



CITY OF
PORTLAND, OREGON

**OFFICIAL
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 29TH 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; Ben Walters, Deputy City Attorney; and Officer Chuck Bolliger, Sergeant at Arms.

Agenda No. 518 was pulled from Consent. On a Y-5 roll call, the balance of the Consent Agenda was adopted as follows:

CONSENT AGENDA - NO DISCUSSION

- 502** Accept bid of C.W. Neal Corp. for Mt. Tabor reservoir 5 liner for \$848,568 (Purchasing Report - Bid 98144)

Disposition: Accepted; prepare contract.

Mayor Vera Katz

- 503** Confirm appointment of Jason Roth to the Towing Board of Review (Report)

Disposition: Confirmed.

- 504** Confirm appointment of Mark Minnis to the Civil Service Board (Report)

Disposition: Confirmed.

- 505** Authorize the partial release of retainage from the US Bank Securities account and authorize payment to Drake Construction Company for City Hall renovation project (Report; Contract No. 30246)

Disposition: Accepted.

- 506** Accept completion of the SW Multnomah Blvd. at SW 56th Avenue slide repair project and authorize final payment to CEMS, Inc. (Report; Contract No. 31368)

Disposition: Accepted.

- *507** Increase contract with Infrastructure Management Group, Inc. to provide facilitation, organizational consultation and planning services for Blueprint 2000 (Ordinance; amend Contract No. 31419)

Disposition: Ordinance No. 172183. (Y-5)

- *508** Accept a Sanitary Sewer Easement and a Construction Permit and Right-of-Entry for the Inverness Force main project, granted by the Port of Portland, authorizing total payment of \$314,300 (Ordinance)

Disposition: Ordinance No. 172184. (Y-5)

- *509** Contract with CH2M Hill for professional engineering services and provide for payment (Ordinance)

Disposition: Ordinance No. 172185. (Y-5)

- *510** Authorize the continuance of negotiations for the purchase of easement required for the Fanno Basin pressure line, authorize the City Attorney to commence condemnation proceedings if necessary, and authorize the City Attorney to obtain early possession (Ordinance)

Disposition: Ordinance No. 172186. (Y-5)

- *511** Authorize the Director of the Bureau of Environmental Services to approve a contract with Blashfield and Associates to produce an environmental education video (Ordinance)

Disposition: Ordinance No. 172187. (Y-5)

- *512** Authorize a contract with Century West Carollo and provide for payment for the Alder Basin Phase 2 Unit 3, Project No. 6266 (Ordinance)

Disposition: Ordinance No. 172188. (Y-5)

- *513** Authorize a contract with the lowest responsible bidder(s) for the Inverness Force main sections D and F and provide for payment (Ordinance)

Disposition: Ordinance No. 172189. (Y-5)

- *514** Authorize a contract and provide for payment for a Zetron fire station alerting system (Ordinance)

Disposition: Ordinance No. 172190. (Y-5)

- *515** Authorize a contract and provide for payment for heating, ventilating and air conditioning for the Fire Bureau Maintenance Center (Ordinance)

Disposition: Ordinance No. 172191. (Y-5)

- *516 Establish one City Planner position in the Bureau of Planning in accordance with the Personnel Rules adopted by the City Council (Ordinance)

Disposition: Ordinance No. 172192. (Y-5)

- *517 Accept settlement and completion of Airport Way Phase II project (Ordinance)

Disposition: Ordinance No. 172193. (Y-5)

- 519 Grant a ten-year property tax exemption to Innovative Housing, Inc. for new multiple-unit housing at SW 20th, 21st and Howard's Way (Ordinance)

Disposition: Passed to Second Reading May 6, 1998 at 9:30 a.m.

