



CITY OF
PORTLAND, OREGON

**OFFICIAL
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 12TH DAY OF AUGUST, 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 Nos. 1173, 1176, 1178 and 1191 were pulled from Consent. On a Y-5 roll call, the balance of the Consent Agenda was adopted as follows:

CONSENT AGENDA - NO DISCUSSION

1163 Cash investment balances July 1 through July 22, 1998 (Report; Treasurer)

Disposition: Placed on File.

1164 Reject all bids for Colt AR-15 rifles (Purchasing Report - Bid 98206)

Disposition: Accepted.

1165 Vacate the dead-end remnant of NE Simpson Street, east of NE 112th Avenue, under certain conditions (Second Reading Agenda 1138; C-9947)

Disposition: Ordinance No. 172564. (Y-5)

1166 Vacate a certain portion of SW Hume Street north of SW Hume Court, under certain conditions (Second Reading Agenda 1139; C-9948)

Disposition: Ordinance No. 172565. (Y-5)

Mayor Vera Katz

1167 Confirm reappointment of Benita Harris, Anthony Rufolo and Loren Wyss to the City's Investment Advisory Committee (Report)

Disposition: Confirmed.

1168 Confirm appointment of Christine Clark to the Regional Arts & Culture Council (Report)

Disposition: Confirmed.

- *1169** Amend Section 4.44.150B of the City Code so as to clarify the provisions of the Deferred Compensation Plan relative to plan transfers (Ordinance; amend Code Section 4.44.150B)
- Disposition:** Ordinance No. 172566. (Y-5)
- *1170** Amend Chapter 5.72 of the City Code regarding Economic Development Projects (Ordinance; amend Code Chapter 5.72)
- Disposition:** Ordinance No. 172567. (Y-5)
- *1171** Contract with Ball Janik LLP for Washington, D.C. representation (Ordinance)
- Disposition:** Ordinance No. 172568. (Y-5)
- *1172** Authorize application for a \$65,000 grant from the U.S. Department of Commerce, Economic Development Administration for the Outer Southeast Employment and Economic Development Project (Ordinance)
- Disposition:** Ordinance No. 172569. (Y-5)
- *1174** Pay claim of Sandra Roberts (Ordinance)
- Disposition:** Ordinance No. 172570. (Y-5)

Commissioner Jim Francesconi

- 1175** Accept contract with V.M. Pilip & Son, Inc. as complete for waterproofing services for four parking garages, and authorize final payment and release of retainage (Report)
- Disposition:** Accepted.

Commissioner Charlie Hales

- 1177** Set hearing date, 9:30 a.m., Wednesday, September 9, 1998, to vacate a portion of N Macrum Avenue north of N Junction Street (Report; C-9953)
- Disposition:** Adopted.
- 1179** Grant a ten-year property tax exemption to Hoyt Street Properties, LLC for new multiple-unit housing on the block bounded by NW 11th, 12th, Lovejoy and Kearney Streets (Ordinance)
- Disposition:** Passed to Second Reading August 19, 1998 at 9:30 a.m.
- *1180** Call for bids for SW Main Street base, pavement, and curb ramp reconstruction, SW 1st Avenue to SW Broadway (Ordinance)

Disposition: Ordinance No. 172571. (Y-5)

- *1181** Amend Agreement with BOORA Architects to include an expanded scope of services and additional compensation in the amount not to exceed \$31,980 for design of the Southwest Portland Community Center (Ordinance; amend Contract No. 30064)

Disposition: Ordinance No. 172572. (Y-5)

- *1182** Amend Agreement with Richard Brown Architects to include an expanded scope of services and additional compensation in the amount not to exceed \$21,000 for design of improvements at Washington Park (Ordinance; amend Contract No. 31161)

Disposition: Ordinance No. 172573. (Y-5)

- *1183** Repeal Ordinance which vacated certain portions of SE 37th Avenue, lying between Berkeley Park and SE Cooper Street, under certain conditions (Ordinance; repeal Ordinance No. 134247)

Disposition: Ordinance No. 172574. (Y-5)

Commissioner Gretchen Miller Kafoury

- *1184** Intergovernmental agreement with Portland Community College to allow emergency medical technician students and faculty access to Fire Bureau facilities and resources (Ordinance)

Disposition: Ordinance No. 172575. (Y-5)

- *1185** Contract with Dan Davis for fire suppression and prevention services for FY 1998-99 (Ordinance)

Disposition: Ordinance No. 172576. (Y-5)

- *1186** Agreement with Portland Public Schools for \$19,434 for the TLC-TnT Program and provide for payment (Ordinance)

Disposition: Ordinance No. 172577. (Y-5)

- *1187** Contract with School District No. 1 for \$409,600 for the Home Repair Training Program and provide for payment (Ordinance)

Disposition: Ordinance No. 172578. (Y-5)

- *1188** Contract with Unlimited Choices for \$142,136 for Adapt-A-Home Project and provide for payment (Ordinance)

Disposition: Ordinance No. 172579. (Y-5)

