr. Handelman is free to testify on his own behalf.

Mayor Katz agreed and said Council needs to hear directly from the appellant.

Mr. Handelman said the appellant asked him to represent her because of her deep emotional connections with the case.

Mayor Katz said if the complainant had difficulty in speaking then a translator could be called. All appellants are emotional when they come to Council.

Commissioner Sten asked if a person has a right to representation.

Ms. Botsko said she is not sure, although she recalls one case where a complainant had a private attorney with her, although both spoke.

Commissioner Sten said the question is whether people have the right to representation under the Code. If so, they can pick whoever they want.

Mayor Katz said her sense of the Council is that it would like to hear from the appellant and then from Mr. Handelman.

Donna Ziegler, appellant, objected to the fact that her name has been publicly revealed and not kept confidential. She said she asked Mr. Handelman to represent her because she becomes too emotional in talking about the incident. She said the question here is not whether a crime was committed but whether the police officers acted inappropriately by trespassing on her property and vandalizing her fence. She requested that the Advisors' findings against Officer C be changed to insufficient evidence, not exonerated, as there is not enough evidence to indicate whether Officer C knew what the Vancouver officer did. She also questioned the destruction of the Vancouver investigation files before they were made available to PIIAC. The findings for Officer B should also be changed to insufficient evidence as there was also not enough evidence to prove that he did not trespass. She criticized the failure of the investigators to interview several witnesses. As to whether Officer A used excessive force in removing her from her home, she said the findings should be changed from exonerated to sustained because the force used was unnecessary. She described the incident and her concern about the procedure used to pull her out of her house, leaving her children inside. She said unfair and intimidating remarks made by Captain Killinger during the investigation should also be considered part of her appeal. She criticized the lack of timeliness in this case and the way the December 11th Citizen Advisors meeting was conducted. In summary, she asked Council to change the findings for Officers B and C regarding the trespassing incident to "insufficient evidence" and to change the finding for Officer A to "sustained" for forcibly pulling her from her home.

Commissioner Francesconi asked how many marijuana plants were found in the house.

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Ms. Ziegler said she could not answer because the case has been dropped, although she believes there is a discrepancy between what the photos show and what the police report alleges. Charges of child neglect against her were brought but later dropped by the District Attorney. She noted that the Vancouver police officer was disciplined and that a claim for the damage to her property was settled quickly. She made a claim against the City of Portland because of the officers' assertion that she was endangering her children but it was dismissed by Risk Management.

Commissioner Sten asked if she disputed Officer A's contention that he saw marijuana leaves.

Ms. Ziegler said yes. Officer A's testimony said there was potting soil only in the front yard, not root balls. There were no marijuana plants in her home.

Mayor Katz read from the police report which stated that 22 plants were seized.

Ms. Ziegler said she believes that is very minor compared to being yanked out of her house in front of her children and being told she could not retrieve them unless she agreed to a search warrant.

Mayor Katz asked staff to describe that procedure.

Ms. Botsko said officers do have the authority to detain people if they believe they might destroy evidence.

Mr. Wells said the search warrant states that it was based on Officer A's observation of potting soil and marijuana root balls in the front yard as well as appellant's response when asked about marijuana growing.

Ms. Ziegler disputed that and stated that in the discovery prepared by the District Attorney relating to the child neglect charge, it was reported that the officer observed only potting soil, not root balls.

Commissioner Sten asked how PIIAC views this case.

Ms. Botsko said there was a difference of opinion as to whether the authorities should have proceeded regardless of the Vancouver police officer's involvement. He was the only officer who smelled marijuana and had poked a hole into the shed wall. The Portland officers testified that they did not see what the Vancouver officer was doing.

Commissioner Kafoury said the question is whether the Advisors' findings should be sustained or whether this should be remanded back. In this case a neighbor reported suspected illegal activity and the Police investigated, following their normal procedures.

Ms. Botsko said as long as the Police take instruction from the District Attorney, the Advisors do not feel comfortable telling them their procedures are wrong.

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Mr. Wells said the search warrant specifically mentions a sighting of marijuana root balls in the front yard.

Dan Handelman, Portland Cop Watch, PO Box 42456, 97242, said they believe they should be allowed to represent someone if asked. In this case, the appellant has trouble addressing this matter without growing angry and that is why she asked him to represent her. What Ms. Ziegler is asking for is not a "sustained" finding for all her claims. Instead, she is asking for "insufficient evidence" in the trespassing issues, rather than "sustained." He questioned whether pulling someone from a house is a proper procedure and called for a review of the "knock and talk" procedure. He said if all the witnesses are not interviewed it is not a thorough investigation and if files are destroyed, PIIAC cannot conduct a thorough review. He said the issue is not the existence of marijuana plants. Rather, it is whether the Portland police officers saw the Vancouver police officer standing on the fence and poking holes in the shed on property they had no search warrant for. No one knows, which is why the findings should be changed to "insufficient evidence." He too questioned revealing the complainant's name publicly when the officers' names are not.

Captain Bill Bennington, IAD, said the officers had information giving them probable cause to conduct a "knock and talk" operation and to obtain a search warrant, even without the tainted information from the Vancouver officer. None of the officers observed the Vancouver officer because their view was obstructed and the summary information obtained from the Vancouver Police Department was found not to be germane to this investigation and was then destroyed. The police acted appropriately and the case was not thrown out in court but withdrawn by the District Attorney after the incident with the Vancouver officer was made known.

Commissioner Francesconi moved to sustain the findings of the Citizen Advisors to dismiss this case. Commissioner Kafoury seconded.

Commissioner Francesconi noted that 19 to 22 marijuana plants were found, which constitutes a felony, and the mother could have been incarcerated but instead the charges were dropped because of the improper conduct by the Vancouver officer. That was appropriate, given the system, but to pursue this further threatens the PIIAC process.

