



CITY OF
PORTLAND, OREGON

**OFFICIAL
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 8TH DAY OF APRIL, 1998 AT 9:30 A.M.

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

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

Mayor Katz noted that today marks the first time Council is meeting in the renovated City Hall.

Agenda No. 393 was pulled from Consent. On a Y-5 roll call, the balance of the Consent Agenda was adopted as follows:

CONSENT AGENDA - NO DISCUSSION

- 385** Cash investment balances February 5 through March 4, 1998 (Report; Treasurer)
- Discussion:** Placed on File.
- 386** Reject all bids for furnishing an annual supply of plumber services (Purchasing Report - Bid 98104)
- Disposition:** Accepted.
- 387** Accept bid of Brattain International Trucks, Inc. for six GVW crew cab and chassis w/utility service body and hydraulic power source for \$638,088 (Purchasing Report - Bid 98118)
- Disposition:** Accepted; prepare contract.
- 388** Accept bid of Brattain International Trucks, Inc. for one 18,000 GVW crew cab and chassis w/utility service body, service crane and hydraulic power source for \$121,888 (Purchasing Report - Bid 98120)
- Disposition:** Accepted; prepare contract.
- 389** Accept bid of Portland Freightliner, Inc. for one 36,000 GVW cab and chassis w/fuel service body for \$112,599 (Purchasing Report - Bid 98133)
- Disposition:** Accepted; prepare contract.

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390 Accept bid of Triad Machinery, Inc. for one 15 metric ton excavator for \$116,815
(Purchasing Report - Bid 98135)

Disposition: Accepted; prepare contract.

Mayor Vera Katz

***391** Pay claim of Katherine Fetters (Ordinance)

Disposition: Ordinance No. 172126. (Y-5)

Commissioner Jim Francesconi

***392** Authorize agreement with the Pepsi-Cola Company to provide signage on the scoreboard at
Strasser Field (Ordinance)

Disposition: Ordinance No. 172127. (Y-5)

Commissioner Charlie Hales

394 Accept the SW Humphrey Blvd slide repair project as complete, approve Change Order Nos.
1 through 7, make final payment and release retainage (Report; Contract No. 31004)

Disposition: Accepted.

***395** Amend agreement with Thompson Vaivoda & Associates to include an expanded scope of
services and additional compensation in an amount not to exceed \$13,024 for design of the
East Portland Community Center (Ordinance; amend Contract No. 30063)

Disposition: Ordinance No. 172128. (Y-5)

Commissioner Gretchen Miller Kafoury

***396** Authorize the purchase of computer equipment through the Oregon State Price Agreement for
a total of \$100,010 and provide for payment (Ordinance)

Disposition: Ordinance No. 172129. (Y-5)

***397** Contract with Moore Underground, Inc. to provide sewer system hookup at Station 45
(Ordinance)

Disposition: Ordinance No. 172130. (Y-5)

Commissioner Erik Sten

398 Accept completion of the Inverness Force main, bicycle/pedestrian bridge, Project No. 5840,
and authorize final payment to F. E. Ward Constructors (Report; Contract No. 30604)

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Disposition: Accepted.

399 Authorize an agreement with Economic and Engineering Services, Inc. for an amount not to exceed \$50,000 to perform engineering services in the area of water quality, treatment and regulatory compliance and provide for payment (Ordinance)

Disposition: Passed to Second Reading April 15, 1998 at 9:30 a.m.

400 Authorize a contract and provide for payment for the construction of water mains and regulator vaults in the NW Miller Road mains package (Ordinance)

Disposition: Passed to Second Reading April 15, 1998 at 9:30 a.m.

401 Authorize a contract and provide for payment for the construction of water mains in the SW Marquam Hill Road mains package (Ordinance)

Disposition: Passed to Second Reading April 15, 1998 at 9:30 a.m.

***402** Authorize a contract and provide for payment for the installation of a flexible liner in Reservoir 5 at Mt. Tabor (Ordinance)

Disposition: Ordinance No. 172131. (Y-5)

403 Amend contract with Wichai Engineering Services, Inc. (Wescorp) for an amount not to exceed \$16,400 to provide additional engineering services for a dam break and flood inundation analysis of the Washington Park and Mt. Tabor reservoirs and provide for payment (Ordinance; amend Contract No. 31385)

Disposition: Passed to Second Reading April 15, 1998 at 9:30 a.m.

***404** Authorize the Water Bureau to amend contract with CTSI Corporation for an additional amount not to exceed \$90,000 for a total contract amount of \$130,000 (Ordinance; amend Contract No. 31261)

Disposition: Ordinance No. 172132. (Y-5)

***405** Authorize a contract and provide for payment for the N. Maryland liner, Project No. 6279 (Ordinance)

Disposition: Ordinance No. 172133. (Y-5)

***406** Authorize a contract and provide for payment for the N. Going sewer rehabilitation project, Project No. 6280 (Ordinance)

Disposition: Ordinance No. 172134. (Y-5)

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***407** Authorize a contract and provide for payment for the N. Minnesota sanitary sewer, Project No. 6288 (Ordinance)

Disposition: Ordinance No. 172135. (Y-5)

***408** Authorize a contract with ValueCAD and provide for payment for sewer mapping services (Ordinance)

Disposition: Ordinance No. 172136. (Y-5)

409 Pay claim of Michael D. and Mary T. Sallee (Second Reading Agenda 372)

Disposition: Ordinance No. 172137. (Y-5)

The Council rules were suspended for three minutes to allow Sylvia Evans, Community Alliance of Tenants, to request that Council pass a housing replacement ordinance to help preserve affordable housing and help displaced families.