- *520 Authorize agreement with Washington County and the Tri-County Metropolitan District of Oregon for the purpose of providing police services to Tri-Met (Ordinance)

Disposition: Ordinance No. 172194. (Y-5)

- *521 Authorize agreement with the City of Beaverton and the Tri-County Metropolitan Transportation District of Oregon for the purpose of providing police services to Tri-Met (Ordinance)

Disposition: Ordinance No. 172195. (Y-5)

- *522 Settle the claims of Patricia Patterson (Ordinance)

Disposition: Ordinance No. 172196. (Y-5)

- *523 Pay claim of Rowenia Galloway (Ordinance)

Disposition: Ordinance No. 172197. (Y-5)

- *524 Authorize a contract and provide for payment to install a new traffic signal at NW Broadway and Davis and to reconstruct an existing traffic signal at NE Lombard and 27th (Ordinance)

Disposition: Ordinance No. 172198. (Y-5)

- *525 Contract and provide for payment for construction of School Safety Projects and the SE 52nd Avenue Traffic Calming Project (Ordinance)

Disposition: Ordinance No. 172199. (Y-5)

- *526 Authorize a contract and provide for payment for installation of ornamental street lights on NW 3rd Avenue (Ordinance)

Disposition: Ordinance No. 172200. (Y-5)

- *527** Authorize a contract and provide for payment for the NE 148th Avenue bridge over the Columbia Slough (Ordinance)

Disposition: Ordinance No. 172201. (Y-5)

- *528** Authorize a contract and provide for payment for the construction of 4-inch and 6-inch water mains in the SW Moss mains package (Ordinance)

Disposition: Ordinance No. 172202. (Y-5)

- 529** Amend Intergovernmental Agreement with Marion County Department of Public Works for \$36,000 to conduct additional pavement assessment services of the Bull Run watershed roads (Ordinance)

Disposition: Passed to Second Reading May 6, 1998 at 9:30 a.m.

REGULAR AGENDA

- *518** Accept a grant from the Oregon Department of Transportation and the Department of Land Conservation and Development Transportation and Growth Management Program grant for \$135,400 of which the city portion is \$74,815 for the Hollywood Town Center and Sandy Main Street project (Ordinance)

Disposition: Ordinance No. 172203. (Y-5)

- 499 TIME CERTAIN: 9:30 AM** - Accept the Bureau of Environmental Services status report on development of the Stormwater Management Manual for new development (Report introduced by Mayor Katz)

Discussion: Commissioner Sten said preparation of this manual is an important step in implementing the City's new stormwater policies. He said today Bureau of Environmental Services (BES) staff will report on its progress to date on the manual, identify some of the sticking points and get feedback. He said new and innovative ways are needed to treat stormwater, which is really just rain, citywide. He said the endangered species listing and orders from regulatory agencies to come up with better stormwater standards also must be considered.

Dean Marriott, Director, BES, said BES has been working on the manual with a variety of interested parties and with the Stormwater Advisory Committee for about two years. He said they plan to make more revisions and return in several months with some specific Code provisions and a manual which they expect to implement in August or September.

Commissioner Hales asked if he is right in thinking the Code is the law and the manual is the guide to the law. Or is the manual the law?

Mr. Marriott said the manual is policy for the Bureau.

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Commissioner Hales said Council generally adopts the regulations (the law) and the bureaus adopt the guidebooks for compliance. If Council wants to change that practice or delegate that authority to the bureaus, it should pass a resolution setting out the parameters for doing so. He said he believes it is very important for Council to adopt rules.

Mr. Marriott said the new manual would essentially be the same as the one they have now, a sewer manual which outlines the guidelines for connecting to the sewer system. It would set out the requirements and the bureau will return with Code clarifications that make it perfectly clear that Council is setting the policy and authorizing BES to adopt a manual.

Commissioner Hales said Council should not delegate to bureaus its ability to adopt regulations.

Commissioner Sten said of course Council adopts all the legal regulations and he does not believe a philosophical debate between where the line is drawn between what is a regulation and what is a guideline is necessary now.

Mayor Katz said the issue of who has rule-making authority, the elected officials or the bureaucracy, is a real one. The City Attorney needs to review who has the authority to set the rules, Council or the bureaucracy.

Commissioner Sten said the stormwater policy will fail miserably unless the developers, environmentalists, the Planning Commission and others come together to solve this problem. It will take creativity to come up with ways to treat rain water other than pumping it to sewer plants at a very high cost. He said today they are here to discuss the challenges and get feedback from Council so staff can return with a proposal within the next four months. The issue of who has what authority is one reason this process has dragged on for years and years.