Commissioner Sten said some procedures need to be clarified by PIIAC and not fought over in Council. He noted that marijuana plants were found and that he sees no evidence that the police went outside of their bounds. The complainant got off because of the Vancouver officer's conduct.

Mayor Katz said she will pursue the use of an appellant's name in such cases but personally finds nothing wrong with it, as it is public information in the court record. She will also try to spell out exactly who can testify on behalf of an appellant as the Code is unclear on this point.

Disposition: Appeal Denied. (Y-4)

Per City Code 3.21.085(4)(d) review appeal of Spencer Neal to the Police Internal Investigations Auditing Committee (PIIAC #97-24) (Report introduced by Mayor Katz)

Discussion: Ms. Botsko said this complaint was filed by an attorney who was called by a client who had contacted him in the midst of a traffic stop. The complainant arrived at the scene of the incident and made a rude comment to Officer A who, in response, told Mr. Neal that he should use Rogaine, a hair growth treatment. The complainant believes the officer should be disciplined for discourtesy. Internal Affairs declined to investigate because of the complainant's provocative behavior and habit of filing frivolous complaints. The Citizen Advisors affirms Internal Affairs' decision, based on the totality of the circumstances, the behavior of the complainant and the merits of the case.

Spencer Neal, appellant, said the officer was discourteous to him and his client. The officer in question has a pattern of provoking his client, Michael Fessler, into violence. He noted that in the past the City settled a lawsuit with his client based on the officer's conduct but the provocation has continued. Mr. Neal said in this case, the police planned to tow his client's car because he had borrowed it from a friend and could not locate the insurance papers. After Mr. Neal asked the officer to refer to his client by his last name, not his first, the officer continued to provoke his client. Finally, when the officer offered to shake hands he declined stating: "I don't shake hands with assholes." The officer responded: "I have two words for you, Rogaine." Mr. Neal said the Police Bureau has a general order stating that officers must be courteous to members of the public, without qualification. He said Internal Affairs declined to investigate his complaint although, if these facts are true, they are obligated to investigate instead of chastising him for his past utilization of the Internal Affairs process. The officer does not dispute his words. PIIAC is only supposed to review whether proper procedures were followed by Internal Affairs, not go to the merits of the case. However, the Citizen Advisors instead discussed his status as a lawyer and his actions on the scene. He said the Internal Affairs interviews vary in quality, with some becoming interrogations, and he needs to know what the process is as he has several pending complaints.

Commissioner Francesconi asked Mr. Neal if he was acting as an officer of the court, acting on behalf of his client, when he made that statement to the officer.

Mr. Neal said if the Police Bureau wants to file a complaint against him with the Oregon State Bar, it can, but he does not know if it has.

Commissioner Francesconi asked if he wanted Internal Affairs to spend tax payer dollars to investigate the Rogaine comment.

Mr. Neal said he wants IAD to investigate whether the officer was discourteous to him, violating a general order.

Captain Bennington said the primary allegation has to do with the Rogaine comment but a separate complaint, regarding the client and the officer, was filed and is being investigated. This one was declined, based on lack of merit. In this case, the situation escalated to the point where 10 people gathered in the immediate area. The appellant interjected himself

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into the incident and told Officer A "you are on my list," which he views as a viable threat, and also made disparaging remarks to which the officer responded with some jocularity. Given the tense situation, the complaint has no merit.

Commissioner Sten asked why IAD declined this complaint rather than making a finding that the officer did not break any rules.

Captain Bennington said this is a unique case because very rarely are all the facts undisputed from the beginning. He cannot make a finding of fact without a full investigation, which would cost hundreds of dollars.

Ms. Botsko said this has puzzled the Citizen Advisors also and IAD has never developed a policy which calls for a finding even if it does a preliminary investigation. However, in order to make a finding now, Captain Bennington would have to pull the officer in for an interview and then ask the precinct commander for a full finding. The Advisors are not shy about returning a case for full investigation if they believe a declination was not in order.

Commissioner Kafoury moved to uphold the Advisors' recommendation. Commissioner Francesconi seconded.

Disposition: Appeal Denied. (Y-4)

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Per City Code 3.21.085(5) accept Fourth Quarter 1997 Monitoring Report as approved by the Citizen Advisory Committee to the Police Internal Investigations Auditing Committee (PIIAC) (Report introduced by Mayor Katz)

Discussion: Ms. Botkso, speaking for Robert Ueland, the Monitoring Committee Chair, reviewed some of the Committee's major concerns over the past quarter. She said the Committee has seen a number of cases where officers can improve their performance but there is currently no mechanism PIIAC can use to deal with performance issues. They are considering adding a finding of "not sustained debriefing." Another area of concern is how to deal with complaints about off-duty officers. She said the Advisors are requesting that the Bureau establish some expectations about courtesy for off-duty officers. The Advisors also continue to see a few violations of police data bases for personal use and a lack of timeliness in reviewing complaints, a perennial problem and still the biggest bone of contention between the Advisors and IAD.

Commissioner Francesconi asked what time lines had been set.

Ms. Botsko said IAD is supposed to complete its review within 45 days but is nowhere near meeting that deadline. She added that other cities all have the same problem.

Mayor Katz said she will look into this and may also try to re-engineer the process to streamline the timelines.

Captain Bennington said IAD will review all the recommendations but noted that staffing is the major barrier to meeting the timelines.

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Dan Handelman, Portland Cop Watch, reviewed his organization's comments on the monitoring report as outlined in his written submission. These included recommendations on mitigation and changed findings, external review in deadly force cases, the appropriate length of Crisis Intervention Team training (40 hours), changes in the General Order regarding officer identification, use of counseling as a kind of "plea bargaining" to avoid possible misconduct charges, and off-duty conduct. He requested a complete audit of the PIIAC review process and recommended that the Code be changed to give PIIAC, not the Police Chief, final say in the appeals. He said in the appeal heard today Council put both complainants on trial rather than considering whether the officers acted appropriately. He said if the complainants are questioned in this manner, then the officers should be subject to the same process. He asked for summaries in the monitoring report of cases that have been continued and called for better preparation of complainants before they appear before PIIAC.