Commissioner Kafoury said the Housing and Community Development Commission will be adopting a report on this subject tonight and she hopes to bring something to Council by the end of May.

The Bureau of General Services showed a video about the renovation.

REGULAR AGENDA

***393** Authorize agreement for acquisition of eight lots within the River View Village subdivision, south of NE Sandy Boulevard and west of NE 154th Avenue in the Wilkes neighborhood (Ordinance)

Discussion: Commissioner Francesconi said this agreement will allow purchase of a new park in the Wilkes neighborhood. Council set aside \$450,000 in its current budget for parks acquisition and Parks Bureau staff has identified potential sites in currently park-deficient neighborhoods. The Wilkes neighborhood, and this parcel in particular, was identified as the top priority in outer Northeast Portland and so \$325,000 of the \$450,000 will be used to purchase this property.

Helen Sherman Cohen, Parks Chair, Wilkes Community Group, said neighbors have been working for more than 10 years on this project, ever since the area was annexed to the City in 1986. She noted that the most recently passed Parks bond measure only allowed for improvements to existing parks, not acquisition of new ones. Since Wilkes was the only neighborhood in the City devoid of a park it got nothing out of that measure. She said land is disappearing fast and the neighborhood hopes that some of the City's share of Metro Green Spaces money can be used to protect its natural areas and that the City moves quickly to impose a Systems Development Charge (SDC) for parks.

Stella Rossi, Wilkes Community Group, said today's Council action gives them the security of

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knowing this site will be preserved. This first park promises to be a catalyst for increased neighborhood involvement.

Alice Blatt, Land Use Chair, Wilkes Community Group, 15231 NE Holladay, said this is one of the few remaining parcels in the community of any size. She said national standards call for every 1,000 people to have 6-3/4 acres of recreational space and while she appreciates the SDCs and the upcoming bond measure, there must be some provision in the Code that requires park space within a development in a park-deficient neighborhood. She also thanked the East Portland District Coalition for its help.

Commissioner Francesconi thanked Council for supporting parks land acquisition and Parks staff who have been inappropriately maligned in some neighborhoods. This park will be the heart of the Wilkes neighborhood.

Commissioner Hales said the need for more parks in Wilkes has been a longstanding problem and confirmed that acquisition of parks in neighborhoods that did not have them was the piece that fell through the cracks between the City Parks bond measure and Metro's Greenspace measure.

Commissioner Sten said this falls in line with Council's goal to do more for under-represented neighborhoods.

Disposition: Ordinance No. 172138. (Y-5)

Commissioner Jim Francesconi

***410** Grant revocable permit to Lents Neighborhood Association to construct improvements to be known as the Lents Park Bandstand Gazebo for community use within Lents Park (Ordinance)

Discussion: Commissioner Francesconi said this partnership between the City, the business community and residents to build a gazebo here represents a growing level of trust between the City and the community and symbolizes the revitalization that is occurring there.

Doug Strickler, 7312 SE Insley, speaking for Ken Turner, said this is a gift from the Lents community to the City which they hope will stand as a focal point for other projects. He said revitalization efforts are picking up steam in Lents.

Commissioner Francesconi said without help from the Housing and Community Development Commission and the Portland Development Commission, the future of Lents would not look half as bright.

Disposition: Ordinance No. 172139. (Y-5)

TIME CERTAIN: 10:30 AM - Adoption of NE Martin Luther King Jr. Blvd. Transportation Plan report (Resolution introduced by Commissioner Hales)

Discussion: Commissioner Hales said this plan will attempt to overcome some of the mistakes made when Martin Luther King Jr. Boulevard (MLK) was redesigned in the 1970s with an emphasis on auto use to the neglect of the neighborhood and businesses. He said what the community has done in the last few years is dramatic evidence of what can happen when there is a good plan. Some objectives of the project include: 1) promoting healthy businesses by adding parking and street lighting; 2) adding street trees, multi-modal transit stops and pedestrian crossings that encourage uses other than cars; 3) building on the vision of the Albina Community Plan; and 4) creating a pedestrian-friendly environment. He described some of the design features that will be used to achieve an urban streetscape, not just a bypass through the neighborhood. The first phase of the construction will focus on an area of MLK that has been identified as a problem area, with liquor-related and crime problems.

Andre Baugh, MLK Transportation Project Manager, Office of Transportation, gave an overview of the project, which was driven by the community's desire to revitalize MLK and its neighborhood. He said the MLK Action Committee included the Governor and a number of other officials who took a look at how to bring resources together for a holistic revitalization. One evident outcome was the need for transportation improvements and, subsequently, a study was conducted by the Portland Development Commission (PDC), the Portland Office of Transportation (PDOT), Oregon Department of Transportation (ODOT) and Metro. The boundary set for the project was from NE Broadway to NE Columbia Blvd. The study started with the Albina Community Plan as its foundation, followed by an extensive public process that sought input from the community about what it wanted and how the money should be spent. A plan was developed that maintains traffic flow, provides on-street parking, enhances pedestrian crossings, addresses multi-modal transit needs and increases the sense of safety. PDC has contributed \$500,000 for the first phase of construction which, because MLK is a State highway, has been matched by a similar contribution from ODOT. He noted the decision to focus on one of the more difficult areas along MLK to see if it is possible to get the whole Boulevard developing all at once. Mr. Baugh said the plan does not address zoning changes or call for street widening. It also maintains traffic on MLK rather than diverting it elsewhere.