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- *1189** Contract with Community Energy Project, Inc. for \$103,121 for the Weatherization Workshop and Senior Weatherization Programs and provide for payment (Ordinance)
- Disposition:** Ordinance No. 172580. (Y-5)
- *1190** Contract with the City of Gresham to implement activities under the HOME Investment Partnership Program and provide for payment (Ordinance)
- Disposition:** Ordinance No. 172581. (Y-5)
- *1192** Agreement with Portland School District for \$28,585 for coordination of the Marshall Caring Community and to provide for payment (Ordinance)
- Disposition:** Ordinance No. 172582. (Y-5)
- *1193** Contract with the Cascade AIDS Project in the amount of \$305,144 to support the Transitional Housing Program, the Warehouse Program and to provide for a Resident Services Specialist and Rental Assistance Fund for persons with HIV/AIDS and provide for payment (Ordinance)
- Disposition:** Ordinance No. 172583. (Y-5)
- *1194** Contract with Innovative Housing, Inc. in the amount of \$300,000 to support the development of six units at the Twelfth and Jefferson Project for persons with HIV/AIDS and provide for payment (Ordinance)
- Disposition:** Ordinance No. 172584. (Y-5)
- *1195** Contract with Rose Community Development Corporation for \$115,000 to support affordable housing development and provide for payment (Ordinance)
- Disposition:** Ordinance No. 172585. (Y-5)
- *1196** Contract with Sabin Community Development Corporation for \$44,000 to continue implementing revitalization activities on NE Alberta and provide for payment (Ordinance)
- Disposition:** Ordinance No. 172586. (Y-5)
- *1197** Contract with REACH Community Development for \$65,000 to implement the Milwaukie Action Plan and provide for payment (Ordinance)
- Disposition:** Ordinance No. 172587. (Y-5)

- *1198** Contract with Northeast Community Development Corporation and the Gladys McCoy Apartments Limited Partnership in the amount of \$120,000 to support the development of four units at McCoy Village for persons with HIV/AIDS and provide for payment (Ordinance)

Disposition: Ordinance No. 172588. (Y-5)

- *1199** Intergovernmental Agreement between the City of Gresham and the City of Portland for the cooperation of units of local government in the development of the Consolidated Plan to meet affordable housing goals (Ordinance)

Disposition: Ordinance No. 172589. (Y-5)

Commissioner Erik Sten

- 1200** Accept completion of the Portland International Raceway pump station improvements, Project No. 5378, and authorize final payment to Triad Mechanical, Inc. (Report; Contract No. 31020)

Disposition: Accepted.

- 1201** Accept completion of the Tanner Creek stream diversion, Phase 1, Unit 2, Project No. 5913, and authorize final payment to KLB Construction (Report; Contract No. 31115)

Disposition: Accepted.

- *1202** Authorize a contract and provide for payment for the design of Johnson Creek FEMA Flood Insurance Study, Project No. 6428 (Ordinance)

Disposition: Ordinance No. 172590. (Y-5)

- *1203** Amend contract with HDR Engineering, Inc. for Inverness Force Main engineering services, Project No. 5152 (Ordinance; amend Contract No. 29725)

Disposition: Ordinance No. 172591. (Y-5)

- 1204** Authorize an agreement with Murray, Smith & Associates, Inc. for an amount not to exceed \$35,000 to investigate alternatives to replace the function of Stephenson Pump Station and provide for payment (Second Reading Agenda 1153)

Disposition: Ordinance No. 172592. (Y-5)

City Auditor Barbara Clark

- 1205** Extend contract with Arthur Andersen, LLP for audits of construction-related contracts and other professional services, and provide for payment (Second Reading Agenda 1158; amend Contract No. 31608)

Disposition: Ordinance No. 172593. (Y-5)

REGULAR AGENDA

- S-*1173** Give final approval for the issuance of Multifamily Housing Tax Credit Revenue Bonds in an amount not to exceed \$9,500,000 (Ordinance)

Discussion: Matt Baines, Assistant General Counsel, Portland Development Commission, said the Substitute adds a paragraph to allow the City's debt manager to ensure that the agreement for credit enhancement was in place prior to actually issuing the bonds.

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

Disposition: Substitute Ordinance No. 172594. (Y-5)

- *1176** Issue a sewer line permit to City of Gresham to construct, operate and maintain a sanitary sewer line within a portion of Springwater Corridor (Ordinance)

Discussion: Commissioner Kafoury moved the proposed amendments as distributed. Commissioner Hales seconded and, hearing no objections, the Mayor so ordered.

Susan Hathaway Marxer, Parks Bureau, said the proposed amendments represent a few last minute technical changes in the exhibits that were agreed upon by lawyers for Gresham and Portland.

Disposition: Ordinance No. 172595 as amended. (Y-5)

- 1178** Approve proposed settlement in legal proceedings involving Metro's Regional Framework Plan and appoint representative to Metro's Affordable Housing Technical Advisory Committee (Resolution)

Discussion: Commissioner Kafoury said she is concerned about her appointment as representative to Metro's Affordable Housing Technical Advisory Committee as she will be able to attend only a few meetings before she leaves office in December.

Mayor Katz noted that Commissioner Francesconi is listed as her successor.

Commissioner Francesconi said he is torn between serving on this committee or another Metro one (MPACT) and would like to discuss it with the Mayor and Commissioner Sten.

Mayor Katz said she will hold further discussions with Commissioners Francesconi and Sten regarding their interests.

David Knowles, Planning Director, suggested approving the portion dealing with the settlement and making the appointment later.

Commissioner Kafoury moved to delete the language making the appointment. Commissioner Hales seconded and, hearing no objections, the Mayor so ordered.

Commissioner Francesconi said he is voting in favor of the settlement reluctantly as he does not believe that filing law suits and then renegotiating policies that have been worked out with Metro through a tedious process is the right way to proceed. However, he will vote for it because it is the will of the Council and because relationships need to be strengthened with the City's suburban partners.

Commissioner Sten said affordable housing is a crisis throughout the region and he hopes now that the law suit is settled, real discussions can be held.