Ron Smith, Chief Engineer, BES, updated Council on the status of the stormwater manual. He said stormwater management was pretty well ignored until the 1990s, as prior to that the focus was on the treatment of wastewater. In 1996 a Stormwater Policy Advisory Committee (SPAC) was formed to assist the bureau in establishing policies and in July 1997 its findings were reported to Council. The proposed manual addresses an appeals process, reiterates the submittal requirements for applicants, and identifies special circumstances where the approaches in the manual do not seem to work for a difficult site. The manual outlines both a presumptive and a performance approach to the selection of water quality facilities along with a simplified presumptive approach for smaller projects. The manual spells out the design criteria, as well as operational and maintenance standards, for water quantity facilities to help control two and five year storm events so that after development runoff does not exceed predevelopment runoff. It also includes a chapter on best management practices for commercial and industrial development. Mr. Smith said one unresolved issue is how developers involved in large and complex projects will cope with manual requirement changes that occur while the project is still underway. A number of Code changes will be necessary to eliminate conflicts and the interface of the manual with Titles 33 and 34 is especially important. One of the issues raised concerns the point at which a project triggers implementation of the requirements. A 500 square-foot trigger has been selected; projects less than that would not have to comply with the manual provisions although they would not be exempt from having to deal with stormwater in an appropriate manner. At the other extreme is the

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38,000 square-foot trigger intended to cover significantly larger redevelopment projects where at least 50 percent of the site is impervious surface.

Commissioner Francesconi asked about the rationale for the 500 square-foot trigger.

Mr. Smith said there is no hard quantitative rationale for it but BES felt this would capture most new development without being overly restrictive and administratively inefficient.

Mayor Katz asked if the 38,000 square-foot trigger would apply to a redevelopment of a square block if 50 percent of the surface is not impervious.

Mr. Smith said if the redevelopment project was more than 38,000 square feet but less than 50 percent impervious they would not be required to treat all the water coming off the site, only that which resulted from increases in impervious surface from pre- or post-project conditions.

Commissioner Hales asked what a developer would need to do if he wanted to build an apartment building on a parking lot.

Mr. Smith said all the runoff from the site would have to be contained because it is more than 38,000 square feet and the end product is more than 50 percent impervious. He explained the proposed appeals process but that has not been finalized as yet. Another major issue has been whether it was appropriate to require on-site water quality facilities on transportation facilities. After meeting with the Portland Office of Transportation and the Oregon Department of Transportation, both will submit master plans for how they will deal with additional runoff from increased impervious areas.

Mayor Katz asked who will be responsible for building these regional facilities.

Mr. Smith said when off-site stormwater management requiring joint facilities is necessary, in lieu fees may be required or, in the case of private development activities, off-site facilities could be funded directly by the company. The intention is that those who increase impervious surface should pay for the facilities, either directly or through a fee structure. One of the major issues includes recognition of special circumstances which would allow off-site work. As much on-site work as possible would still be required, however. He said another question has to do with why the City would want the detention of stormwater to control quantity in the lower reaches of streams which discharge directly into the Willamette and Columbia Rivers and Columbia Slough. The argument is that storing it there would erode the area at the same time rainwater is arriving there. It seems logical not to require detention in the lower portions of watersheds and criteria have been developed to address that. The manual does not specifically address pollution problems on existing development at this time but the Bureau plans to address that later, probably on an incentive basis and with more use of off-site facilities. The manual also excludes construction erosion problems, an issue that is probably of most concern to residents in areas where a lot of development is occurring. He described the next steps that will be taken to refine and test the manual.

David Knowles, Director, Bureau of Planning and SPAC member said the committee concluded

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that in some circumstances, such as cases where lot line to lot line development is required, it is not practicable to do on-site stormwater treatment. He said what was presented today is different from what SPAC understood. Another policy shift regards thresholds. Mr. Knowles said the committee recommended a higher threshold, 2,500 square feet, for imposing the requirements. He said the committee is not comfortable with some of these shifts and Planning staff has not reviewed the manual regulations yet for consistency with their existing policies.