Joan Brown Kline, 2245 SW Park Place, a member of the project team, described the public involvement process which sought to increase people's awareness about the project, provide opportunities for their participation and be inclusive. Businesses were interviewed and surveyed, questionnaires were distributed and three public meetings were held.

Lloyd Lindley, project consultant, said the vision for MLK, which grew out of the Albina Community Plan, was to create transportation improvements that would lessen the automobile's dominance and make MLK better accommodate the community and help businesses do better. He outlined the design principles, including designated gateways and commercial nodes and the creation of an aesthetically pleasing and pedestrian-friendly environment. To do that, the plan calls for downsizing of the lanes and parking and a redesign of the median. This meant that in some places, the median will remain while in others it will be removed or redesigned. The plan also provides for parking at commercial

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nodes, preserves and adds left-turn lanes, creates a special identity for the commercial nodes, provides more designated pedestrian crossings, calms traffic and identifies opportunities for gateways. It also adds on-street parking, curb extensions and street trees. Existing trees will be preserved where possible and street lighting will be improved. He described the five commercial nodes in the 3-1/2 mile project and noted that housing is planned for the areas in between them. The project is planned in four phases and the first will extend from NE Fremont to Shaver, an area that needs special help. He outlined the improvements planned there.

Ed Washington, Metro Councilor, said the street design creates a healthy balance between automobile use and community vitalization.

Kay Van Sickle, Oregon Department of Transportation (ODOT) Regional Manager, said ODOT worked collaboratively with City staff to sort through the problems and find solutions and is very pleased to be a part of this effort.

Michael McKelway, Portland Development Commission, said MLK is a priority for PDC and is the final piece in the puzzle of what is needed for revitalization, namely infrastructure improvements. He said reconciling competing business and community needs was difficult and finding solutions to the median and to the lack of on-street parking and left-turn lanes has been a big challenge. This project supports the needs of both groups and the cooperation of ODOT has been a key element in reaching this successful outcome.

Commissioner Francesconi asked what strategies will help African-American businesses who are worried about the escalation of rents along MLK.

Mr. McKelway said one of the keys is ownership, which can be enhanced by providing equity loan programs or by purchasing property to be held in trust and redeveloped in ways that support small businesses and community ownership. He said there is still a gap between the cost of new construction, where lease rates exceed \$14 to \$15 per square foot, and what small businesses can pay, generally between \$8 and \$10 a square foot.

Commissioner Francesconi said he would like to know what strategies are needed to fill that gap and the role of banks.

Aviva Groner, 33 NE Monroe, Eliot Neighborhood Association, said Eliot supports Phase One but requests a signal at Sacramento, where the median has been removed and the addition of a mechanism that allows some flexibility for making improvements that do not strictly fall in line with the phases. Eliot also believes careful monitoring and mitigation must be done to control traffic diversion into the rest of the neighborhood. Finally, good quality paint must be used for striping so people can see the lanes.

Howard Glazer, Advisory Committee member, said many creative ideas are being incorporated in this plan but he is concerned about implementation of the other three phases. He said it is extremely important that the whole plan be funded and built quickly. If it is done in bits and pieces, the energy of the community will be dissipated.

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Rex Burkholder, Bicycle Transit Alliance and Coalition for a Livable Future, supported the project but said the way to really create a main street here is to remove two lanes of traffic to make room for medians, automobile parking and bike lanes, and lift the State highway designation. The Alliance did not push for bike lanes at this time but there is a great need for north/south bikeways.

Peter Wilcox, Martin Luther King, Jr. Boulevard Business Association, said he is concerned about stretching out implementation of the project over too long a time. He said one phase a year should be scheduled so that the community's energy and momentum is not weakened.

Carl Talton, Chair, Portland Development Commission, said he is very happy that both the State and City support this plan. He also voiced support for the future phases and timely completion of the project.

Commissioner Sten said perhaps a big chunk of this project could be included in PDC's five-year plan.

Robert Larry, 3532 NE MLK, said what happens to the City-owned parking lot between Fremont and Beech during Phase One has not really been addressed. The lot was provided to businesses when the original median was built and it is unclear what is happening now.

Mayor Katz said this issue has come up before and needs clarification.

James Stillwell, Advisory Committee member and an employee of Harter Mechanical Contractors, said the company has been on MLK since 1938. He is very pleased that such a good practical compromise was reached but cautioned that larger businesses which pay good wages are needed here and some provision should be made for off-street parking to serve them.

Regarding off-street parking, Mr. Baugh said the next step is developing a parking strategy to address problems similar to those found in neighborhoods like NW 23rd and SE Hawthorne. He said the issue of the parking lot has not been addressed but staff will take a look at that. He thanked ODOT, Metro and PDC for their positive responses to this community-based plan.

