



CITY OF
PORTLAND, OREGON

**OFFICIAL
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 16TH DAY OF SEPTEMBER, 1998 AT 9:30 A.M.

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

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

Agenda Nos. 1350, 1355 and 1360 were pulled from Consent. On a Y-4 roll call, the balance of the Consent Agenda was adopted as follows:

CONSENT AGENDA - NO DISCUSSION

- 1349** Accept bid of J.L. Arndt Construction, Inc. for Fanno Basin pump station site surcharge for \$135,341 (Purchasing Report - Bid 99020 SMP)

Disposition: Accepted; prepare contract.

- 1351** Accept bid of James W. Fowler Co. to furnish street repair on SW Main Street from SW 1st Avenue to SW Broadway for \$465,315 (Purchasing Report - Bid 99028)

Disposition: Accepted; prepare contract.

Mayor Vera Katz

- 1352** Confirm appointments of Roy Moore, Gary A. Toole and Jason Cohen to the Plumbing Code Board of Appeals and the reappointments of Carl Rice, James E. Markman and Stuart Minor (Report)

Disposition: Confirmed.

- 1353** Confirm appointment of Andrew McCann, Creighton Kearns and Greg Pelsner to the Heating and Ventilating Code Board of Appeals and the reappointments of Jerry McCormick, Dana Sheets and Clyde Trapp (Report)

Disposition: Confirmed.

- *1354** Contract with Entex Information Services in the amount of \$265,000 for provision of services to assist the City in the E-Mail Migration Project (Ordinance)

Disposition: Ordinance No. 172673. (Y-4)

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Commissioner Jim Francesconi

- 1356** Accept contract with KLB Construction, Inc. for Forest Park landslide repair as substantially complete, authorize final payment and release retainage (Report; Contract No. 30936)

Disposition: Accepted.

- *1357** Amend Purchase Order with The Dully Company to include additional services for River District project for \$17,500 (Ordinance; amend Purchase Order No. 1021541)

Disposition: Ordinance No. 172674. (Y-4)

- *1358** Consent to assignment to Macadam Bay Homeowners Association of lessee's interest in lease of park property known as Willamette Moorage (Ordinance; Agreement No. 21004)

Disposition: Ordinance No. 172675. (Y-4)

- *1359** Amend contract with David Evans and Associates to include additional services for Progress Downs Golf Course remodel for \$10,334 (Ordinance; amend Contract No. 31661)

Disposition: Ordinance No. 172676. (Y-4)

Commissioner Charlie Hales

- *1361** Amend Code for Transportation System Development Charges (Ordinance; amend Code Chapter 17.15)

Disposition: Ordinance No. 172677. (Y-4)

- *1362** Authorize the execution of lease agreement with Hoyt Building Investors (Ordinance; Contract No. 50457)

Disposition: Ordinance No. 172678. (Y-4)

- *1363** Agreement with the Oregon Department of Transportation, Highway Division, to provide for bridge inspection reimbursement (Ordinance)

Disposition: Ordinance No. 172679. (Y-4)

Commissioner Gretchen Miller Kafoury

- *1364** Contract with Bureau of Labor and Industries for \$19,208 to provide civil rights enforcement services and provide for payment (Ordinance)

Disposition: Ordinance No. 172680. (Y-4)

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- *1365** Contract with Northwest Housing Alternatives for \$55,000 to support affordable housing development and provide for payment (Ordinance)

Disposition: Ordinance No. 172681. (Y-4)

- *1366** Contract with Portland Community Reinvestment Initiatives, Inc. for \$70,000 to support affordable housing development and provide for payment (Ordinance)

Disposition: Ordinance No. 172682. (Y-4)

Commissioner Erik Sten

- 1367** Accept contract with Werbin West Contracting, Inc. for installation of NE Faloma Road water main as complete, release retainage and authorize final payment (Report; Contract No. 31749)

Disposition: Accepted.