Commissioner Francesconi asked if the committee was broad-based and if developers were represented on it.

Mr. Knowles said he felt it was a well-balanced committee.

Jere Retzer, Crestwood Headwaters Group, 5115 SW Alfred, 97219, said a holistic approach is needed which goes beyond BES to look at the entire watershed. He said he is especially concerned with protection of fish habitat.

Thomasina Gabriele, Gabriele Development Services, said the new manual focused on treating rainwater as close to the site as possible, which may not be the best approach. She questioned why so much focus has been placed on new development, which causes only 15 percent of the problem. She said some sort of forum is needed to balance all the density goals.

Ann Gardner, Schnitzer Investment, said clarity is needed on drainage improvements for larger developments. She said drainage plans should remain in effect for at least 10 years as certainty is needed for these large projects.

Anne Nickel, Columbia Corridor Association, expressed concern that the manual was an in-house project which failed to get sufficient input from the affected parties or to consider alternatives. She said the present proposals are land intensive and builders will end up with four times the amount of land needed to retain water.

Amanda Fritz, Portland Planning Commission, said there has been no time for review of these regulations by either neighborhoods or watershed councils. She said BES is taking a structural rather than a vegetative approach and allowing some clearly questionable practices, such as placing ponds on slopes. She said the review procedure is illegal as neighborhoods have no appeal rights.

Dave Nadal, 2014 SE 12th, #308, 97214, supported the testimony of Mr. Retzer and Ms. Fritz. He said no mitigation on stream habitat should be allowed as compromises cannot be tolerated in this area for the sake of development. He claimed that developers were overrepresented on the advisory committee and that more decision-making on development should be left to the neighborhoods.

Commissioner Sten said Council has heard from both sides today. One side thinks the regulations are too strict and the other believes they are too lax. These discussions have been going on for two years and he believes it is better to have something drafted on paper to take to the interested parties for their input. However, he doubts that consensus will be reached on all issues.

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Commissioner Hales questioned what acceptance of this report by Council means.

Mr. Marriott said BES seeks feedback from Council on this status report and update.

Regarding the appeals process, Commissioner Hales asked why an internal review by BES was chosen instead of the citizen-based reviews that the Bureau of Buildings, the Design Commission and others have selected.

Mr. Marriott said they have not yet finalized their appeals process. They anticipated that questions would be asked and today they have heard that the regulations need to be more consistent with Blueprint 2000 and other existing appeal processes.

Commissioner Hales asked about the site plan map requirements and how they conform with those in Title 33.

Mr. Smith said BES will be happy to review those.

Commissioner Hales said people testified today about specific standards. If setting those standards is delegated to Council, then they should not come to Council. He also feels very strongly that Blueprint 2000 should coordinate all aspects of the development process.

Commissioner Francesconi said he understands that the manual, which includes the regulations, has to come back to Council for approval.

Commissioner Sten said he will clarify that. If the proposed appeals process is not acceptable, the Bureau will work on another one. However, the idea that anything can be appealed to Council is untenable.

Commissioner Francesconi suggested getting advice from the City Attorney on the regulations. He questioned whether issues such as the height of sidewalks should come to Council. He noted a disconnect between the Bureau, SPAC and the broader community and called for some testing of the basic assumptions first to see what their affect will be on jobs and housing. He agreed that the appeals process needs to be reworked to include citizens.

Commissioner Kafoury said the lack of clear direction is hard on everyone but the issue is very complicated.

Mayor Katz noted that two issues were continually raised: 1) who has authority to adopt the rules; and 2) the appeals process. She said the City Attorney can take a look at the rules issue and she has asked the Portland Development Commission to do a study on the impact these regulations and others have on the cost of doing business and the cost of housing. She asked if SPAC committee had made any recommendations regarding square footage and other issues where there were differences of opinion. Another question is whether the Planning Commission should review this because of its impact on development. She noted that there is no plan for regional facilities and stressed that stormwater treatment must be a regional mandate if the City is not to be put at an economic disadvantage. Finally, there are questions of how land intensive these regulations are

and if they are greater than what is needed to reach the benchmark, whatever that may be.