Commissioner Francesconi said what he likes best about the plan is the modification of the traffic lanes and the targeting of a difficult area for the first phase.

Commissioner Hales said public work projects are great but this will fail if there are no successful merchants and great stores along the street.

Commissioner Kafoury said she was involved during the 1970s when the median was put in as a spur to revitalization. Unfortunately, it did not spur anything and the neighborhood continued to deteriorate. Today, however, she believes that things are definitely looking up.

Commissioner Sten said community support is the key and already the results are beginning to show. He said he hopes this project is built within the next five years.

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Mayor Katz said the keys to success in this area are good public/private partnerships, a commitment to revitalization and infrastructure investments. She noted that the City plans to include \$3.3 million for the MLK improvements in its budget, an enormous investment.

Disposition: Resolution No. 35685. (Y-5)

Commissioner Erik Sten

- *411 Authorize an agreement with Portland General Electric/Enron for \$10,560 to assist their multifamily customers with weatherization (Ordinance)

Disposition: Ordinance No. 172140. (Y-5)

- 412 Grant a franchise to Sprint Communications Company L.P. for ten years (Second Reading Agenda 238)

Disposition: Ordinance No. 172141. (Y-5)

Communications

- 413 Request of Mark A. Senffner to update Council regarding community safety in the Buckman neighborhood (Communication)

Discussion: Mark A. Senffner, no address stated, reported to Council on the Clark County ordinance outlawing methadone clinics. As a result, Vancouver is sending people to the Burnside clinic and to the one in Buckman.

Commissioner Hales said he should be making the same presentation to Multnomah County as the City does not have authority in this instance.

Mr. Senffner said since the methadone clinic opened in Buckman, crime has increased by 250 percent. He said this is a public safety and equity issue and he will address both Multnomah and Clark County Commissions.

Mayor Katz said she will check the crime rate numbers and forward the information to see if this might fall under the chronic nuisance ordinance.

Disposition: Placed on File.

FOUR-FIFTHS AGENDA

- 413-1 Accept bid of B.J. Cummings Co. for Bureau of Environmental Services/11th floor remodel in the Portland Building for \$286,144 (Purchasing Report - Bid 98127 introduced by Commissioner Sten)

Disposition: Accepted; prepare contract. (Y-5)

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

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 8TH DAY OF APRIL, 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.

- 414 **TIME CERTAIN: 2:00 PM** - Adopt findings to clarify which site plan the City relied on in approving the application of North Harbour Corporation for a seven-lot development on property facing north to the Portland Harbor of the Columbia River, south of Hayden Island, east of Interstate 5 and north of Marine Drive (Findings on LUBA remand; 96-00374 SU DZ)

Discussion: Duncan Brown, Planning Bureau, said the North Harbor development proposal, heard by Council last year, was appealed to LUBA and was remanded on a very minor technicality. LUBA was unsure which site plan was actually adopted and this resolution clarifies that.

Disposition: Findings Adopted. (Y-5)

Commissioner Charlie Hales

- *415 Amend the Comprehensive Plan Map and change the zone of property in Tracts F, G, I, J, M, R and W of Forest Heights and along NW Miller Road from R10, Residential, to R2, Residential, CN2, Commercial, and OS, Open Space (Ordinance; LUR 97-01151 CP ZC)

Discussion: Ruth Spetter, Senior Deputy City Attorney, outlined the procedural rules for conducting today's hearing. No conflicts of interest or ex parte contacts were declared by Council members.

Bob Haley, Planning Bureau, described the zone changes that are proposed for Forest Heights, a phased PUD. City Code states that PUDs have eight years to receive their final development plan approvals and, in this case, now that eight years has passed, the undeveloped tracts within Forest Heights revert to their existing zone designations, which is R10. A conflict arises, however, between the density limitations of the R10 and the minimum density requirements placed on previous approvals. That is what is being addressed through this review. The proposed zoning changes would allow Forest Heights to build out with the densities and types of housing originally envisioned in the Forest Heights PUD. He showed slides of the undeveloped tracts including Tract R, the commercial site, which is 6.61 acres in size and would have three separate zoning designations, including open space. The main controversy on the rezoning is how much land should be zoned for commercial uses within Forest Heights. Two acres of Tract R are proposed. The original intent of the commercial portion was to serve the immediate Forest Heights neighborhood and reduce outside trips by residents. The questions are how much commercial space can be successfully supported and

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at what point will the commercial node begin to draw traffic from outside the neighborhood. The market analysis prepared by the applicants document a demand for between 15,000 and 21,000 square feet of commercial floor area when Forest Heights and the surrounding area is fully built out. The two acres CN2 proposed under this zone change could support up to 38,000 square feet of a single-story commercial structure. If a multi-story structure was built, the two acres could accommodate 65,000 square feet of commercial floor area. The market analysis considered the commercial space from an "if you build it they will come" perspective. Another consideration is at what level do you start having a negative traffic impact. The applicant's traffic analysis, done by Kittelson, was reviewed by Planning and Office of Transportation staff which determined that 38,000 is the maximum amount one would want without creating a negative impact.