- *1368** Issue a revocable permit for Roof Tops International, Inc. to install, maintain and operate public telephones on City streets (Ordinance)

Disposition: Ordinance No. 172683. (Y-4)

- *1369** Issue a revocable permit for US West Communications, Inc. to install, maintain and operate public telephones on City streets (Ordinance)

Disposition: Ordinance No. 172684. (Y-4)

- *1370** Authorize an agreement for public pay telephone long distance services with American Telephone and Telegraph (Ordinance)

Disposition: Ordinance No. 172685. (Y-4)

- *1371** Authorize a contract with the lowest responsible bidder for Inverness Force main landscape restoration, Project No. 6446 (Ordinance)

Disposition: Ordinance No. 172686. (Y-4)

- *1372** Authorize an agreement and provide for payment for the N Denver-Concord Project No. 6353 (Ordinance)

Disposition: Ordinance No. 172687. (Y-4)

- *1373** Accept a grant from the Natural Resource Conservation Service in the amount of \$10,000 for wetlands restoration at the Columbia River Correction Institute (Ordinance)

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Disposition: Ordinance No. 172688. (Y-4)

- *1374 Amend contract with Murphy, Symonds & Stowell Search to extend the scope of services to assist in completion of the process to hire a Maintenance Group Director (Ordinance; amend Contract No. 31717)

Disposition: Ordinance No. 172689. (Y-4)

- *1375 Authorize the purchase of furniture and accessories through an Oregon State Price Agreement for a total of approximately \$72,000 and provide for payment (Ordinance)

Disposition: Ordinance No. 172690. (Y-4)

- 1376 Consent to transfer of Arrow Sanitary Service, Inc. solid waste and recycling franchise to Arrow Sanitary Service, Inc. as a wholly-owned subsidiary of Waste Connections, Inc. (Second Reading Agenda 1337)

Disposition: Ordinance No. 172691. (Y-4)

City Auditor Barbara Clark

- 1377 Transmit Certificate of Completion for the SE Water Avenue/Caruthers Street Local Improvement District for column relocation on SE Grand Avenue at SE Caruthers (Report; C-9925C)

Disposition: Accepted.

REGULAR AGENDA

- 1350 Accept bid of Nutter Underground Utilities Co. for Fanno Basin pressure line - Multnomah Section for \$1,799,640 (Purchasing Report - Bid 99022)

Disposition: Referred to Bureau of Purchases

- *1355 Settle the claims of Dawn Urban (Previous Agenda 1301)

Disposition: Referred to Commissioner of Finance and Administration.

- 1346 **TIME CERTAIN: 9:30 AM** - Adopt the Clinton-Woodward Bikeway Project to improve conditions for safe and convenient bicycling on the streets of Portland (Resolution introduced by Commissioner Hales)

Discussion: Commissioner Hales said it was fitting this item is scheduled the day after the bike revolution conference with people from all over the country here to witness how well the City has integrated transportation planning and neighborhoods. The city-wide bike plan is another piece of our success plan in giving citizens choice in how to move around.

Roger Geller, Traffic Bureau Bicycle Program, said the four and one-half mile Clinton/Woodward bikeway runs through the heart of southeast Portland and will link to the proposed north/south line. It is a quiet alternative to Division and Powell streets and provides a major connection to the central business district and central eastside industrial district. From about 21st to 45th-50th Avenues, bicycles represent about 16 percent of the traffic. The project's focus is to improve the riding environment along the inner portion and, on the outer parts, to improve the safety. He said there was an extensive public process which identified six main issues along the route: 1) discourteous behavior; 2) high traffic volumes; 3) high speeds; 4) difficult cyclist crossings; 5) uncontrolled intersections; and 6) difficult connections to existing bikeways on the outer part of the route. The discourteous behavior from motorists racing to get ahead of cyclists in the traffic circles was brought up again and again, along with the usual car/cyclist interactions. Mr. Geller said staff has not proposed bike lanes as part of this project as that would remove a lot of street parking necessary for the homes without garages and a commercial area with no offstreet parking on 26th Avenue. There have been suggestions to improve Division Street so Clinton Street is a less attractive alternative to motorists. Speeding can be addressed and speed bumps on Clinton from 12th to 39th Avenues are proposed which have 77 percent of the residents' support. At the signal for the intersection of 39th and Clinton, louvres will be put in. Cars often speed up from several blocks away to make a green light and louvres prevent them seeing the light from that distance. He noted the four challenging crossings and the car and bike crossing times, explaining that gaps were those times between cross traffic where a cyclist or pedestrian could safely and comfortably cross at an unsignalized crossing. The 39th and Clinton crossing will have advance boxes for cyclists to legally precede motor traffic, end confusion about positioning themselves and make them more visible. It will also clearly say bikes belong on the street. Mr. Geller described problems with uncontrolled intersections, unimproved roads, and crossing I-205. Also, the improvements will, hopefully, alleviate some of the discourteous behavior.