Disposition: Resolution No. 35718 as amended. (Y-5)

- *1191** Contract with the Workforce Development Board for \$446,461 for the Comprehensive Youth Employment Program and provide for payment (Ordinance)

Discussion: Commissioner Francesconi said he wanted to find out the difference between what the Workforce Board was doing versus what the City is doing. He has since been briefed and is very excited about what the Board is doing, although the City still needs to create a coordinated policy.

Disposition: Ordinance No. 172596. (Y-5)

- *1161** **TIME CERTAIN: 9:30 AM** - Accept a \$247,223 grant from the U.S. Department of Justice, COPS Advancing Community Policing program (Return Agenda Item No. 972; Ordinance introduced by Mayor Katz)

Discussion: Assistant Police Chief Bruce Prunk said this grant will allow purchase of a direct dial notification system to get information directly to a portion of the community during times of disaster, localized hazards or threats to persons or property. The system enables 18 phone calls to be made simultaneously. This will allow officers to reach more people much more quickly than going door-to-door and can be an important tool in helping find a missing child or in some other crisis. It also maintains a complete record of who was contacted.

Sergeant Marty Rally, Special Emergency Response Team, said the advantage of this "dial and direct" system is that when an emergency situation arises neighbors in the immediate area can be instructed by phone to take appropriate action. Also, after the incident is over, all those contacted can be redialed and informed that the area is now safe.

Zoe Fleming, Alzheimers Association, said this will help transit information rapidly and will be a help to the families of those with this disease who may wander away.

Assistant Chief Prunk said the coordinator of this program will work very closely with other city bureaus to see how it can best be used by all.

Mayor Katz said this can be a wonderful tool but she wants to make it very clear that this is for emergency purposes only and there will be strict operating practices so it cannot be used inappropriately.

Disposition: Ordinance No. 172597. (Y-5)

***1162** **TIME CERTAIN: 9:45 AM** - Direct the Portland Office of Transportation to proceed with the Hillsdale Transportation Improvements project and direct establishment of a committee to study the feasibility of converting to underground the existing overhead utilities within the City of Portland, specifically focusing on those portions of the City designated in the Metro 2040 growth plan as regional centers, town centers, and main streets (Resolution introduced by Commissioner Hales)

Discussion: Wes Risher, Hillsdale Neighborhood Association, supported the Citywide application of undergrounding and the establishment of a Committee to review equity and other issues. He hopes that Hillsdale will be the first town center to be retrofitted with undergrounding and also asked that the Hillsdale Neighborhood Association be represented on the committee. He said this process has been a hard but very educational one that he views as an opportunity to show Portland's greatness.

Matt Brown, Portland Office of Transportation (PDOT), said the neighborhood deserves a lot of credit for dealing with these very tough issues.

Carl Talton, Director, Economic Development, Portland General Electric, said this comprehensive approach is very appropriate and that his company looks forward to being an active participant in the committee.

Sheila Holden, General Business Manager, Pacific Power, said Pacific Power has made a strong effort to adopt a tree trimming policy which ensures the reliability and safety of its system during storms. She said Pacific Power looks forward to this review of the undergrounding issues.

Helen Farrens, 3956 SW Condor Avenue, 97201, opposed any tax for undergrounding utilities on people who do not immediately benefit. If, after the study is completed, it is discovered there is an advantage to everyone and other taxes go down, then the City could consider it. If it is shown that undergrounding is economically better and there are fewer outages, then she favors a tax that would cover everybody. She also opposed any delay in moving ahead with the sidewalk and other transportation improvements planned in Hillsdale.

Glenn Gillespie, 6852 SW Burlingame, said the proposed four percent tax on Hillsdale residents was unfair and he appreciates Council taking this approach instead.

Individuals speaking in support of this ordinance and formation of a committee included:

Sam Sadler, 2047 SW Sunset Blvd., 97201
Bob Baldwin, 5043 SW 19th Dr., 97201
Michael Roach, 6316 SW Capitol Highway, 97201
Celeste Lewis, 4486 SW Washouga, 97201

Art Lewellan, 3205 SE 8th, #9, asked Council to consider the installation of a trolley line in Hillsdale.

Commissioner Francesconi said this small step by Hillsdale has become a big step because the supporters were willing to step back and address the fairness issue. As a result, there is a better product.

Commissioner Hales said this appears to be a good solution and he is glad to see the utilities cooperating too.

Commissioner Sten thanked the Energy Office and other bureau staff for their efforts in this matter. He said sometimes the best answer is to think a little bit bigger and this may be the case here.

Mayor Katz said the social capital invested by both supporters and opponents is a valuable asset for the City. In this case, Transportation was running against the time clock so that it would not lose its funding for the Hillsdale transportation improvements. She thanked the utility companies and staff who have worked so hard to resolve this issue.

Disposition: Resolution No. 35719. (Y-5)

- 1206** Vacate two alleyways in Block 33, Portsmouth Addition, under certain conditions (Second Reading Agenda 1124; C-9802)

Disposition: Ordinance No. 172598. (Y-5)

Communications

- 1207** Request of Norman Garrison to address Council regarding public safety in City parks and the need for a balanced approach environmentally (Communication)

Discussion: Norman Garrison, a resident of the Henry Building in downtown Portland, said he was mugged by five persons at 2:00 a.m. two weeks ago in Waterfront Park between the Morrison and Burnside Bridges. He said the City needs to provide better lighting and add

more police to put a stop to the drug dealing and violence in this area. Environmentally, the City needs to be continue to care for its wonderful parks.

Disposition: Placed on File.