Mr. Haley said in addition to the size of the commercial area, two other issues were raised in the hearing before the Hearings Officer. A petition signed by about 100 residents of Forest Heights opposed the zone change, preferring to keep the R10 density or less. Staff does not support reducing the density below R10. The third issue concerns the Morgan Lane and 102nd connection in the southwest portion of Forest Heights, adjacent to Washington County. A land-use decision in Washington County extended 102nd to connect to Morgan Lane and called for Washington County to enter into a Memorandum of Understanding regarding the nature of that connection. The City's Hearing Officer found that the proposed zone change cannot consider whether or not that connection can be made in the future.

Mr. Haley reviewed the two conditions of approval imposed by the Hearings Officer, including mitigation for housing loss on the R2 portion of Tract R and a 38,000-square-foot cap on the commercial section of Tract R.

Commissioner Hales expressed concern about whether the 3,500 square feet indicated in the plan for grocery space would be enough for a decently-sized store. He said the 38,000 cap seems insufficient.

Mr. Haley said, as a comparison, the Zupans on Belmont is about 5,000 to 6,000 square feet. He said the total number of housing units planned for Forest Heights is 2,103 so about 4,500 residents are anticipated.

Steve Hultberg, attorney for Forest Heights, 1211 SW 5th Ave., #1500, 97204, said approval of the zone changes will allow development of Forest Heights at the densities approved by Council. Denial will result in a net loss of 365 housing units and Forest Heights will not be developed with medium-density housing. To ensure the project develops consistent with the original PUD as approved, certain key elements had to be retained. Those components include medium density housing, provision of a variety of housing sizes and types, efficient use of mass transit and an appropriate commercial site. He said a critical mass of housing units is needed if mass transit is ever to succeed. He said the commercial center is an absolute necessity in creating a mixed-unit development, which has always been planned for Forest Heights and is contingent on having enough density to support commercial uses. He said the two constraints on the commercial portion are demand and traffic capacity. The challenge is to balance both and create one that works for both. If the commercial space is too small, it will not meet people's needs and if it is too large, there will be vacant spaces. Two market

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studies were prepared to identify who would use the center and to look at competition in the vicinity. Based on those factors, the studies concluded that between 15,000 and 25,000 square feet of commercial use could be supported. Regarding traffic, PDOT determined that the balance between serving as a local commercial node without becoming a regional attractor was about 38,000 square feet. Based on that information, two acres have been designated for neighborhood commercial, which would be able to accommodate 65,000 if fully developed as a two-story center.

Commissioner Hales said the comparables for the retail site used in the study were in suburban areas and not what the City has in mind for Forest Heights. How does this compare with Strohecker's in Portland Heights?

Mayor Katz asked how many square feet of retail would be on the ground floor. Would all the second floor be offices?

Lemoyne Eiler, Kittelson and Associates, said this is a conceptual plan for a two-story structure, similar to that of the Uptown Shopping Center where there is no true second floor because there is ground level access to both levels. He said West Lake Village and Charbonneau were chosen as comparables because both are somewhat isolated while Stroheckers is not. To get to the Forest Heights commercial area one has to drive 1-1/2 miles from Cornell and both market analyses determined that a large grocery store could not survive on this site unless it was viewed as a regional attractor, in which case more traffic would be generated.

Commissioner Hales said there is a trend for smaller, higher value stores such as Nature's and Zupan's that locate in neighborhoods. If the amount of square footage is set too low, it could prevent that kind of development in Forest Heights.

Mr. Eiler said Transportation set the 38,000-square-foot cap. They would like to see a small grocery store do well there, rather than a convenience store, but right now they have not been able to identify anyone who wants to do that. That is one reason they have allowed enough space on the site to accommodate a grocery store in the 15,000 square foot range. He noted that the store would have to compete with several other shopping centers that residents go by on their way home.

Commissioner Francesconi declared a visit to the site several months ago.

Individuals testifying in support of the applicants included:

Jack Olson, President, Northwest Heights Neighborhood Association
Bob Culver, 8432 NW Hockens, 97229, Land-Use Chair, Northwest
Heights Neighborhood Association

Mr. Olson and Mr. Culver said they would like appropriate commercial but a large grocery store is unlikely to locate in the Forest Heights commercial area because there are so many others nearby. Because of market forces, it is unlikely that any retailer would want over 15,000 to 20,000 square feet. They said delays are costly as 800 residents, instead of 2,000,

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are bearing the \$130,000 per year cost of the private bus system and so few users also keeps Tri-Met out. A large commercial center would detract from Mill Pond Park, an important natural feature. Mr. Culver asked for protection of the wetlands on Tract W through strict enforcement of erosion controls.

Mike Pruett, Planning and Development Consultant, Harper Regalis, 5200 SW Macadam, Suite 580, representing developers on Tract M and I, said his clients' application was approved in January, 1997, and they then learned about this problem. Regarding the commercial site, he said the largest store located away from a major collector street that could be supported is somewhere in the line of 15,000 to 20,000 square feet, such as a Kienows.