Judith Ginsburg, 2702 SE 30th Avenue, asked how this could be a designated bike route when there is no room for a bike lane and called it a halfway, ill-conceived measure. She suggested limiting parking to one side of the street as bumps will not solve the problems.

Karen Frost-Mecey, Bicycle Transportation Alliance (BTA), PO Box 9072, 97207, said BTA supports this solution and she has noted the benefits of the traffic calming on lower Clinton.

George Jacobsen, 5616 SE Woodward, 97206-2026, said, as a neighbor of Franklin High School, he is concerned with the interactions of Franklin student motorists as well as the problem of on-street parking on Woodward Street.

Mayor Katz asked what solution he would suggest.

Mr. Jacobsen said the City should approach the school district about parking for the high volume of student motorists and have driveway setbacks.

Mayor Katz said she would communicate that to the school Superintendent.

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Marcia Dennis, 2850 SE 61st Avenue, 97206, said her corner of Woodward is paved but unimproved and is quite a speedway for the students. She supports the bikeway, with concerns about the condition of the street and the high volume of pedestrian and vehicular traffic.

Mayor Katz asked if Ms. Dennis were reporting the license plates of speeders and was told she was.

Commissioner Hales asked if there were parking signage around Franklin High School.

Mr. Jacobsen said yes but it is pressboard and is constantly eliminated shortly after being erected and therefore is not an effective traffic/parking control device.

Bob Elliott, 2436 SE Tamarack, 97214, Hosford-Abernethy Neighborhood Association, said they support this project. It meets two goals: to define Clinton as a bicycle boulevard by reducing vehicle speeds and to help traffic calming. It pretty much finishes the job the Division Corridor project began eight years ago. He noted that if the 39th and Division intersection worked better, it would help Clinton's problems.

Molly Brown-Koelling, 2217 SE Clinton, 97202, said she, her family and neighbors were in strong support of the speed bumps.

Phillips Cooper, 3604 SE Clinton, 97202, Richmond Neighborhood board, said they support this plan. He noted the problem at 12th and Clinton which is an artery for drivers trying to avoid Division to 39th.

Tom Van Raalte, 2224 SE Brooklyn Street, 97202, BTA member, said he used his bicycle for transportation to work and leisure and supports this plan.

Randy Dickinson, 2220 SE 72nd, said he was on the steering committee. He noted that the 82nd Avenue Community College will now have bicycle access. He just returned from visiting Europe and saw first-hand that the advance boxes for bikes at intersections work very well.

Curtis Hart, SE Clinton Street, said he was concerned about the speed bumps, as Clinton is involved in industry and is an auxilliary route between Division and Powell for emergency vehicles. He said the fact that some drivers "play" with the speed bumps creates a dangerous situation for others on the street. The cyclists do not obey the basic traffic rules. He suggested looking at other, less used side streets.

Others using bikes for transportation and speaking in support were: Kathy Rozell, Heather Dawkins, Wayne Hamilton (no addresses given).

Mr. Geller addressed the issues of parking and high speeds around Franklin High School on Woodward. He said this area ranks low in the criteria to determine traffic calming projects because of the low traffic volumes. Regarding the difficulty in backing out of driveways, he

recommended contact with the Traffic Bureau to paint setbacks on the curb. On another point, he noted that the roadway does narrow up around 60th-61st but, because of low traffic volume and good visibility, it is not recognized as a safety problem. Regarding the high traffic volume on lower Clinton, he said a resident is (slowly) passing a petition in the neighborhood to remove parking from one side of the street to establish bike lanes.