- 1208** Request of Jack Peek, Foster Powell Neighborhood Association, to address Council regarding his proposed Ordinance for siting social services (Previous Agenda 1125; Communication)

Discussion: Cay Kershner, the Council Clerk, noted that Mr. Peek was not present to testify.

Disposition: Placed on File.

Commissioner Hales moved to suspend the rules in order to consider an item on the Four-Fifths Agenda. Mayor Katz said at first she objected because she does not believe a controversial item such as this should be introduced on the Four-Fifths Agenda but later withdrew her objection because she believes this is a critical issue.

- *1208-1** Expand temporary prohibition on new painted wall decorations and new painted wall signs. (Ordinance; waive Code Chapters 33.730 and 33.740, if applicable.)

Discussion: Eloise MacMurray, Regional Arts and Culture Council, said she does not object to the extension of the moratorium but wishes some consideration could be given to cultural institutions regarding large art murals in downtown Portland. She said she would hate to have them prohibited. She understands that no distinction can be made between art and other content but wonders if some distinctions could be made based on institutional status.

Council continued this item to the afternoon session in order to take additional testimony from the public.

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

At 10:25 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 AUGUST, 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; Kathryn Beaumont, Senior Deputy City Attorney; and Officer Chuck Bolliger, Sergeant at Arms.

- *1208-1** Expand temporary prohibition on new painted wall decorations and new painted wall signs. (Ordinance; waive Code Chapters 33.730 and 33.740, if applicable.)

Discussion: Jeff Rogers, City Attorney, said the moratorium would be a temporary attempt to freeze the status quo while the City develops revisions to its sign code and while a case the City is amicus to proceeds through the courts. The decision in that case might change the interpretation courts have placed on the Oregon constitutional provisions concerning freedom of expression. These provisions create obstacles for the City, and other governments, in regulating signs and other forms of expression. The suggestion by Eloise MacMurray of the Regional Arts and Culture Council to allow certain types of organizations or individuals, but not others, to paint images on walls would probably be seen by the courts as an indirect way of regulating content and be ruled unconstitutional.

Commissioner Kafoury said her point was that the arts community would like to be involved in this discussion.

Mr. Rogers agreed. He said the moratorium will last at most several months and expire if and when new sign code regulations are adopted or when the Oregon courts decide the Outdoor Media case.

David Knowles, Director, Bureau of Planning, said one reason the City is preparing a new sign code is so that it will not have to continue negotiating interim arrangements with the wall sign companies, which the City Attorney has been doing. Staff believes that if they have a new code, they can then arrive at some agreement with all the sign companies about the existing images that are already up. He summarized the proposal staff will be taking to the Planning Commission. What the Planning Bureau is proposing to the Planning Commission is that there be no distinctions between painted wall signs and murals. Second, new painted images above the first story of the building would be prohibited but anything would be allowed below the first story. That will ensure that the community murals so important to the community are able to continue. Copy changes would be prohibited on existing images so eventually some of those images would go away because they are tied to particular products. Staff fully anticipates a lot of discussion about these proposals but hopes to get something back to Council on wall signs in November.

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Commissioner Kafoury asked what has changed that made it necessary to do this today. She thought there was already a moratorium.

Mr. Knowles said there is one in the Central City but because staff will be notifying and sending out a Planning Commission report on a new set of sign regulations they thought it was important to present Council with the option of preserving the status quo regarding the number of images. Because the proposal going to the Planning Commission is a prohibition at least above the first story, some companies might be motivated to go ahead and put up murals in an attempt to preserve their rights to have commercial advertising on buildings.

Commissioner Kafoury said that still does not explain why this was an emergency on the Four-Fifths agenda.

Commissioner Hales said this is a Four-Fifths item because of an error made by his office and was designated as an emergency ordinance because one either believes the interim protection is necessary or is willing to wait 30 days for it to go into effect, probably sparking one of the greatest sign painting binges ever as people use that time to plaster every vertical surface in the City with advertising.

Commissioner Kafoury said she is still not quite convinced people could not be notified and that this could then be passed next week as an emergency ordinance as part of the regular agenda.

Commissioner Hales said he will not be present next week.

Mayor Katz asked about the status of the City's inventory of existing billboards and wall signs.

Mr. Knowles said the Bureau of Buildings is doing an inventory of painted wall images outside the Central City (he believes it has already been completed within the Central City) and will have it when the moratorium goes into effect. Whether any signs identified as illegal go through an enforcement process is something the City Attorney and sign enforcement people have been talking about and will continue to do so.

Commissioner Francesconi asked if he is correct in thinking the moratorium does not keep the current code in place.

Mr. Rogers said the moratorium overrides the current code for the period of time it is in effect.

Commissioner Francesconi asked if this is legally constitutional and why it is needed.

Mr. Rogers said they believe it is legally defensible and constitutional.

Mr. Knowles said that, without the moratorium, they expect a proliferation of signs when the public, and the sign companies in particular, become aware of the new code proposal because

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it would prohibit new images after the effective date. Staff's prior experience was that dozens of new painted images were put up between the time the proposal for the moratorium was filed and considered by Council, and the time it was put in place.

Commissioner Sten asked if he was sure the cart and the horse were in the right place.

Commissioner Francesconi said he understands that during the moratorium staff will try to come up with a new code and also meet with the parties. He asked about the purpose of the Four-Fifths agenda.

Mr. Rogers said it is a mechanism allowing matters to be put on the calendar after the normal filing time.

Mayor Katz said Council has gone beyond the Four-Fifths issue and this is now before Council for review as a normal agenda item.