Commissioner Kafoury said she is troubled by the assertion that Council interrogated people today. She thought Council listened respectfully to the first complainant and the other witness was visibly hostile to begin with. She does not know many people who would not respond with some comment, as the officer did in that case.

Mr. Handelman said the issue there is whether there may have been misconduct. On its face, an insult was directed at a civilian, even as a joke.

Commissioner Kafoury said if she had used the phrase Mr. Neal did and the officer had replied "you fat old lady," she would have deserved it.

Commissioner Sten said in the second case both sides appear to be using the system and he believes, in an understaffed department, this detracts from the ability to deal with serious complaints. In the first case, it is her word against the Advisors' recommendation, so he needed to push a little to clarify that. Where was the line crossed?

Mr. Handelman said asking how many plants may have existed is irrelevant to whether officers may have seen another officer trespassing. That was the question.

Mayor Katz asked how the mediation pilot project is working.

Captain Bennington said it is technically still viable but a backlog arose in September so the police quit putting in cases for mediation until the mediation center is again able to accept new ones. He estimated that between 45 and 50 cases could go to mediation each year.

Commissioner Kafoury said the backlog has now been eliminated.

Disposition: Accepted. (Y-4)

At 3:43 p.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 12TH DAY OF MARCH, 1998 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.

Commissioner Charlie Hales

***275** Adopt Comprehensive Plan designations and zoning in Sellwood (Ordinance))

NOTE: Mayor Katz excused herself from consideration of this item and Commissioner Sten presided.

Discussion: Mark Bello, Planning Bureau, said when Council adopted the Sellwood/Moreland Neighborhood Plan it delayed designation of the zoning for a portion of Sellwood (Amendment #3) to give the neighborhood time to come up with a more appropriate pattern than the existing R2 designation, the R5 proposed by the neighborhood, or the R2.5 proposed by the Planning Commission. A compromise was reached between the Sellwood Moreland Improvement League (SMILE) and the Sellwood/Moreland Business Association (SMBA) and brought to Council on February 18. At that hearing, Council asked staff to review those properties owned by Clyde Brummell at the northwest corner of SE Sherrett and 17th. Today's ordinance represents the SMILE/SMBA compromise and a substitute map has been distributed regarding the zoning on Mr. Brummell's properties. SMBA has indicated it has no objections to the map changes.

Clyde Brummell, Brummell Construction, 8435 SE 17th Avenue, 97202, said a zone map agreement has been reached that will prevent dissension in the neighborhood and allow him to build 88 units of housing for the disabled and elderly.

Leonard Gard, 1647 SE Sherrett, said he has no objections to the R2.5 zoning on Sherrett between 16th and 17th but does object to the zoning on two particular lots, which will become a part of Mr. Brummell's 88-unit project. He just learned last week that Mr. Brummell may wish to extend his project in the future further down the block to include those two lots. Mr. Gard said these lots should be zoned R2.5, not R2. Extending the project would make it too large and out of character with the neighborhood. The R2.5 is needed for transition between the R2 and R5 further to the west.

Lee Leighton, President, SMILE, said SMILE met with Mr. Brummell to discuss the zoning on the 25 properties he owns in the residential areas subject to Amendment #3. Mr. Leighton said he believes this is a reasonable compromise because, with the exception of three lots along Marion Street, it is entirely consistent with the R2.5 zoning designated within this area at the very first neighborhood workshop. Regarding the R2 proposal requested by Mr. Brummell, the two structures there now are immediately north of the wing

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of a four-story building, putting them in shadow much of the time. It makes sense for the shadow break to occur at the street where they have a 50-foot right-of-way and that was why Mr. Brummell's request seemed reasonable. He noted that while he has seen this proposal, the SMILE Board has not acted on it.

Mr. Brummell said he agreed to build duplexes on the lots Mr. Gard references in order to provide a buffer zone between his housing complex and the residential area to the west.

Mr. Bello said the fact that duplexes will be built on those lots provides a transition between Mr. Brummell's project and the neighborhood.

Commissioner Hales moved the Substitute map proposal distributed today. Commissioner Kafoury seconded and roll was called. (Y-4)

Disposition: Ordinance No. 172060 as amended. (Y-4; Mayor Katz abstaining)

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TIME CERTAIN: 2:00 PM - Appeal of Collins View Neighborhood Association against Hearings Officer's decision to approve with conditions the application of Lewis and Clark College for conditional use master plan amendments with an adjustment at 0615 SW Palatine Hill Road (Hearing; 97-00074 CU MS AD)

Discussion: Ruth Spetter, Senior Deputy City Attorney, outlined the procedures to be followed for testifying at the hearing and for raising appeal issues.

Susan McKinney, Planning Bureau, said Lewis and Clark College's Master Plan was approved in 1992 and the current amendment package folds in much of that plan, including conditions of approval, and close to 85 percent of the plan before Council today has already been approved. Significant new items include an increase in student housing on campus from about 1,000 to 1,450, addition of a 146-space parking lot at the Houston ball fields, an expanded Transportation Demand Management (TDM) Plan, a new special events policy, expansion of the law school library and other buildings, and public street improvements. Exhibit G-7 lists the proposed projects. She noted the applicable approval criteria for the record. The original application included a request for environmental review because the Houston Field parking lot encroached slightly into the EC zone but the College has now redesigned the parking lot to remove it from the environmental zone. The original application also included a number of adjustments, all but one of which were found to be unnecessary or were removed prior to hearing. The Hearings Officer did approve an adjustment requesting a waiver of the landscaping upgrade requirement for existing non-conforming parking lots. However, in its rebuttal to the appeal, the College withdrew that adjustment request as well.