Mr. Marriott said SPAC met regularly for the last two years and its report to Council last year did not specify a threshold square footage because the members could not agree on one. He said he picked 500 feet at the direction of Commission Sten just to get something on paper that people could respond to. He said these regulations have been triggered by the Clean Water Act, which applies to cities over 100,000 and will be extended to smaller communities later this year. He agreed with the Mayor about the need for regional facilities but is concerned about the Portland Development Commission's cost study because everyone will end up paying for the mistakes of the past.

Mayor Katz said it is time for another study to be done to see how Portland compares with the region. If the entire region has to do this, the City will continue to be competitive.

Mr. Marriott said the status quo calls for people to externalize the cost of handling stormwater but BES is trying to get that cost internalized as much as possible. Some facilities do use a lot of land but there are some case studies indicating that it may be cheaper to develop using those facilities rather than with current building practices. The Bureau is happy to have the City Attorney examine the delegation of authority issue.

Mayor Katz said if this is not acceptable, she would like to have that stated in writing.

Commissioner Francesconi said more needs to be included about "green" solutions and other alternatives to on-site management.

Mayor Katz said Council will not vote to accept this today but will refer it back to Commissioner Sten.

Commissioner Sten said these are not easy issues and there is still a long way to go. He said the fact that Portland is the only city in the country to have an endangered species listing is a serious problem that must be faced.

Disposition: Referred to Commissioner of Public Works.

500 TIME CERTAIN: 10:30 AM - Consider possible uses of State Revenue Sharing (Hearing introduced by Mayor Katz)

Discussion: Mayor Katz read a statement required by State statute regarding revenue sharing.

Disposition: Placed on File.

Mayor Katz convened Council as the Budget Committee.

- 501** Convene Council as Budget Committee to vote on FY 1998-2000 Approved Budget and authorize submission to the Multnomah County Tax Supervising and Conservation Commission (Report)

Discussion: Mayor Katz said as a result of yesterday's budget discussions about covering the utility license franchise reduction, she discussed possible options with Tim Grewe, Director, Office of Finance and Administration (OFA). One option is use of an estimated \$200,000 in excess reserves in the first year of the budget. Council did not initially elect to pursue that option because it involved one-time funds but it could choose to do that to bridge to the second year, when recurring dollars become available. OFA believes it can provide the full \$243,000 under the condition that the reserve be kept at 10 percent in the May financial forecast update and that reserves be the first item on the supplemental list Council is considering this morning. She supported this approach.

Tim Grewe, Director, OFA, said they will try as hard as they can to take the excess from the reserves but still keep them at 10 percent. If they are unable to maintain the 10 percent, they will return to Council.

Mayor Katz said the item on the supplemental list which calls for finding resources for utility relief in the first year needs to be eliminated.

Mark Murray, OFA, addressed the approved budget adjustments reflecting yesterday's discussions. He noted one technical adjustment which allots the Bureau of Housing and Community Development an increase of \$16,707. The adjustments include increases in the following areas: housing, \$2.6 million; schools, \$2.4 million; greenway, \$75,000 over two years; police desk clerks, \$73,944 in the second year; and Regional Arts and Culture Council, \$250,000. He itemized the reductions which will be made to various City bureau budgets to cover those costs.

Ken Rust, Acting Budget Director, said in the first year resources need to increase by \$243,000 to reflect the use of the reserve balances to pay for the utility franchise fee implementation.

Mr. Grewe said Council needs to amend the budget to reflect this on both sides of the spread sheet.

Commissioner Sten asked if the utility franchise fee rate is now 7.75 percent.

Mr. Rust said yes.

Commissioner Kafoury moved to amend the budget to reflect the utility franchise fee reduction. Commissioner Sten seconded and, hearing no objections, the Mayor so ordered.