Arnold Rochlin, Forest Park Neighbor Association (FPNA), said the Neighborhood Association agrees with 95 percent of the proposal and their opposition concerns the commercial area only. He said four acres is not a huge commercial area and 38,000 square feet is about 7/8ths of an acre, about the size of the first floor of the Portland Building. He said the overriding criterion, 33.810.050 (a) requires only that on balance a Comprehensive Plan change be equally or more supportive of the Plan as a whole. This is a very subjective standard and essentially means that Council must make a policy decision and determine what is most suitable for that site. He said FPNA does not concur with the market studies as they believe the applicant commissioned the study to get the results it wanted. He said if no one comes to commercially develop the four acres, the applicant can return to the City and ask for a zoning change to residential then. He said the applicant already has developers in the wings for the residential development there and Council should keep its options open until the decision finally has to be made one way or the other.

Mr. Rochlin criticized the market analysis which relates the distance people will travel to the number of square feet of the shopping center, with no consideration of the type of service offered. The market area depends on the scale of services and how attractive they are and how unavailable they are other places. The purpose of the four-acre site was to mitigate for traffic impacts. There are streets that cannot be expanded, such as Skyline, Cornell and Thompson Roads, so a commercial center is needed for a market area that includes not just Forest Heights but also the many new surrounding developments. He said FPNA believes four acres is needed to allow for a center that offers enough variety of services. It should also be attractively designed.

Mr. Rochlin said a companion application, now being considered by the City, calls for elimination of a previously-imposed condition that allows residential development on a commercial site only on the second story or above. The application would instead allow residential development on a reduced site to two acres after 38,000 square feet of commercial floor space is built. He said if Council wants to alter that it should do it now, since that application is unlikely to be appealed. Mr. Rochlin said in her decision the Hearings Officer relied on an obsolete regulation that required that a commercial site in a residential PUD primarily serve only the residents of the PUD. That was modified in 1991 to include residents of the nearby neighborhood as well. He said the developer has returned again and again for amendments and what everyone wants now is for this project to be completed as planned.

Commissioner Hales asked about the restriction on square footage.

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Mr. Rochlin said he does not believe that restriction is needed as he does not see that kind of traffic congestion problem.

Earl Grove, NW Skyline, Transportation Chair, FPNA, said the other existing markets are a considerable distance, far more than a mile, from the entrance to Forest Heights. He said when the original space allotment was made, there was no desire to build a major attractor here but other uses were considered, such as a tennis shop and small hardware store, not just a grocery store. Such uses were meant to also attract traffic from the adjacent developments.

Commissioner Hales said two acres of CN2 zoning could yield up to 68,000 square feet of commercial and the City, as spelled out in the Hearings Officer's decision, is limiting that to a 38,000-square-foot cap, which is what the Forest Heights Neighborhood Association wants. But what if residents need more retail space and there are people willing to operate those businesses?

George Carter, General Manager, Forest Heights Homeowners Association, said most residents do not wish to exceed the 38,000 square foot level because they believe it will generate a substantial amount of traffic from outside, negatively impacting many connecting streets. Mr. Carter said the new QFC on Miller Road will make it difficult for a grocery store in Forest Heights to compete but if the market is there for a 10,000 to 15,000 square-foot store, it will eventually evolve.

Commissioner Hales said he is somewhat concerned that the people who already live in Forest Heights oppose any commercial development because they do not want any more traffic. He is concerned by the presumption that convenient auto travel will be infinitely available and infinitely expandable. He believes it is better to have services in neighborhoods so people do not have to get back in their cars to do everything. He worries that the City may be doing the wrong thing long term if it approves a cap on commercial and then later on people want more services.

Mr. Carter said the people within Forest Heights are willing to see more traffic from outside and more shopping opportunities but the dilemma is predicting what is economically viable for that location. They believe a 38,000-square-foot facility is realistic because it would easily accommodate a variety of retail uses over time. The market will determine what survives and a larger facility will create more burden on the streets.

Mayor Katz asked if traffic were not the issue, should the cap be removed.

Mr. Carter said the worry is that there would be a large unsuccessful complex that becomes a blight for the community. They believe 38,000 square feet is the most practical and realistic amount of space that can be allotted. Additional traffic becomes a safety concern.

In rebuttal, Mr. Hultberg said the condition on the other application only allows residential on the commercial site after the 38,000-square-foot cap is reached. The Hearings Officer did not err in relying on an old criterion, as Mr. Rochlin argues, but instead specifically notes that it was used simply to evaluate what the commercial center was originally intended to be. Finally, leaving four acres open for commercial development is asking the developer to buy a

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park. Demand for commercial will be a maximum of 25,000 square feet which can easily be accommodated on two acres, as can 68,000 square feet.

Mr. Eiler said some kind of limit has to be set on the size of the commercial center and the developer has to set aside a certain amount of land based on what is known today, not what is hoped will happen in the future. The developer has relied on two market analyses, transportation reports and information from PDOT to determine that size. There is no desire to make it smaller than need be to serve the community and expansion of the site up to 38,000 square feet has been allowed, based on traffic input. More commercial could be requested later since there would be room on the two acres to develop up to 65,000 square feet. He said the developer is trying to find a middle ground where no more traffic impacts are created and at the same time a large enough commercial center is provided to meet community needs. He noted that the Stroheckers in Portland Heights is about 20,000 square feet and has been sold repeatedly because it has not been successful, even though it three to four times more more traffic flowing by than does the commercial section of Forest Heights. He said Transportation and the community have expressed legitimate concerns about the commercial center being too big and he believes the 38,000-square-foot cap is very legitimate. That cap does not have to be set in stone and if there is market demand and lack of traffic capacity, there will be an incentive to develop more commercial.