Ms. McKinney showed slides of the site to indicate existing parking conditions, where the new parking lot is proposed, where new development has occurred since 1992, those intersections where conditions for street improvements have been imposed, and the unimproved pathway extending from the law school that intersects with a paved pathway along Terwilliger and Tryon Creek State Park.

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Ms. McKinney addressed many of the issues cited in the appeal. First, appellants question the fact that the law school expansion assumes no increase in traffic or parking demand. She read a statement from Mike Coleman, Bureau of Traffic Management, which states that the number of vehicle trips generated by the law school expansion depends directly on school activity, not the increase in the square footage. Regarding the phasing of development (Appeal Issue No. 3), while the criteria requires that Master Plans include a probable sequence of development, commonly they are approved without specific phasing time lines, as much depends on the institution's ability to raise money and specific development purposes. Regarding questions about how public improvements tie into proposed development on private property, Ms. McKinney said in this case a number of conditions of approval require public improvements within the right-of-way adjacent to the college's property. In the college's rebuttal statement, there is a proposed phasing time line for those improvements which, from her brief review, appears satisfactory. The fourth appeal item, transportation and parking, expresses concern about the site distance for vehicles leaving the Houston field, either going north or south. Mr. Coleman has stated that Bureau of Traffic Management measurements for the existing site distances are adequate -- 300 feet to the north and 470 feet to the south. These measurements did not include widening of the road, which will be part of the improvements that will occur with the widening of Boones Ferry and removal of the curve. In Appeal Item #5, adjustments, the appellants state that an adjustment should have been requested in order to widen the existing path from the asphalted pathway in Tryon Creek State Park to the law school. If the path were to be widened an environmental review would be required, not an adjustment. In any case, the college is not proposing to widen it but to maintain and light it. The lighting proposed meets the standards of the E zone and the path is not required to meet ADA standards because the law school can provide adequate ADA parking spaces in sufficient numbers at the law school campus and the Houston Field. Appeal Item #2, physical compatibility, raises concerns about the scenic resource zone along Boones Ferry. The scenic area is actually along Terwilliger and extends slightly into the area adjacent to Boones Ferry. The proposal as is complies with the Code standard for development within scenic corridors.

Ms. McKinney, in response to the stormwater issues raised, noted a request from Amanda Fritz to have the Planning Bureau prepare Code amendments to Chapter 33.430, Environmental Zones, as currently there are no Code provisions that require review of stormwater generated outside an environmental zone but ultimately going into one. The Bureau of Environmental Services (BES) is working on a stormwater manual, which it hopes to bring to Council this summer, that should address this and the Planning Bureau will then make whatever changes are needed to make its Code consistent.

Finally, the appeal states that the Master Plan is not consistent with the Transportation Element and cites failure to implement all elements of the college's Transportation Demand Management (TDM) Plan. Elements of that plan include: 1) charging staff and students for parking beginning September, 1998; 2) setting aside five percent of total parking spaces for car and van pools; 3) continuation of the existing transit subsidy; 4) implementation of a new special events policy; 5) enforcement of parking policies will be enforced and; 6) reduction of the ratio of parking spaces per student from the 1992 level by five percent. Implementation of the TDM plan elements will occur as outlined in an attachment to the HO decision and a report will be submitted annually on its progress. Thresholds are written into

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the Master Plan as conditions of approval and any increase in traffic will trigger a new Type III review and new traffic study. A cap is imposed on the number of students and, if it is exceeded and negative impacts result, a traffic study will be required, including mitigation. One condition states that the TDM can be reevaluated by the college and PDOT at any time. Ms. McKinney said the proposed parking lot at Houston Fields should not undermine the TDM because the added parking is offset by closure of 135 to 160 spaces on the main campus. Spaces for single-occupancy vehicles will be reduced by increasing preferential carpool parking and charging to park.

Ms. McKinney said the Master Plan also provides for future review of projects whose elevations were submitted with this application. Projects within 50 feet of a right-of-way or residential property will be required to go through a Type II review and any development between 50 and 100 feet will must be reviewed against objective design standards that are part of the Master Plan. Finally, the Master Plan asks for an extension of 10 years, to 2008, and requests that any amendments to the MP not trigger an IMP review. Currently any institution with an Master Plan that is subsequently rezoned IR (the zone this site is expected to be assigned in the Southwest Community Plan) and which then requests an amendment, automatically triggers an IMP review. The college expects that in several years it may propose relocation of the ball fields to the north of the campus, currently part of cemetery property, and possibly develop housing where the proposed parking lot and ball fields are now. Instead of having to go through an IMP process so soon after going through the Master Plan process, which has taken almost three years, a condition was added stating that any amendment request to move the ball fields would require only a Type III conditional use review. Concerns by the neighborhood that there would be no further review are unwarranted.

Dave Johnston, Co-Chair, Collinsview Neighborhood Association, said they agree with approximately 99 percent of the Hearings Officer's decision. He noted a letter from chairs of the Neighborhood Association stating their concern with livability, compatibility and transportation. These concerns specifically focus on the parking lot the college would like to build on the Houston ball fields and on the proposed expansion of the law school. Their first concern is safety. They also have environmental concerns because the parking lot will be in the headwaters of Tryon Creek where efforts are underway to reestablish fish and which may soon be listed as a protected waterway under the federal Clean Water Act. Their third concern has to do with aesthetics and compatibility regarding expansion of the law school. The Master Plan applies for a 90,000 square foot expansion, roughly doubling the size. The law school is squeezed between a scenic corridor and environmentally protected areas, the headwaters of Tryon Creek and the state park. Before the law school expands, the neighborhood believes there should be another Type III hearing so the public can have input about the resources that need to be protected. He said the letter from the Neighborhood Association also lists actions which can be taken to make the Master Plan more acceptable. He displayed a map indicating the roads, topography, scenic corridor and environmentally protected areas.