Each Council member made statements about the budget, particularly as to expenditures by the bureaus in their own portfolios, and stressed the importance of added support for the public schools. The need for more neighborhood infrastructure, preservation of housing stock, juvenile crime programs, parks maintenance, utility fee rate increase relief and other financial concerns were voiced. Mayor Katz noted the failure of State government to adequately serve the City in the areas of education and transportation, thereby diverting City funds away from other needed services. She stressed the need to lobby the legislature for additional resources.

Disposition: Approved as amended. (Y-5)

Mayor Katz then dissolved the Budget Committee and reconvened Council.

- 532** Per City Code 3.21.085(5), accept First Quarter 1998 Monitoring Report from the citizen advisors to the Police Internal Investigations Auditing Committee (PIIAC) (Report)

Discussion: Lisa Botsko, staffperson to PIIAC, reviewed some of the issues raised by the citizen advisors. These include the "knock and talk" policy and allowing off-duty officers to carry weapons, both issues raised by concerned citizens in response to specific incidents. The Monitoring Committee believes the Police Bureau could do a better job educating citizens about its commitment to accountability and about how complaints are processed. The citizen advisors have also requested that complaint forms and brochures be published in Spanish. The Bureau has indicated an interest in doing this but is concerned that the number of dialects makes it impossible to settle on one. However, Hispanic community leaders disagree and the Monitoring Subcommittee has agreed to provide the translation.

Ms. Botsko said the advisors found two cases where there was insufficient legal support or Internal Affairs Division (IAD) analysis to justify the actions taken by officers. One of those cases, which was appealed to PIIAC, involved the confiscation of a political sign and the Advisors have asked for a more substantial legal analysis. The other case was not appealed but the Advisors are concerned about the use of the jaywalking ordinance in areas of high drug activity to justify a search and possible seizure of contraband. In this case, officers seized a cell phone, pager and bullet-proof vest, items commonly carried by drug dealers. The Advisors, and Bureau supervisors as well, would like to clarify the Bureau's legal authority to seize such items. Finally, timeliness continues to be a problem as the average appeal currently takes 14.5 months to resolve. Some cases were held up for as long as two years and there are no performance standards to hold supervisors accountable for processing complaints.

Mayor Katz said the Bureau does need to look at its seizure policy and she will recommend some Code changes regarding PIIAC. After receiving many calls about "knock and talk" and car pursuits, she believes more public education is needed about police policies.

Captain Bennington, Internal Affairs Division, said the Bureau welcomes PIIAC's assistance in translating the complaint forms into Spanish as the Bureau does not have the resources to do that itself. He said a general order came out last July regarding the legal authority for search and seizure and the question is whether it adequately addresses the issues at hand. In one case, legal opinion will be sought, especially regarding the use of search and seizure during protests. Timeliness continues to be an issue.

Tom Cropper, Southeast Portland resident, said the citizen advisors should be elected and Council needs to be accountable for Police Bureau misconduct. He also objected to the police purchase of R15 guns.

Disposition: Accepted. (Y-5)

- 530** Hear appeal of Dan Blazing to the Police Internal Investigations Auditing Committee (PIIAC) per City Code 3.21.085(4)(d) (Report; #98-01)

Discussion: Cay Kershner, Clerk of the Council, said that Mr. Blazing was ill and would need to reschedule this to a later date.

Disposition: Referred to Commissioner of Finance and Administration.

- 531** Hear appeal of Craig Zinser to the Police Internal Investigations Auditing Committee (PIIAC) per City Code 3.21.085(4)(d) (Report; #98-02)

Discussion: Ms. Botsko said the appellant was unable to get off work today but wanted the appeal to proceed.

Commissioner Hales and Mayor Katz suggested setting this over to a time when the appellant could be present.

Disposition: Referred to Commissioner of Finance and Administration.

Mayor Vera Katz

- *533** Accept a modified grant agreement for an additional \$375,000 from Federal Emergency Management Agency through Oregon Emergency Management for the Johnson Creek Floodway Hazard Mitigation Program (Ordinance)

Discussion: Commissioner Sten said this continues the willing seller program.