Commissioner Francesconi asked if Four-Fifths was used to deprive people of notice.

Mr. Rogers said no, the purpose is to get an item on the calendar when, for one reason or another, it was not placed on the calendar in the normal manner. The need for that may tie in with the need for something to be an emergency ordinance.

Commissioner Francesconi said if Council were voting he would vote in favor of the moratorium and the emergency clause but he does not like voting on it today because of the lack of public notice.

Mayor Katz said all the Council members, except for herself, signed the Four-Fifths calendar so it should not be an issue anymore.

Commissioner Sten said he does not know how he will vote but signed the Four-Fifths as a courtesy because it was an emergency situation and he was willing to consider the issue.

Mayor Katz noted that without a unanimous vote, the emergency clause needs to be removed. She said she does not like Four-Fifths items but this is an emergency issue and, since there were four signatures to bring this before Council, it should be acted upon, either aye or nay.

Paul Leistner, City Club of Portland, said the Club has long been concerned about billboards and previously supported the moratorium. He noted a list of illegal signs submitted by Alex Pierce which went up after the moratorium went into effect. He asked if existing illegal signs will be subject to fines and how illegally-placed signs will be identified if they go up after this ordinance is passed. The City Club in general supports this measure.

Kurt Wehbring, a member of the City Club Sign Committee, said their study and report recommended support of a new sign ordinance and the committee was asked by the City Club to continue to monitor implementation of that report. He said committee members have worked with the City Attorney on such issues as amortization, a sign data base and wall

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murals. The committee supports this sign ordinance.

Mayor Katz asked about enforcement.

Mr. Rogers said the underlying issue is whether the City's code is legal and constitutional and litigation is underway on that issue right now. There is a question of how much enforcement to do while this is still unresolved. To date, the City Attorney has felt it best to devote resources to resolution of the legal proceedings although another approach would be to identify individual signs the City believes are in violation of the Code and enforce against them. That is up to Council to decide.

Mayor Katz asked how long a decision by the court is expected to take.

Mr. Rogers said the City plans to file an amicus curiae brief in support of a State case involving Outdoor Media Dimensions as it relates to the regulation of some content and whether it is appropriate to make a distinction between commercial and non-commercial speech. He noted that the U.S. Constitution allows such distinctions but Oregon's Constitution currently does not. However, with recent changes in the makeup of the Supreme Court there is a possibility that some distinctions could be made.

Commissioner Kafoury said she does not understand why the City has something on the books it does not enforce.

Commissioner Hales said the City Attorney is asking for Council's direction about enforcement. He said the City has not enforced this to date.

Mr. Rogers said the hope has been that businesses will voluntarily comply but no legal action has been taken against violators.

Commissioner Hales said this is not an issue that either the City Attorney, the Planning Bureau or the Council has been eager to deal with. But in some people's minds there is a serious proliferation of billboards that happen to be painted on the sides of buildings rather than mounted on steel poles. Some people in the industry have not only been exploiting that loophole but have filed 72 challenges to the existing sign regulations that affect billboards and are also suing the City in several different courts. To decide to do nothing is a decision to let every available vertical surface sprout a wall sign and for the property owners who own that surface to earn several thousand dollars a month in advertising revenues. That is a powerful force which can either go on unchecked or the Council can say it cares about what the City looks like and whether it wants lots of painted advertising on vertical walls. He said he thinks this has to be dealt with properly or the problem will crop up somewhere else.

Commissioner Sten said the City cannot keep banning every way there is to advertise and noted that citizens are now literally seeing billboards driving around on trucks. At some point an overall strategy is needed rather than banning first one way of advertising and then the next one.

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Commissioner Hales agreed.

Mayor Katz said the issue is that these issues are sitting in the courts right now and the question is whether to wait to enforce or enforce now.

Mr. Knowles said the fundamental problem is that the law will not allow the City to exercise common sense.

Commissioner Francesconi said sometimes the Constitution gets in the way of common sense.

Mayor Katz said this is a critical issue for her even though she did not sign the Four-Fifths. Until art wall signs can be separated from commercial ones, she is not even willing to take a chance on pedestrian-level wall signs. Also very offensive to her are those who are thumbing their noses at the City and going ahead and erecting illegal wall signs. She wants to know who has illegal signs to see if the building owners will remove them and, if not, perhaps applying some consequences.

Commissioner Francesconi asked if billboard industries and the arts community had been notified about today's hearing.

Mr. Rogers said Pete Kasting in the City Attorney's office called all the sign companies which have been involved and AK Media filed a seven-page letter in response.

Commissioner Francesconi said a moratorium should be of limited duration if it is to be constitutional. Is it expected to last two months?

Mr. Rogers said it would last until a new sign code is adopted, the court case is settled or Council decides to end the moratorium.

Remedious Rappaport, Media Graphics, said she received no notification about the extension of the moratorium and has heard that the restriction will cover the entire City, affecting not only big advertisers but everyone. She said the area between the first and second floors is a very traditional advertising space and very much in tune with aesthetics and historic uses. However, determining what that area is could be a real problem. She objected to having another moratorium whose purpose is to reach a particular group of people who have shown no respect for City regulations and have thumbed their noses at the code. All this extension does is restrict legitimate people who are trying to abide by the regulations, turning them into adversaries. A new sign code would be a better option.

Alex Pierce, 650 NW St. Helens Rd., said many wall signs are far larger than billboards and the City has not enforced its current regulations. He has personally noted at least 40 violations which no one in the City seems to care to enforce. The Portland Planning Commission and Council seem to want to wait until there is some "win-win" outcome but the problem is not going to go away as the companies know the City will not enforce these regulations. He said he cannot believe the City Attorney cannot draft appropriate regulations.