Mr. Johnston said safety concerns at the Houston ball field include heavy traffic on Boones Ferry Road, which goes right past the ball field. Terwilliger Boulevard is also of concern, especially the left turn area leading onto Boones Ferry. He described a concern raised by

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law school students about the safety of those using the path from the law school to the Houston parking lot. The path goes through dense woods bordering Tryon Creek State and offers numerous ways to enter into the park from all around the perimeter. The college proposes to keep the parking lot open until midnight and the neighbors fear for the safety of those travelling to the parking lot through an isolated area in the dark. The path cannot be brightly lit because of environmental and wildlife concerns. There is no security as anyone can come in from the woods and then disappear back into them. The college has offered to provide security escorts but the neighborhood believes that a dedicated security person is needed after dark and that the college needs to close the pathway at night unless the person using it is escorted. The Hearings Officer's decision limits the college to 200 watt lights at certain spacing intervals.

Mr. Johnson said a second safety problem concerns the entrance onto Boones Ferry Road from the parking lot. Site distances are a problem because cars will be backed up in the proposed left turning lane and these cars will block the site distance for those entering or leaving the lot. If the parking lot is to be built, no left turn out of it should be allowed.

Individuals testifying in support of the appeal included:

Steven Manton, 442 SW Palatine Hill Rd., 97219
Howard Eisenberg, 428 SW Colony Dr., 97219
Manuel Izquiedo, 10245 SW 4th Ave., 97219
Paula Hendricks, 519 SW Colony Dr., 97219
Brett Brownscombe, 0133 SW Orchid Court, 97219
Brent Foster, 10901 SW Boones Ferry Rd., 97219
Michael Blackburn, 10806 SW 4th Avenue, 97219
Robin Snyder, 906 SE Clatsop, 97202
Nathan Baker, 9272 SW 7th Ave., 97219
Sabrina Venskus, 3005 SE Ankeny, 97219
Laurie Baughman, 3665 SE Woodstock Blvd., 97202
Alex Donahue, 1430 SW Englewood Dr., 97034
Alex West, 3005 SE Ankeny, 97214
Alex Gnoske, 3948 SW Multnomah
Kevin Minoli, 0133 SW Orchid Court, 97219
Jenin Cannelleri, 1105 SW 66th Ave., #3204, 97225
Oliver Luby, Lake Oswego
Alex Case, 9939 SW Terwilliger Blvd, 97219
Josh Arnold, 2186 NW Glisan, #31, 97210
Mary Jo Powrozek, 9323 SW 51st, 97219
Delaney Demey, 9323 SW 51st, 97219
Brenna Bell, 6632 SE 47th, 97206
Peter Kirkwood, 2304 SE 38th, 97214
Alexis DeCaprio, 1315 Kingswood St., Forest Grove, 97116
Lucille Beck, Friends of Tryon Creek State Park
Jim Squires, Friends of Tryon Creek State Park
Rachel Kondor, 9934 SW Terwilliger Blvd, 97218

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Concerns raised by individuals testifying in support of the appellants focused on the following issues centering around opposition to the proposed Houston parking lot: 1) traffic conditions and pedestrian safety; 2) the College's failure to aggressively implement a Transportation Demand Management Plan or follow through on provisions in the 1992 Master Plan; 3) ensuring the safety of those using the path between the Houston parking lot and the law school, especially at night; 4) environmental impacts of stormwater runoff from the Houston parking lot on Tryon Creek water quality and fish habitat; and 5) failure of the College to properly involve students, particularly at the law school, in the process.

Regarding traffic conditions and pedestrian safety, those testifying listed unsafe intersections and turn lanes at a number of intersections, specifically Palatine and Palater and Terwilliger and Boones Ferry. Many testified that a left turn lane into the Houston lot from Boones Ferry would exacerbate already currently dangerous conditions, putting pedestrians and bicyclists at risk and backing up traffic. The college was urged, instead, to build the parking structure below the football stadium, as called for in the 1992 Master Plan.

Dixie Johnston, co-chair, Collinsview Neighborhood Association, the final speaker in support of the appellants, noted that evidence in the record shows there is more traffic in the neighborhood because of the current special events policy. She said the college has violated many of the provisions in its 1992 Master Plan and, while it has the right to make changes it does not have the right to flip-flop on its earlier promises. She said the Neighborhood Association has always been consistent in insisting that anything done to the Houston ball fields have as little impact as possible on neighborhood livability and that Tryon Creek State Park be protected above all else.

Steve Pfeiffer, attorney for Lewis and Clark College, said technical experts on stormwater, special events, TDM measures and other areas are available to answer any questions.

Dr. Michael Mooney, President, Lewis and Clark College, described the College's efforts to provide as inclusive a process as possible in shaping the a Master Plan that was the consequence of expert input. The initial MP in 1992 was the outcome of a process that involved 200 members of the community -- faculty, staff, students and trustees. The plan was then presented to the Neighborhood Association and the College believes that achieving close to 99 percent agreement reflects the success of its very serious planning process.

Dr. Mooney said Lewis and Clark's greatest difficulty is undercapitalization. It does not have as many square feet as any of its competing peers, nor their infrastructure, even after completion of three new buildings. Every other law school in the northwest has built, or is now building, expanded facilities. There is a severe space deficit, forcing law school students to go to the undergraduate library to study. The 90,000 square feet is the maximum amount that architects thought possible and the actual amount of space to be added is more in the neighborhood of 50,000 square feet. No expansion of law school student population is planned, nor are parking spaces being added. Instead, law parking will be moved from one side of the campus to another side, closer to the school, so that students do not have to cross two very busy streets. Dr. Mooney noted that if the college had a denser environment, with students and faculty living closer in, and a truly superb public transportation, this plan would not be in its current form. But what the college hopes to do over the next 10 years

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and longer is to achieve higher density and develop a better transportation system. The college has offered to be a model for the evolving 2040 Plan and believes this plan responds to City planning objectives.