Disposition: Ordinance No. 172204. (Y-5)

- *534** Amend the City Code by adding the C-TRAN Employee Transit Program to those organizations eligible to use the payroll deduction system and make housekeeping changes (Ordinance; amend Code Section 5.08.140)

Disposition: Ordinance No. 172205. (Y-5)

- 535** Revise residential solid waste and recycling collection rates and charges, effective June 1, 1998 (Second Reading Agenda 489; amend Code Chapter 17.102)

Disposition: Ordinance No. 172206. (Y-5)

- S-536** Request for a semi-annual revocable permit for the intersection of SE 9th Avenue and Sherrett Street for the neighborhood public square project; provide conditions for future similar requests and authorize the City Traffic Engineer to review and issue permits (Second Reading Agenda S-491)

Disposition: Substitute Ordinance No. 172207. (Y-5)

537 Accept the background report for Floodplain Management in the Johnson Creek Watershed
(Previous Agenda 494)

Discussion: Dean Marriott, Director, Bureau of Environmental Services (BES) said a change was made in the resolution on remapping the 100 year flood plain, committing the City to do the preliminary work needed within six to nine months. Another change in the resolution restricts the fill mitigation bank program to residential lots and to property outside of the floodway and flood risk areas.

Margaret Mahoney, Bureau of Buildings, said the Substitute Ordinance on Title 24 removes exemptions from the balanced cut-and-fill regulations so that balanced cut-and-fill is required throughout the area. It also provides for in lieu payments under the mitigation program to be developed by BES. The language pertaining to where permitting is required was not changed. If the fill is less than 10 cubic yards in the Johnson Creek area, separate permits would not be required and the balanced cut-and-fill provisions would be enforced on a complaint basis. Any fill larger than 10 cubic yards and any fill associated with a building permit would need to be permitted.

Mr. Marriott said it was a policy decision as to whether to require people who add less than 10 cubic yards to go through the permitting process.

Ms. Mahoney acknowledged that people doing this kind of work unassociated with a building will not know the permit requirements or about balanced cut-and-fill. The Bureau will need to conduct an educational campaign and do enforcement as needed.

Mr. Marriott said they would like to report back to Council in a year as they are somewhat nervous about how this will work.

Commissioner Francesconi suggested adding some language to help business owners in the event of a catastrophe. In such cases, perhaps a right of purchase could be granted, giving a business which desires to sell some compensation, including relocation.

Commissioner Sten said he does not know how to guarantee that although the Bureau will continue its willing seller program.

Ray Costain, Foster Auto Parts, said his company has 26 acres on Foster Road in the flood risk area and believes that under these ordinances it will be able to do virtually nothing, even in the event of the fire. He urged Council not to use these regulations as a means to obtain property in the area.

Commissioner Sten said the City does not have the money to do that, in any case. He believes a property owner could rebuild on the site, in the event of a fire, but he would still have to meet FEMA standards. That would still be a problem for his type of business.

Council agreed it did not wish to act on Commissioner Francesconi's suggestion.

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Commissioner Sten thanked staff and community members for their hard work in resolving some of the conflicts that arose over this. He said in the long run this will be a very positive step for Johnson Creek.

Disposition: Resolution No. 35691. (Y-5)

- *538** Adopt flood management amendments to the Johnson Creek Basin Plan District in Title 33 (Previous Agenda 495; amend Title 33)

Disposition: Ordinance No. 172208 as amended. (Y-5)

- S*539** Amend City Code to establish special provisions for the Johnson Creek Flood Zones (Previous Agenda 496; amend Code Section 24.50.060)

Discussion: The Clerk noted that a substitute had been filed. Commissioner Kafoury moved the substitute and Commissioner Sten seconded. Hearing no objections, the Mayor so ordered.

Disposition: Substitute Ordinance No. 172209. (Y-5)

City Auditor Barbara Clark

- 540** Create a local improvement district to construct street and sewer improvements in the revised SW Evans Street/19th Avenue Local Improvement District (Return Agenda Item 381; C-9911)

Discussion: Frank Dufay, Assessments Manager, Auditor's Office, said staff reviewed a number of different methodologies and he believes the Equivalent Dwelling Unit (EDU) method has a lot of validity. The bureaus reached agreement on some areas, including the fact that commercial property does not belong in an EDU. Because there is some commercial property in this Local Improvement District (LID), their recommendation is to proceed with what they have.