Commissioner Hales said, as today's testimony shows, every problem cannot be solved with such a project but, on balance, it is best to try to make the streets better for multiple uses. He mentioned follow-up issues such as student car and bicycle parking at schools, employee commute options and adequate signage.

Disposition: Resolution No. 35727. (Y-4)

1347 **TIME CERTAIN: 9:45 AM** - Authorize the Bureau of Environmental Services to enter into a Memorandum of Agreement with the Automotive Services Association to seek compliance with Code Chapter 17.34 and subsequent administrative rules through the Best Management Practices of Automotive Repair Shops (Ordinance introduced by Commissioner Sten)

Discussion: Commissioner Sten said the environmental challenges these days to clean up the rivers, watersheds and region are more difficult than before when direct industrial dumping was blatantly identifiable. Now widespread, small practices that create total problems need identification and good solutions. With hundreds of small automotive shops in the City, it does not have the ability much less the desire to begin a fee program to monitor each shop. The Bureau of Environmental Services (BES) has devised a voluntary agreement to help the shops determine what the best practices are and there has been great cooperation from the industry. Soon in shop windows there will be stickers showing they are following best practices and this will be used for education and higher results than enforcement. Customers will be aware of this, too. It has worked so well in other cities that some shops have counterfeited the stickers.

Dean Marriott, Director, Bureau of Environmental Services, said a great number of shops over the years have done a good job regarding the use of some rather nasty materials used in servicing vehicles. This agreement takes that a step further -- a truly public/private partnership. The objective is to reduce the use of solvents, toxic metals, oils and grease, flammable materials and their ability to get into the sewer system, landfill or nearby stream and creek. Pollution prevention is the key. He said this is an important chapter in improving relations with City businesses and giving them the tools necessary to do the job right and to communicate that message to their customers.

Sue Keil, Group Manager, Industrial and Solid Waste, said the large industries are doing a good job of controlling waste and there is a strong, cooperative partnership between businesses and staff in source control. Today's items are a great example of an even broader technical partnership. This marketing approach will be a real advantage for the businesses who display the seal. BES is also working with governments in the region, so this is a multi-faceted approach and a winner for both the environment and rate payer.

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Kelly Hendryx, BES Industrial Source Control, said this is a regional program and effort. There will be a certificate for pollution prevention excellence. It is a three-year certificate, the purpose of which is to upgrade the program, continually revise it as industry standards change and constantly modify and improve the process. This is more than a protection issue for salmon and streams, it is also a unique multi-media effort to address air, solid and hazardous waste, and energy -- "eco-logical."

Mayor Katz asked if the community colleges that run automotive programs are involved in this.

Mr. Hendryx said yes and educational programs for their upper level students are being developed and they will help in the certification process.

Jim Houser, co-owner with his wife of Hawthorne Auto Clinic, said he represented the Portland Chapter of the Automotive Service Association. As a member of the committee devising the certificate, he came to realize the staff had professional resources to offer in terms of pollution control, chemical purchases and so on. This will provide recognition for businesses willing to make environmentally responsible choices and improve customer choice.

Christine Vail, Executive Director of Pacific Automotive Trade Association, with 450 members throughout the state, said they were pleased that it is a voluntary program.

Ann O'Ryan, Public Affairs Manager for Triple A-Oregon/Idaho, said the club supports this pollution prevention program. Triple A hopes that other state communities will be inspired to follow Portland's leadership.

Janet Senior, acting Chair of the Pollution Prevention Outreach Team and Water Bureau Planner, presented certificates of appreciation from the Team and the City to the three associations in attendance.

Commissioner Kafoury said she had never thought of this source of pollution and was pleased BES and the community were finding ways to make the City more livable.

Commissioner Sten thanked staff and the industry for putting this together.

Disposition: Passed to Second Reading September 23, 1998 at 9:30 a.m.

1348 Authorize the Bureau of Environmental Services to enter into a Memorandum of Agreement with the Pacific Automotive Trades Association to seek compliance with Code Chapter 17.34 and subsequent administrative rules through the Best Management Practices of Automotive Repair Shops (Ordinance introduced by Commissioner Sten)

Disposition: Passed to Second Reading September 23, 1998 at 9:30 a.m.