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Mayor Katz said she would like the Bureau of Buildings to go back to the time when the moratorium was enacted and check out the violators.

Commissioner Hales said Council needs to decide whether to instruct the City Attorney to enforce this or not.

Mayor Katz said she wants to know who owns the property where these illegal wall signs appear.

Disposition: Ordinance No. 172599. (Y-5)

1209

TIME CERTAIN: 2:00 PM - Establish a Parks and Recreation System Development Charge on new development applicable at the time of application for a building permit and adopt a new Chapter 17.13 of the City Code (Ordinance; adopt Chapter 17.13)

Discussion: Commissioner Francesconi said although there is not consensus on this measure, there is agreement on the basic principles. These include recognition that parks are an essential part of the City's infrastructure. To help pay for them the City has placed a bond measure on the ballot, as System Development Charges (SDCs) cannot be used to meet existing deficiencies. SDCs, which most cities already have, are intended to provide revenue to help pay the cost of new growth in the City. He said with the help of a committee, a number of issues involving these charges were identified. The first issue regards a commercial development charge, which he supports although a number of details still need to be worked out, including the appropriate nexus, the type of parks, appropriate charges and credits. After the bond measure is determined in November, they will proceed with that issue. A second issue concerns changing the methodology to try to get more community development as he believes an adequate strategy is still lacking to build community parks, especially in park-deficient areas such as East Portland. A third issue is credits, particularly in the Greenway, and who should get them and how much they should be. The credits called for in this ordinance go beyond what is required but a transfer of credit will be allowed for additional land for the Greenway. Another issue is the transfer of credits. He said an amendment will be proposed allowing a transfer of credit for the Greenway at 25 percent for additional land only. The transfer of credits will be limited to 50 percent for parks and unlimited transfers will not be allowed up to 100 percent. Commissioner Francesconi said Arnold Rochlin recently raised an issue concerning the 15 percent density exemption for new development which is less than 15 percent of existing density. This is a part of the Transportation SDC which he will recommend be removed from the Parks SDC. He said Parks will return later with administrative rules that spell out a public involvement process on the issue of credits and the transfer of credits.

Mayor Katz asked staff to identify the amendments.

Mary Ann Cassin, landscape architect, Parks Bureau, said staff has scrutinized this carefully for 18 months with help from a broad-based committee. Regarding affordable housing, Parks is working with the Portland Development Commission (PDC) to set up a credit pool to build one of the projects on the Parks Capital Improvement Project list. That will form the

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backbone of the credit pool and the idea is that over a three-year period, PDC will be able to extend the same waiver to for-profit developers of low-income housing. Ms. Cassin noted that over the last five years, more than 10,000 households have been added to the City and while natural habitat land was provided under Metro's 26-26 program, less than 15 acres of active park land were added. As for the methodology, the Bureau feels the methodology used to establish the level of services is defensible and very credible. She explained that the methodology is based on a "snapshot picture" taken from the very detailed inventory of park types. Staff then took the citywide averages and determined that they should be extended proportionately. For habitat land, they figured out how they would build out park acreage to complete the park habitat areas already there, i.e. Forest Park and Oaks Bottom. She said some people feel more distinction should be made between downtown and the neighborhoods, and that the number of trails called for is too low. However, the SDC program will be reviewed every two years and the methodology can be changed during that review. This is a 20-year program which calls for a one-time fee on residential units only and is expected to add over 250 acres of park space and raise \$47 million in revenue. The fees were set with an eye to keeping Portland competitive with other jurisdictions and, in fact, the Parks SDC will be lower than any of the neighboring communities, including Tigard, Beaverton and Vancouver.

Ms. Cassin reviewed the amendments. Amendment No. 1 has been dropped and Amendment No. 2 eliminates the provision for an exemption if new development is less than 15 percent of existing density. This means that any unit built will pay an SDC and will eliminate any disincentive to density infill. Amendment No. 3 deals with the Greenway. The current language does not allow for the transferability of any credits for Greenway improvements. Amendment No. 3 provides more incentive to do Greenway land expansions by allowing a 25 percent transferability for land expansions only. Greenways are dealt with differently because there are other ways to built them, including FAR bonuses, and the committee feared that if there were too many greenway transfer credits, too large a portion of the SDC revenues would be spent on Greenways, shortchanging neighborhood and community parks. Amendment No. 4 deals with the transferability of credits for any qualified public improvement. The credits are still allowed but the value is limited to 50 percent and transfers are restricted to the same subarea. The idea is to put new parks where growth is happening.

Commissioner Francesconi said a distinction was made for the Greenway because of the expense involved and also because of the FAR bonuses allowed there.

Commissioner Kafoury said some Council members are very concerned about the existing Greenway guidelines and believe the FAR bonuses and setbacks could be changed. If those change, this portion of the SDC ordinance may need to be renegotiated.

Ms. Cassin agreed.

Commissioner Francesconi said if that changes, this issue will be revisited right away. He added, however, that some people do not think the FAR bonuses work as an incentive anyway.

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Ms. Cassin noted that the effective date will be October 1, 1998. Between now and then staff will write the administrative rules and address setting up the public involvement process to review the credits.

Don Ganer, Ganer Consultant for the City, said he has worked on SDCs for 23 jurisdictions in Oregon over the past nine years. This ordinance is modeled on the Transportation SDC and, compared to those adopted by most other entities, is very generous regarding provisions for credits, the transfer of credits, and determining when payment is due. He reviewed some of the major provisions, including the definition of what is a qualified public improvement. In this case, anything that would increase the capacity of the parks system would qualify.