Commissioner Francesconi asked what the problem was.

Mr. Dufay said time is one element but trying to figure out the number of housing units on commercially-zoned property is way too difficult and the bureaus could not reach agreement on how to do that. BES, Transportation, the City Attorney's office and he all agreed the EDU method should not be applied to commercial properties. He said they explored other alternatives for this particular LID and the bottom line is that it is an expensive project and more money needs to be found somewhere.

Commissioner Francesconi asked if, in the future, commercial properties will be assessed in the same way as these properties.

Mr. Dufay said most likely assessments will continue to be done the way they are now.

Mayor Katz asked if his alternative method was rejected because the bureaus could not come to agreement.

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Mr. Dufay said both the bureaus and the City Attorney's office disagreed about this method, partly because this is the way it has been done for 100 years. Other jurisdictions use other methods and what the City uses is really a legislative decision for Council.

Mayor Katz said she is very disappointed that no agreement could be reached and would like to have a two-page memo summarizing best practices in other jurisdictions to see if there are better ways to assess property. Then Council members can review them and indicate whether they wish to proceed.

Curt Weindorf, 7915 SW 19th, 97219, said he is dismayed that Mr. Dufay's suggestion to use an EDU assessment methodology will not be presented to Council as a viable alternative. He asked why this methodology is applicable to others but not to his neighborhood. He said Council should try to find a method that is fairer and more affordable to the single-family home owner.

Louise Parent Reynolds, 7915 SW 19th, 97219, objected to inclusion in the LID as the current assessment method is far too expensive for individual home owners.

Jean Craycroft, 7935 SW 19th, 97219, pleaded with Council to find another way to fund this project. She said she is very dismayed that the EDU is being thrown out and the fact that they were not informed of this.

Commissioner Hales asked Brant Williams, Office of Transportation, whether other City bureaus agreed on the usability of the alternate assessment method that the Auditor's Office considered, at Council's request.

Mr. Williams said all the bureaus -- BES, Transportation and the Auditor's Office -- agreed that an EDU was not the appropriate way to go with this project. Eugene has used street front footage as a basis for assessment but each community seems to have a different approach.

Commissioner Francesconi said while the whole project needs to be built, he does not understand the underlying policy rationale. He said there appears to be a difference now between Vic Rhodes, the Transportation Director, and an auditor. He said if this is not held over, he will have to vote no.

Mayor Katz said she will also vote no and would like to know if there is another method to deal with commercial property.

Commissioner Sten asked if the aim of the new proposal was to shift more cost to commercial property. He said no one has come up with a scheme to lower the cost.

Commissioner Francesconi said it is a cost shift, but he does not know how much or the effect.

Mayor Katz said one argument is that if there is an apartment with many units, those residents use the roads to a far greater extent than a single-family home.

Mayor Katz recommended that the bureaus get together to review other assessment methodologies that respond to the issues raised and then return to discuss them with Council.

Commissioner Sten asked if the majority of people who signed the petition requesting the LID

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understood the assessment policy. He said the Commissioners who decide this assessment policy is incorrect have to communicate with the majority of citizens who asked Council to pass this.

Commissioner Kafoury said one change was that Council added a street that was not part of the original proposal. That is where the objections are coming from.


Commissioner Sten said he believes the Council members who turn this down have some obligation to give the citizens who requested the LID some idea of what it would take to get it approved.

Mayor Katz said it could be reduced to its original size.

Disposition: Failed to Pass. (Y-2; N-3, Francesconi, Kafoury and Katz)

At 12:55 p.m., Council adjourned.

BARBARA CLARK
Auditor of the City of Portland


By Cay Kershner
Clerk of the Council

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WEDNESDAY, 2:00 PM, APRIL 29, 1998

This session was cancelled to allow Council to tour the South/North Light Rail Corridor.