- *1360 Contract with Douglas L. Capps Consulting for facilitation services to support implementation of parking and transit improvement programs in Northwest Portland without advertising for bids (Ordinance)

Discussion: Commissioner Hales said both the Northwest District Association (NWDA) and the Nob Hill Business Association (NHBA) asked the City to take an aggressive approach to try something new about the vexing parking problem in Northwest.

David Logsdon, Department of Transportation, said this is a follow-up from the work begun last fall when NWDA and NHBA asked Council to remedy Northwest parking problems. The key recommendations are: 1) provide additional opportunities for shared parking which, if successful, can be used for residents, employees and visitors; 2) prevent commuter parking on the perimeter of the neighborhood; and 3) implement specific permit programs if the shared parking is not successful or generating high use. Additional effort will be made on NW 21st and 23rd Avenues to standardize time zones to improve parking turnover and enforcement. Finally, improvement of transit service and marketing needs to be looked at.

Doug Capps noted that this is being implemented in phases. He has had numerous one-on-one interviews with Northwest residents. Not only those in NWDA or NHBA but those who are "unaffiliated." He has had many discussions of prior studies and reports on this issue. This study recommends not only looking at the strategies, but looking at them in an inter-related fashion to address the parking and get the neighborhood buy-in. Parking should be seen as a management issue requiring management solutions. Mr. Capps said concern over the destiny of Northwest is too much for the parking issue to carry by itself and the strategies need to be mindful of the balancing act required, particularly here.

John Bradley, NWDA Vice-President, said although the parking committee had not had time to write a detailed critique of the report, they were offering some general comments. Facilitation: the original request to the City was to establish a process between interested Northwest area groups which, clearly, has not happened. Labeling of various groups in the NWDA as anti-business and anti-outsiders has further damaged an already dysfunctional process. Livability: despite Mr. Capps' statement, parking is a livability (congestion, noise, pollution, safety) issue, not just a management problem. Shared parking: the NWDA Parking Committee has always endorsed shared parking provided it does not generate new automobile trips into the area. Mr. Capps has given no specific implementation plans, no criteria for success or failure of a given strategy and no time lines. Mr. Bradley said all Mr. Capps' suggestions were put forth earlier by the Parking Committee and sat on the table for ten years. He specifically requested, should this process go on, that a separate group of residential stakeholders be immediately included in the process, i.e. no Board members currently conflicted by the obligation to represent both the residents and businesses.

Don Singer, NHBA, 416 NW Hermosa Boulevard, said Mr. Capps' report recognizes there is no single solution to parking -- it is a resource that needs to be managed. NHBA encourages Council to support Phase II of the program.

Chris Smith, 2343 NW Pettygove Street, NWDA Secretary, said he was something of a

parking moderate and finds this facilitation to be helpful. The idea of pilot projects and sub-area plans, rather than a district-wide plan to succeed or fail on one approach, has merit. He is concerned that the preponderance of the report's solutions seem to expand. Demand is higher than supply and to simply increase capacity will only tap into the latent demand. The latter needs to be managed, as well.

Steve Fosler, NHBA Project Manager, said the facilitation effort has been very successful and helpful to this point. They want to proceed with the strategies, of which three are the most promising: 1) increase off-street parking through shared-use opportunities; 2) improve transit programs; and 3) investigate commuter parking patrols on the neighborhood fringes. City resources need to become focussed and remain focussed on these immediate strategies and have a mechanism to see it through in the long term.

Frank Bird, 1515 NW 28th Avenue, NWDA President, said the diversity of opinion on parking issues within NWDA is well known and NWDA desires to work constructively with the City and other stakeholders to select and implement pilot projects and find long-term solutions. He noted that the quantitative component of the various solutions must be part of this.

Mr. Capps said this is not a completed process but they are at a stage where the specifics will continue to be worked out, particularly in the targeted pilot projects. In response to someone using the word "divisive," he has tried to give voice to all the points of view in Northwest Portland. It is difficult but Council's charge on this project is to find healthy consensus. The organizational question needs more time, but that approach should be tied to the specific projects.