Bing Sheldon, SERA Architects, summarized College efforts to seek input from the neighborhood in developing this amendment and noted that it had made significant changes as a result, including changing the type of housing proposed and installation of traffic calming devices on Palatine Hill Road, one of the neighborhood's major initial concerns. They also propose a very aggressive TDM program which includes parking fees and the hiring of a TDM manager. Issues regarding student parking on neighborhood streets and pedestrian safety will be addressed by the Houston parking lot which locates law school parking closer to the school. However, this does not remove the College's intent to build a proposed parking structure, which remains a priority for parking on the main campus. Lastly the college will improve the intersections at Gate 1 and the Terwilliger/Palater intersection and the curbside along the campus. These improvements will cost approximately \$2 million and respond to City transportation requirements and to the increased, largely background, traffic in the area.

Mr. Pfeiffer said many points raised in today's testimony are not borne out by the record. The map shown by Mr. Johnston was an earlier version, not the one adopted by the Hearings Officer, and does not accurately depict the Houston parking lot which is 470 feet from Tryon Creek State Park and not in the Environmental zone. Nor are the stormwater outfalls associated with that lot. He said the version before Council is a direct result of the testimony received from students and the Tryon Creek interest groups. Regarding the safety issue raised about the left turn pocket, he said it is a ten-car storage pocket, not two cars as someone testified. The college is committed to completing the improvement of the Palater intersection within five years as well as the full half-street improvement. He said the Kittelson traffic analysis and the Portland Office of Transportation (PDOT) report include an assessment of law school traffic in response to the appeal issues. Also, under no scenario will the College end up with 272 additional parking spaces as one person testified. The College under the current plan has the right to build 1,740 spaces but with approval of the amendment, it will be accepting not only \$2 million in costs to provide additional offsites it would not otherwise be bound to, but is also accepting, as a mandatory condition, a five percent reduction in current parking supply at the end of 10 years.

Mr. Pfeiffer said many issues raised today are technical in nature and, although the appellants raise legitimate concerns, all the issues have been addressed by experts, including the City's own. In this case there is nothing in the record to support this appeal and overturn the Hearings Officer's decision on any of the points raised. He asked for a sufficient amount of time to respond to any new evidence submitted while the record remains open, as has been requested. Regarding the housing issue, all amendments approved in this fashion are not subject to an Impact Mitigation Plan; only two amendments would be subject to that unique situation. If an institution gets an Institutional (IR) zoning designation, an existing Master Plan can be played out but any decision to amend it may trigger an IMP. The college asked the Hearings Officer to acknowledge the development of housing on the lower field as a conceptual amendment, subject to full Type III review and appeal to Council. That avoids thrusting the College into an IMP for the entire campus.

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Commissioner Hales asked if the lack of expert testimony on the transportation issues means that Council has no grounds to reverse the Hearings Officer's decision.

Mr. Pfeiffer said it would be very difficult to find substantial evidence to make findings to overturn the Hearings Officer's decision measured against what is in the record.

Commissioner Hales noted the issues raised about pedestrian safety and asked how the College's plan meets the criterion requiring the transportation system to be capable of safely supporting the proposed use.

Mr. Pfeiffer said one of the primary bases for approving the lower parking lot was to resolve a present pedestrian safety concern about the existing unsafe crossing at the Terwilliger intersection. Placing the parking lot at the lower location provides parking in closer proximity to the law school and relieves students of the need to park in the upper lot. It also provides the replacement spaces the college will lose as a result of changing the upper lot.

Commissioner Hales asked if students will be put in harm's way by requiring them to use the bike pathway to access the remainder of the campus.

Mr. Pfeiffer said no, lighting will be provided and an escort service will be on call to anyone at the law school. He asked which is more important, putting pedestrians in harm's way at the dangerous intersections versus putting them in harm's way as they walk down a lighted path with an escort. The path is a mixed-use one, not just for bicyclists. Placing parking on the lower lot will take 600 vehicle trips off Boones Ferry from cars using the upper lot, enhancing safety for pedestrians who choose to walk today on the Terwilliger route through the large median.

Mr. Sheldon said one reason the Houston parking lot proposal was made in the first place was in response to the City's own concerns about pedestrian safety for students at the Terwilliger crossing. Since 1992, the City has been telling the college that the existing system of getting students who park on the main campus to the law school crossway is unsafe and has prodded the College to solve the problem. No other feasible alternatives were accepted by the City.

Mr. Pfeiffer said they tried hard to push another alternative with City staff but got nowhere.

Commissioner Sten asked why the college did not build a parking structure.

Dr. Mooney said the college intends to do so at some point but it will be very costly, about \$20 million, and the College must decide whether to use its resources for the parking structure or to build classrooms, laboratories and other academic spaces.

Mr. Pfeiffer said the parking structure is already authorized in the approved Master Plan and the lower parking lot is not in lieu of the parking structure.

Dr. Mooney said the idea of the lower lot is to put students closer to where they study.

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Mayor Katz asked what would give the college more certainty about building the parking structure.

Dr. Mooney said it is a financial issue and noted that donors generally do not give money to build parking lots. Parking fees will supply only a piece of the debt service required.

Mr. Pfeiffer said one of the conditions in the Master Plan is that the College reduce parking spaces on campus by five percent by the end of the 10 years. That is a substantial hit and in 10 years, either the TDM plan is wildly successful or the parking structure will move higher on the priority list.

Commissioner Sten said there was a clear allegation that the college has not been as aggressive as it promised in 1992 in mitigating the need for parking spaces.

Dr. Mooney said the percent of students, faculty and staff who take alternative transportation is exactly the average of the City at large even though the College is in an area that is very poorly served by public transportation. A still more aggressive TDM plan is being put in place and the only teeth he believes will be effective are parking fees, which are going to be imposed.