Commissioner Francesconi said that is why there is a procedure to have the Parks Director approve any land donations so the City does not get things it does not want. He said the administrative rules will provide further direction.

Mr. Ganer noted that the City's ordinance, especially regarding the issuance and transfer of credits, is much more generous than what State statutes require or than most other cities and counties allow.

Regarding the 15 percent exemption, Ms. Cassin said the ordinance filed last week stated that unless a new development had more than 15 percent of the previous use of the property, it would be exempted. She said the proposed amendment would strike that 15 percent provision so that any unit would have an SDC fee.

Ivy Frances, Bureau of Environmental Services (BES), said BES supports the SDC, especially for habitat acquisition. She said BES wants to emphasize that protecting land as open space reduces stormwater runoff and the need to build ever-increasing stormwater and pollution-reduction facilities. As the need to protect the habitat of federally-listed fish species increases, land acquisition plans are likely to become key elements of conservation plans. The Bureau supports Amendment No. 4, which counts donations of qualified public improvements at 50 percent of their value, rather than 100 percent. BES particularly supports restrictions on transferring the credits only within the subareas and would like to recommend that such transfers remain within the watershed. BES does not support Amendment No. 3 because it allows the transfer of credits within the entire City and believes Greenway development credits should not be used in a way that limits the amount of work that can be done elsewhere for habitat protection. However, if the transfer of credits is allowed, the Bureau proposes that such credits be used only within the same watershed.

Mike Houck, Audubon Society of Portland, said both community parks and natural habitat areas are important and are needed. He supported Amendment No. 2 and 3 with regard to capping the land even though he is not excited about transfers. He said the Greenway setbacks need to be increased through regulatory actions rather than incentives.

Jeanne Galick, Corbett Terwilliger Lair Hill (CTLH) Neighborhood Association, said CTLH supports the SDC ordinance but is concerned about the Greenway credits (Amendment No. 3) as they believe property owners will profit greatly from their riverfront property and that no

financial credits should be given for Greenway improvements that are already mandated. Also Amendment No. 3 allows credit for Greenway improvements that exceed regulations but is vague about what that means. She suggested that the word "substantially" be added to that phrase, with explicit examples of what that means. If financial credit is given for additional Greenway width, the FAR Greenway bonus should not be allowed for the same property in order to avoid double dipping on credit. CTLH also supports a cap on the transferability of credits. Finally, Ms. Galick urged that at least \$10 million be earmarked for natural habitat and stressed the need for new parks in her neighborhood, especially as infill in North Macadam continues.

Lisa Jackson, Coalition for a Livable Future, a network of 44 non-profit organizations, supported the Parks SDC. She said people want not just affordable housing but also parks and greenspace in their communities. The Coalition also endorses exemption of non-profit affordable housing providers and establishment of a for-profit affordable housing pool but want 60-year affordability built into any agreement with for-profit affordable housing providers.

Bob Roth, Watershed Coordinator, Johnson Creek Watershed Council, supported imposing the SDCs on new residential development to help meet the increasing demand for recreational opportunities and protect natural areas.

John Southgate, Portland Development Commission (PDC), discussed the establishment of a credit pool for for-profit affordable housing and the effect enactment of an SDC would have on the feasibility of more than 1,000 units PDC is financially participating in. He said PDC would like to set up a credit pool using PDC open space investment that can be used to transfer to qualifying projects. They are now embarking on a process to spell out the specifics but plan to apply two basic criteria. First, eligible projects with some affordability must demonstrate that they will achieve broad growth management or neighborhood revitalization goals. Second, the developer must demonstrate that the SDC credit transfer is necessary to make the project feasible.

Commissioner Francesconi said Kelly Ross of the Homebuilders Association must be included in this process.

Ross Cornelius, Deputy Director of Housing, PDC, said they are excited about having another resource to put toward affordable housing and to contribute to the goals of neighborhood revitalization.

Commissioner Sten said there is a work group looking at all the SDCs to see if it can come up with a philosophically consistent, legally defensible way to address affordable housing with all the SDCs. He noted that the Water Bureau and BES do not exempt affordable housing and that is another reason why it seemed appropriate to look at the whole practice. PDC has come up with a terrific way to handle the existing units but a consistent approach is needed for the future.

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Commissioner Francesconi said this provision will sunset as soon as a citywide approach is adopted.

Commissioner Sten said currently Transportation and Parks exempt affordable housing produced by non-profits while Water and BES do not. He would like to offer the same exemptions to all affordable housing, no matter who produces it.

Arnold Rochlin, Forest Park Neighborhood Association, supported the proposed amendments but said he is still concerned with the transferability of credits. Right now, he believes that if any significant amount of land is to be acquired, the Council has to approve it. The transfer credits are the same as money as someone else must make up the difference. He recommended that if Council is required to review acquisitions of property for cash, it is equally necessary for it to review credits. It should also be discretionary, not a matter of right. Right now if a developer offers a transfer and it meets the criteria in any one of the four categories, one of which is the discretionary judgment of the Parks Director, then it is mandatory that it be accepted. He said the City may not want to accept it and recommended that Council approval be required above a certain amount. He is also concerned about the level of fees, which were determined to be about one third of the actual cost burden of new parks created by new development. The credits, however, are 50 percent and the two should be equalized by raising the fees to 50 percent. He questioned why the general public should continue to subsidize to such a great extent the burdens created by new development.

Commissioner Francesconi said the credits and transfer have to be approved by the administrator.