Commissioner Hales asked Transportation staff what the rationale behind the cap was. He said he cannot recall staff taking a zoning designation and then watering it down this way.

Laurel Wentworth, PDOT, said Planning and Transportation staff were responding to Council's desire to find a balance here between providing needed commercial uses for nearby residents without negative traffic impacts from those attracted to the site from outside. She said while there is no comparable situation elsewhere in the City, they concluded that 38,000 would provide that balance.

Commissioner Sten said what attracts people depends on what is built. He said 38,000 square feet seems very arbitrary.

Commissioner Hales said he has problems with the cap as when the City approves a land use pattern it lasts a very long time. He said the zoning ought to rule and he is very reluctant to change a PUD which for nine years called for four acres of commercial area.

Mr. Healy proposed that Council adopt the Hearings Officers' recommendation but delete the 38,000-square-foot cap and let the underlying CN zoning determine the ceiling, which would be about 65,000 square feet.

Commissioner Hales moved that Mr. Healy's suggestion be adopted as an amendment. Commissioner Kafoury seconded.

Mr. Healy noted this will modify the decision of the Hearings Officer in the related application referenced by Mr. Rochlin.

Mr. Healy said if the cap is left, a condition could be added that any housing must be above

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the commercial space since the base zoning does allow housing.

Commissioner Francesconi said two good market analyses indicate that two acres of commercial will satisfy the market. He said both Kittelson and PDOT tried to strike the right balance here and it is time to move on.

Commissioner Sten said the market analyses are based on consumer patterns the City is trying to change and pointed out that every analysis done on the Belmont Dairy project said it would not pencil out.

Disposition: Tentatively uphold Hearings Officer's recommendation as amended; prepare findings for April 22, 1998 at 2:00 p.m.

Commissioner Jim Francesconi

- 416** Establish a Parks and Recreation System Development Charge on new residential development applicable at the time of application for a building permit and adopt a new Chapter of the City Code (Previous Agenda 316; adopt Chapter 17.13)

NOTE: No testimony was taken on this item.

Disposition: Referred to Commissioner of Public Utilities

At 4:45 pm, Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 9TH DAY OF APRIL, 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; Linda Meng, Chief Deputy City Attorney; and Officer Chuck Bolliger, Sergeant at Arms.

***417** **TIME CERTAIN: 2:00 PM** - Designate eleven Heritage Trees in the City of Portland (Ordinance)

Discussion: Jane Glazer, Urban Forestry Commission, described the 11 trees designated for Heritage Tree status. She noted that the City's Urban Forester had suggested a cap of 200, which would leave only 10 spaces if this ordinance is passed.

Commissioner Hales said he did not understand why a limit would be imposed.

Ms. Glazer said it may have to do with financial concerns but also noted that the program includes 86 different species already and it is becoming more difficult to find good candidates.

Council members unanimously agreed there should be no limit.

Disposition: Ordinance No. 172142. (Y-5)

At 2:25 p.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 9TH DAY OF APRIL, 1998 AT 7:00 P.M. AT MARSHALL HIGH SCHOOL AUDITORIUM, 3905 SE 91st AVENUE.

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

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

418 TIME CERTAIN: 7:00 PM - Accept the background report for Floodplain Management in the Johnson Creek watershed (Previous Agenda 161; Resolution introduced by Commissioner Sten)

Discussion: Commissioner Sten said this is the third public hearing on Johnson Creek issues. He said the City is trying to find a balance between protecting the area from flooding while still protecting the economic investment many residents and businesses have already made.

Becky Craig, Bureau of Environmental Services (BES), said the proposed Code changes involve three areas: 1) the 100-year flood plain; 2) the flood risk area; and 3) the floodway, the area most immediately adjacent to the Creek. In the 100-year flood plain, the City is proposing balanced cut and fill so that the capacity of the plain remains the same. Also, a provision would be added allowing no more than 50 percent of the sites to be impervious surface. The same provisions would apply in flood risk area but, in addition, no further land divisions or PUDs would be allowed. Any reduction of flooding capacity would be prohibited, with limited exceptions for small outbuildings, garages and fences. In the floodway area, no new above ground structures would be permitted and any increase in existing buildings would be prohibited. Another proposal, which may not be approved, is that any alterations to existing structures in the floodway not exceed 50 percent of the current assessed value. Ms. Craig said staff believes urgent action is needed to restrict fill and also thinks revision of the Johnson Creek flood plain map could be completed in 12 to 18 months, rather than the three years, as originally estimated. The cost for the Corps of Engineers help will range between \$100,000 and \$150,000.

Commissioner Sten updated those in attendance on what has happened since the last meeting. He said in the two hearings to date, Council heard a wide range of opinions - everything from prohibiting all development and all fill in the flood plain to having no regulations at all. A major change since the last meeting has been the listing of the steelhead trout as an endangered species. Johnson Creek is the only place in the City, other than the Willamette River, that has a functioning steelhead run. He said the federal government has the authority to tell the City what to do on Johnson Creek but it is his goal to present them with a plan that is acceptable to the community.