Commissioner Sten expressed concern about the closeness of the parking lot to Tryon Creek, a stream that is going to have an Endangered Species listing. He said there appears to be no decision made that states that the college has plans that will meet the stormwater standards, it simply states that they think the college will meet them.

Mr. Pfeiffer said Woodward Clyde, the City's own consultant on Bureau of Environmental Services (BES) stormwater compliance, addressed that issue. First, the Total Maximum Daily Loads (TMDLs) have not been issued. Only one pollutant (in Tryon Creek) gave rise to a TMDL listing and that is the in-stream water temperature, a problem which already exists today. It is not a problem the parking lot would necessarily exacerbate but to ensure that it does not, Woodward Clyde substantially revised the initial parking lot plan. He cited two letters from them stating that they believe the TMDL requirements can be met with a tiered system involving bioswales, spreader bars and a detention facility. The TMDLs are a small part of the package as BES has draft measures in place today which are being applied rigorously and this lot was designed to meet whatever standards are coming on line. He said the parking lot application will have to go through a plan check and meet all applicable City, state and federal regulations before construction can begin.

Commissioner Francesconi questioned the safety of women walking along the path and the adequacy of the escort service. He noted the Faculty Parking Committee's request to wait a year to develop the Houston parking lot until a more aggressive Transportation Demand Management is tried.

Dr. Mooney said because so much time has been lost, the college will not build the parking lot until next summer so there will be a year's delay anyway. The College will continue to work on the TDM Plan at the same time it provides adequate parking that is desperately needed. The college is effectively moving parking from one side of the campus to another

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and removing impervious surfaces at the same time it is setting them down. It is not a question of adding parking spaces. The aim is to bring parking spaces together rather than having them spread out everywhere.

Commissioner Francesconi asked why the college could not wait a year before requesting this amendment, in view of strained relationships with some of the faculty and law students.

Mr. Pfeiffer said the lower parking lot will not undercut the TDM measures, it only replaces spaces lost from the upper campus.

Commissioner Francesconi asked if they will remove existing parking from the campus in the next year.

Dr. Mooney said they have to have replacement parking first.

Mr. Pfeiffer said the TDM Plan will take at least two years to really kick in so waiting one year to build the parking would not be sufficient to see if it will undermine the TDM.

Commissioner Sten said he would like to see what the college has done since 1992 regarding the TDM.

Mr. Mooney said early on the college supplied carpool spaces but they were not used.

Commissioner Kafoury noted that she and Commissioner Francesconi need to leave to attend another meeting but will review the tapes.

Commissioner Francesconi asked whether the college could agree to any of the conditions contained in the March 12 letter from Dave Johnston.

Mr. Pfeiffer said he has not had time to review all of them but the right in/right out solution was rejected earlier on by the consultants. The safety issue was rejected by PDOT and others. He said they will address the letter in the rebuttal period.

Mayor Katz said since several Council members need to leave, the Council will not take a tentative vote today, giving everyone more time to review some of the information.

Commissioner Hales asked how the plan addresses pedestrian and bicycle safety in general, not just in terms of conflict with automobiles at crosswalks and intersections, and whether the college planned to assign parking spaces numerically and set different rates for carpools versus single occupant.

Michael Sestric, Facilities Planner, Lewis and Clark College, said the MP includes provisions for bikeways and pedestrian walkways along the college frontage and moving parking proximate to use is one way to minimize the general conflicts that occur between automobiles and pedestrians.

Michael Service, Transportation Manager and Parking Demand Coordinator, Lewis and Clark College, described the 24-hour security and escort services. The College provides

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about 600 escorts per year and will restructure the shuttle program when the new parking lot is built, giving people more opportunities to use that as well. He noted the area has a very low crime rate, with virtually no person-to-person crime on campus. They believe the pathway will be safe if it is lighted correctly and emergency phones are in place.

Mayor Katz asked how long it takes to get an escort.

Mr. Service said within five minutes.

Regarding assigned parking spaces and differential rates, Mr. Sestric said a transportation advisory group has been formed and notification of its meetings is widely disseminated so that the community can be involved. He said he does not know how parking spaces could be assigned as there are 3,400 vehicles currently registered on campus and only 1,480 parking spaces. He will recommend that differential rates be put into effect, with carpools paying nothing.

Mr. Sestric read a letter from Pia Gilgen, President, Associated Students at Lewis and Clark College, detailing the involvement of students in the planning efforts and voicing support for the Master Plan and especially of the Houston parking lot, which was redesigned in response to students' environmental concerns.

Mayor Katz asked why Lewis and Clark law students were not involved earlier on.

Mr. Sestric said he understands that they were involved in 1992 and that the proposal to develop parking at the Houston field was included as part of the long term MP several years ago. The configuration of the lot has changed and it was that change that generated some discomfort on the part of the law students. At that point more meetings were held.

Jim Huffman, Dean, Lewis and Clark Law School, stressed that the law school's expansion plans do not include adding any students so there will be no increased transportation impacts. He said the law school has always had a parking problem and he receives more complaints about that than anything else, mostly from faculty. The law school does want to be environmentally responsible but the reality is that its students come and go frequently in multiple directions. Their needs cannot be met by the public transportation system although they have worked hard with Tri-Met to improve that system. He said one problem is that 30 to 40 cars a day park on neighborhood streets, a situation the college would like to get rid of but cannot without additional parking spaces.

In response to a comment from Mayor Katz, Mr. Sestric said students participate on every committee and in faculty meetings but obviously the information did not get reported more as broadly as it should have. He said in this case the process used for many years seems to have broken down and efforts are being made to improve it.

Others speaking in support of the Master Plan included:

Steven Wright, 4755 SW Caldew, #B, 97219

Glenn Gregg, 10415 SW Terwilliger Place, 97219

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Supporters said the influx of law students on the upper parking lot makes it more difficult for undergraduates to find parking places, forcing them to invent their own or park on neighborhood streets. Confining law school parking to law school property is good policy.