Mr. Rochlin said acceptance of the land and granting of the credits by the City should be discretionary, not mandatory. He said the Parks Director has discretion in category four, but not in categories one through three.

Seth Tane, NW Newberry Road, applauded the City's attempt to recover some of the impact from development that is borne by the general public. But he noted that less than one third of the impact is proposed to be recovered and the credits are overly generous and unprecedented, according to the City's own consultant. He supported Mr. Rochlin's recommendation to balance the fees with the impacts. In addition, neighborhood associations ought to have an opportunity to review any proposed transfers.

Amanda Fritz, 4106 SW Vacuna, 97219, said this is greatly needed and credits against an SDC are much more appropriate than FARs on the Greenway. She, too, agreed with Mr. Rochlin's suggestion to increase the fees to 50 percent.

Josephine Pope, no address stated, said the average person wants parks and intact natural areas and it is unconscionable in good economic times to ignore this legacy for future citizens. She urged that the SDC be passed now, even though all the details are not ironed out.

James Allison, Friends of Trees, urged adoption to preserve the urban forests, which are currently inadequate and overstressed. Parks planning must be seen as part of the infrastructure and be more proactive.

Ann Gardner, Schnitzer Investment and project manager for redevelopment of the North Macadam area, questioned the accuracy of the level of service study that is used as the point of beginning for the SDC. Their concern is that this formula looks at the number of acres of parks and the number of people but does not appear to calculate utilization of the parks. She said this is of concern because in the North Macadam area, the calculation that Council will adopt through this SDC calls for the dedication of between 16 and 17 acres of the North Macadam development for parks and open space. The real issue for them is how to encourage development of a rich, dense, beautiful Greenway. She said not all the property along North Macadam is owned locally and by providing credits for the investment in a wider greenway and by allowing the transferability of these credits, the City will encourage developers to do more with the Greenway than is currently required. She said they also do not understand why anyone would think the FAR bonus was an incentive as their calculations indicate that it would result in a loss.

Kelly Ross, Portland Homebuilders Association, said the Homebuilders grudgingly accept this SDC as they recognize the crucial importance of parks and open spaces. They look forward to working on the commercial and affordable housing components. Regarding Amendment No. 2, while he recognizes the argument that it provides something of a disincentive to full density performance, it may go too far in eliminating all consideration of this factor. He said this amendment says that even in cases where a new development results in less population, the developer is still required to pay the entire SDC. He said two of the sections being amended, .040 and .060, apply to calculations of the SDC and allow a variance for situations that result in less population. The amendment to .070, however, applies to credits and reimbursements and he can agree to eliminating that. He urged Council to take another look at that section as there is some validity to considering situations that result in less density. Regarding Amendment No. 4, preventing builders from transferring credits from one area to another may create some disincentives to infill development.

Barbara Walker, 1891 SW Hawthorne Terrace, 97201, supported the SDC but stressed that, regarding Amendment No. 3, the Greenway is the most important area of all and the greatest incentive possible should be given to expanding its width. She said 25 feet will not be an adequate width in the future although she does not support condemnation. Therefore, she believes that the City should offer the highest incentive it can to encourage private owners to donate land to widen the Greenway.

Jeff Fish, Portland Homebuilders, said it is important to keep transfers available for developers (Amendment No. 4). If the subarea is too small it will limit what kind of land the City can get out of the developer. He also requested that the City review its decision not to allow credit transfers to be divided up among several different projects.

Ms. Cassin, responding to earlier testimony, said in order to be considered a qualified public improvement, donations of parkland must meet four criteria, one of which is approval by the Director of Parks. These provisions will be strengthened when the administrative rules are written so it is not just the Director's decision. There will be a public process, including establishment of a committee to review each of the proposed donations.

Mayor Katz said the rules should also clarify what happens if the Director rejects a proposed donation.

Commissioner Francesconi asked how the SDC would deal with decreased density due to redevelopment.

Ms. Cassin said even if the result is fewer people, parks services should not be downgraded in that particular neighborhood.

Commissioner Kafoury asked about accessory units.

Ms. Cassin said they will pay half what a single family would pay, or \$709.

Commissioner Kafoury expressed concern about people who add units illegally and do not get permits.

Commissioner Francesconi said while he would like to review several issues, such as public involvement and the effect of the transfer of credits on the Greenway and on small builders, he still wants to pass this ordinance. It would be good to establish a Citywide policy on the transfer of credits.

Commissioner Francesconi moved the proposed amendments, Nos. 2, 3 and 4. Commissioner Kafoury seconded and, hearing no objections, the Mayor so ordered.

Mayor Katz said her hope is that this can be adopted with the understanding that some of the issues that have been flagged can be considered later. She said this is very complicated issue because of affordable housing, the impact on two major undeveloped areas in downtown and the desire to expand the Greenway. She said she observed the struggle of everyone involved to make this SDC work and appreciates the major improvements that have been made.

Commissioner Hales said while the SDC issues have gotten lots more complex, he believes it best to proceed, but with the understanding that staff will return later with a refinement package.

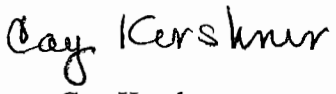
Commissioner Francesconi thanked staff, particularly Mary Ann Cassin and Kathy Turner, and the stakeholders for working so hard to come up with an approvable system.

Disposition: Passed to Second Reading as amended August 19, 1998 at 2:00 p.m.

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At 4:10 p.m. Council adjourned.

BARBARA CLARK
Auditor of the City of Portland


By Cay Kershner
Clerk of the Council