Commissioner Hales said the values attached to this project are well represented by the neighborhood activists and business people. Northwest is a great place to live and have a business and that creates the parking problem. The attributes are a strength to work from, as well the strong tradition of neighborhood participation. This participation should have a bias toward access and innovation. He noted a comment from a consultant who was hired by the Federal government to work with communities on the idea of congestion pricing. His comment and those of other consultants is that Oregon would have the best plan but would not actually implement it. Commissioner Hales said he wants the City to try things rather than paralyzing itself until the planning and organizational issues have achieved perfection. The approach here is to put together a reasonably nimble and effective governing structure.

Commissioner Sten said the process is making some progress and should move forward.

Mayor Katz said Commissioner Hales' values are right on target. The results of all these projects need to be measured with the key being if the situation has been improved and can be quantified. The possible solutions need to be measured to see if they have solved some of the identified problems. We need results and a time line so this does not drag on and, if it does not work, the shift to something innovative can be made as quickly as possible. She said jobs

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have been created on the main streets and the vibrancy and vitality of Northwest need to be maintained. With the latter comes some tension over parking. The transit agencies need to provide convenient services to help the situation.

Disposition: Ordinance No. 172692. (Y-4)

Commissioner Jim Francesconi

- *1378** Accept a grant from Multnomah County in the amount of \$59,677 for FY 98-99 for operation of an integration program for senior citizens who have mental retardation/developmental disabilities (Ordinance)

Discussion: Commissioner Kafoury noted that usually the money goes the other way.

Disposition: Ordinance No. 172693. (Y-4)

Commissioner Charlie Hales

- 1379** Consider vacating a portion of N Argyle Street west of N Albina Avenue at the request of Earl F. Bates (Hearing; Report; C-9950)

Discussion: Commissioner Hales said this street vacation will allow Mr. Bates to consolidate some industrial property and, according to the engineer's report, is a street that the City is not likely to ever develop.

Earl Bates, HCR 62, Box 452, Madras, Oregon, applicant, said that was true.

Disposition: Approved: City Engineer prepare ordinance.

At 11:17 a.m., Council recessed.

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WEDNESDAY, 2:00 PM, SEPTEMBER 16, 1998

Due to the lack of an Agenda, there was no meeting.

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON
WAS HELD THIS 17TH DAY OF OCTOBER, 1998 AT 2:00 P.M.

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

OFFICERS IN ATTENDANCE: Britta Olson, Acting Clerk of the Council; Madelyn
Wessel, Chief Deputy City Attorney; and Larry Siewert, Sergeant at Arms.

1380 **TIME CERTAIN: 2:00 PM** - Establish new City Code Title 30, Affordable Housing, and
Chapter 30.01, Affordable Housing Preservation, and authorize implementing procedures
(Ordinance introduced by Commissioner Kafoury; Add Code Title 30)

Discussion: Commissioner Kafoury said that thousands of hours and hundreds of people
have been involved in the process of low income housing issues. Although consensus was not
reached, this proposal balances the sometimes competing needs of tenants, landlords and tax
payers. She clarified that the ordinance did not affect most private property owners. Private
property owners affected are those few who have building or project-based Section 8
certificates. The additional group of state and locally subsidized projects requires only a
modest notification requirement and does not apply to tax abatements, fee waivers or other
City incentives. The ordinance does not interfere with landlord-tenant relationships other than
to require they give advance notice and time for these vulnerable tenants to move. It does not
affect in any way the Section 8 certificate program. Commissioner Kafoury said she feared
the misinformation and outright lies circulated in some sectors will lead the hundreds of
responsible landlords and Section 8 certificate tenants to decide, out of fear, not to participate
in the program.

Commissioner Kafoury recounted the steps to this ordinance. The Federal government
changed the rules in 1997 about project-based Section 8 housing and will now pay closer to
fair market value for many units and will only renew contracts on a year-by-year basis.
Additionally, landlords are allowed to opt out of the contracts. She emphasized these tenants'
vulnerability and said there must be a better way to deal with the situation than with
uncertainties and lucky breaks. Commissioner Kafoury said this ordinance provides
predictability and fairness for everyone.