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Commissioner Sten said BES has taken four steps in response to issues raised earlier. First, the City will do the remapping of 100-year flood plain in 12 to 18 months, beginning immediately. Second, the 50 percent cap on home improvements in the five-year floodway, based on the value of the houses, will be lifted and people will be able to make their own decisions on how much to invest, despite the risk. Third, regarding cut and fill, a proposal is being considered that would "bank" any cut on City-owned property for use by those who need fill on their property. That is controversial because of its possible effect on a neighbor's property but is well worth looking at. Fourth, citizens complained that when the City buys property it does not maintain it. That is not acceptable and the City will write a good neighbor agreement with the neighborhood associations to outline what is expected of the City.

Glenn Taylor, Chair, Gilbert-Powellhurst Neighborhood Association, said when all the surveys are completed, he hopes there will be a public meeting to explain to people what is going to be recommended to the Federal Emergency Management Agency (FEMA).

Malia McKee, Pacific Hydro-Geology Inc., consultant retained by the Gilbert/Powellhurst and Lents Neighborhood Associations, said they would like to make two proposals. First, they recommend a modification of the balanced cut-and-fill regulations to allow some of the cut made on land the City will be developing for floodwater storage to be used as fill by people who live within the 100-year floodplain. Their second proposal is to expand the stormwater regulations and retentions within the Johnson Creek Basin Plan to cover the entire Johnson Creek watershed within the City limits. Ms. McKee said floodwater storage capacity can be increased if the City acts quickly and allows removal of soil from the Freeway Lands property in the environmental zone for use on the Moyer site, which is to begin receiving fill on Monday. She noted that under current regulations the Moyers are not required to do a balanced cut and fill and that they have no place to obtain fill from within the 100-year flood plain. She also suggested that a City-owned property near Beggars Tick Marsh be used to do some stormwater retention for Harold Street as well as floodwater storage.

Commissioner Sten said he will get a sense of what Council wants later in the meeting and then ask BES staff to meet with Ms. McKee and the neighborhoods prior to filing the ordinances for a first reading on April 22.

Ms. McKee said she met with BES staff, which views the City's property as a place where they wish to gain net storage. However, homeowners do not have a place to get fill dirt so if a balanced cut-and-fill regulation is passed, no one can fill because no one can make a cut. She said she does not see all the soil from City property becoming fill but it is something that can be offered. If the City has a long term plan for removing soil to create more floodwater storage along the Creek, then homeowners can request fill dirt in order to raise their houses and the cuts can be made at their own expense by City-approved contractors. This retains the status quo for a 100-year flood.

Other individuals testifying on Johnson Creek issues included:

John Rolfe, 6830 SE 108th, 97266
Mervin Bergstrom, 6140 SE 111th, 97266
Anita Finn, 6130 SE 158th, 97236

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Fred Michael, 6400 SE 101st, 97266
Judy Welch, Lents Neighborhood Association, 3937 SE 91st, 97266
Bob Head, Foster Business Association, 6432 SE Foster Blvd., 97206
Gary Sargent, 10207 SE Foster Rd., 97266
Gary Zytynouski, 6921 SE 106th, 97266
Ron Richard, 11817 SE Liebe, 97266
Robert Prosser, 22405 SE Harold, 97266
Gene Heiple, 5403 SE 122nd, 97236
Gayle Killan, Oregon Environmental Council, 2544 SE 31st, 97202
Carl Clinton, 12535 SE Harold, 97236
Jane Seapy, 14741 SE Foster Rd., 97236
Joyce Beedle, 6622 SE 108th, 97266
Mike Dickson, 6363 SE 159th, 97236
Vernon Stockwell, 6457 SE 106th, 97266
Phyllis Slenning, 12029 SE Brookside Dr., 97266
Gorden French, 6928 SE 122nd, 97236
Randy Hyde, 7210 SE 133rd, 97236
Martie Van Zyle, attorney representing Gerald Purvine, area
property owner
Grant Mauser, 12521 SE Harold, 97236
Reeza Metcalf, 12312 SE Steele, 97236
Mindy Carmen, 14707 SE Foster Rd., 97236

Many of those testifying supported the recommendations offered by Ms. McKee. The issue raised most often was property owners' contentions that they were mistakenly included within the 100-year floodplain. Other issues raised concerned eligibility for the willing seller program; losses in property values due to the added restrictions; the impact of other developments and fill activity on adjacent properties and the Creek; water quality, including the presence and/or absence of fish; City purchase of additional land; the need for a wider, regional approach to improve conditions upstream; and restrictions on additions to impervious surfaces and/or development on existing buildings, both commercial and residential.

Mayor Katz said Ms. McKee's suggestions seem to have substantial merit and will be addressed, although the City may not be able to go as far as some would wish.

Disposition: Continued to April 22, 1998 at 2:00 p.m. Time Certain.

***419** Adopt flood management amendments to the Johnson Creek Basin Plan District in Title 33 (Previous Agenda 162; amend Title 33)

Disposition: Continued to April 22, 1998 at 2:00 p.m. Time Certain.

***420** Amend City Code to establish special provisions for the Johnson Creek flood zones (Previous Agenda 163; amend Code Section 24.50.060)

Disposition: Continued to April 22, 1998 at 2:00 p.m. Time Certain.

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At 8:50 p.m., Council adjourned.

BARBARA CLARK
Auditor of the City of Portland

Cay Kershner

By Cay Kershner
Clerk of the Council