Mayor Katz said the City also constantly discusses how to improve citizen participation because its current process is not working as well as it should.

In rebuttal, Mr. Johnston said the north campus parking structure was to have been built early on, after approval of the 1992 Master Plan but that has not yet been built and is now being put off indefinitely. In its October 30, 1997 letter, the Neighborhood Association stated that this structure should be built as soon as possible as it would help both traffic and parking problems, getting heavy college traffic off the streets with less recirculation. The college held many meetings with the neighborhood, which has consistently and adamantly opposed the Houston parking lot, primarily because of the safety issues along Boones Ferry Road and the entrance and exits from the parking lot driveway onto a high-speed curve without adequate site distance. Another problem the neighborhood has with the college is the increasing number of special events which increase traffic and it fears expansion of the law school will only add to the problem. If the law school does not intend to build the full 90,000 square feet, then it should ask for what it wants as the neighborhood can only respond to what is in the MP. They agree with Dr. Mooney about the shortage of infrastructure but note that the City's land use regulations require that development be limited to what infrastructure will support. Both the intersections at Palatine and Palater, and at Terwilliger and Palater, are to be improved as part of this MP and the answer to the parking problem may be to improve those intersections early on and build the parking garage so there is sufficient parking and a safe route to the law school. Parking in the neighborhood has been a problem but the Houston parking lot is not a solution as no new spaces are being added, only moved from the main campus. The College was supposed to provide patrols to keep cars out of the neighborhood since 1992 but has not done so, as noted by the Hearings Officer, who also noted the College's failure to meet the TDM requirements until very recently with the hiring of Michael Service. The neighborhood supports the idea of roundabouts. The danger the college cites in walking from the main campus to the law school is due to the failure to improve those parking lots. The half-street improvements along Palatine Hill Road were ordered in the 1992 MP and should have long since been completed. The on-call escort service is located on the main campus, too far from the law school, and it is doubtful they could respond in five minutes.

Mayor Katz said in the three Master Plans she has seen to date, all have had deadlines they have been unable to meet. She asked Planning staff if that was an enforcement issue.

Ms. McKinney said she was unsure about the deadlines for the street improvements and whether they have or have not been met.

Commissioner Hales said his review of the 1992 Plan indicates that the half-street improvements were triggered by the construction of the parking garage. Since they did not build the garage, that did not trigger the improvements. The City can choose what actions trigger the improvements and the new trigger in the Hearings Officer's decision calls for the college to do them before anything is built. That is a tougher standard.

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Mayor Katz said as the City reviews Master Plans in general, it may want a triggering mechanism or time lines.

Commissioner Hales asked Transportation staff how it concluded that pedestrian safety is not harmed or enhanced by the Houston parking lot.

Mike Coleman, Bureau of Traffic Management, said staff focused on the public rights-of-way and in several areas the requirements in the Master Plan addressed safety plus the level and adequacy of service. To satisfy those standards, the improvement at Palatine and Palater is required. Also, without the requirement of the left turn lane at the driveway of the Houston field, safety for drivers and pedestrians would be compromised. The improvement that goes along with that includes a sidewalk on Boones Ferry.

Commissioner Hales asked if staff's conclusion about pedestrian safety was based on the reduction of pedestrian crossings across Palatine.

Mr. Coleman said not specifically but moving some of the parking currently on the upper campus to the Houston lot will take quite a bit of traffic out of some of the key intersections and will reduce the number of vehicles crossing those crosswalks. The location of the parking lot also reduces the number of pedestrians who use them.

Kevin Hottman, Office of Transportation Engineering, said improvements will be made, not only to the intersection at Gate 1, Palatine Hill and Terwilliger but some realignments will occur that will help pedestrians and other modes. Even though exactly what will be done there has not been determined, the improvement to Terwilliger and Palater will definitely benefit pedestrians.

Commissioner Sten asked about the effect of stormwater quality and quantity on Tryon Creek from the Houston parking lot.

Dan LeFebre, Bureau of Environmental Services, said Ms. Fritz' letter stated concern that the stormwater runoff did not get an environmental review. Since 1993, when a concern was raised about stormwater discharge entering the Columbia Slough, BES has applied a water quality Code for any circumstance where stormwater would enter an environmental zone. It is the bureau's intent that the College will do detention and maintain water quality for both the increase in building surface area and the parking lot, as well as all the street improvements along Palater and Boones Ferry.

Commissioner Sten asked if BES would approve a building plan that had runoff directly into a stream without detention and treatment. The testimony that the parking lot will drain directly into the stream would only happen if the City did not review the plans correctly.

Mr. LeFebre agreed. The College's proposal does indicate it will do water quality and detention. The upcoming proposed changes to stormwater management regulations may make those more clear and possibly more restrictive.

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Commissioner Sten said if the parking lot is approved, would citizens have an opportunity for public review of the plans.

Mr. LeFebre said no, those plans would come across BES' desk for approval but the public would not be aware of them.

Commissioner Sten encouraged the College to see if it could come to some agreement with the Watershed Council, the group objecting to the runoff. He noted that BES says the College will meet the standards and it would be nice if the Watershed Council could take a look at those plans.

Mayor Katz said the College was not sure about the time it would take to supply escort service. She encouraged the school to return with other options for security in that area. She said a call box is not going to help if someone is standing in the bushes.

Because requests were made to keep the record open, the appeal was continued to April 2 at 3 p.m. The deadline for submitting testimony is March 19 at 5 p.m. and the deadline for rebuttal by the applicant is March 26 at 5 p.m.

Disposition: Continued to April 2, 1998 at 3:00 p.m.

At 5:45 p.m., Council adjourned.

BARBARA CLARK
Auditor of the City of Portland

Cay Kershner
By Cay Kershner
Clerk of the Council