Commissioner Kafoury said this ordinance requires a notification period of 120 days and
essentially gives the City the right of first refusal to buy the property. (There is a provision
for moving assistance.) The second major provision deals with future relationships with
projects using local subsidies. The process to reach this point has been exhaustive, beginning
with a stakeholders' group from all sections of the affordable housing community. There was
broad consensus that the 4,700 units of expiring uses were a unique set of property which
need protection. The 60-year affordability issue was the most controversial. She said the
implementation strategy is based on the least possible negative impact on the partnership
between the private sector developers and the City. There is a commitment to explore a

myriad of ideas, such as System Development Charges (SDC) waivers for all developers and expanding the time allowed for property tax abatements. The most important factor is the need for predictable funding for affordable housing projects. She noted enforcement is clear with compliance through the Code Hearings Officer, although there was a last-minute request for the City to use its power of condemnation, rather than setting up a new process. Condemnation is rarely used by the City and then only under very clear circumstances. It is lengthy, taking at least a year, expensive, requiring attorneys on both sides to negotiate, and requires action on a case-by-case basis.

Commissioner Kafoury said this issue was one of the most important she has brought to the Council and, as to it being balanced, some advocates think she has compromised too much and some landlords/property owners are furious. She rested her case.

Martha McLennan, Bureau of Housing and Community Development (BHCD), said the properties being discussed house the most fragile community members, noted here as "Universe A." Almost 70 percent of the tenants in the federal properties are elderly and disabled with an average monthly income of \$600. There are many more fragile people in the community: an aggregate of the Housing Authority of Portland's (HAP) waiting lists has 4,500 households and HAP estimates three times that number are eligible for assistance who cannot even get on the waiting lists. There is a need to develop 66,000 new housing units in the metro region over the next 20 years. This contrasts sharply with the City's capacity to produce or preserve units, which is about 1,000 units a year. Affordability is also being lost as the housing market continues to rise. Three different property categories are addressed in the ordinance in a distinct and separate way and do not overlap. Federal properties' notice period to the City, rights of purchase, notice period to the tenant and tenant relocation is one group. Properties that have received local subsidies have a City notice period, purchase negotiation and tenant notification but do not have the aggressive or proscriptive features of the federal properties. Also in the latter group, new projects that ask for subsidies in the future will require the 60-year affordability. There are three separate and distinct categories of properties: the first two are specific lists of properties and the third is properties that will seek City subsidies in the future.

Mayor Katz asked Ms. McLennan to detail the elements of all three.

Ms. McLennan said the federal properties, those with federal project-based Section 8 contracts, will be required to provide the City with a 90-day notice when they choose to end their contract with HUD. During that time, the City has an opportunity to purchase the property, with a methodology established to value the property, determining its fair market value. If there is a bona fide open market offer on the property, it can be taken into consideration through the arbitration process. If the City then makes a purchase offer and the owner rejects it, the replacement fee would be triggered. If the owner accepts the offer, the City is obligated to close the transaction in a manner consistent with open market transactions in the terms and timing. The 120-day notice to tenants is contiguous to the City's notice time period. If tenants are involuntarily displaced and are low income, the owner and the City would be obligated to provide moving, housing placement and costs assistance. The second properties category, the local preservation projects, includes those with ten or more units that

have received affordable housing subsidies from the City or State since 1988 and which still have affordability restrictions in place when this becomes effective. This category has a 90-day notice provision to the City in which time it could try to orchestrate a purchase or broker a purchase to preserve affordability. It has no replacement provisions or specified valuation process and no fines. The tenant notification is 90 days, contiguous to City notice. The third category, City subsidy projects, applies to affordable rental projects of five or more units which would seek and receive subsidies in the future. The City subsidies would be limited to the direct financial assistance programs and, at this time, the obligation would not be imposed on the tax abatement or fee waiver programs. The City would require those receiving the City subsidies to enter into a binding agreement for 60 years of affordability. Should there be economic hardships in the future, there is flexibility to renegotiate.

Madelyn Wessel, Chief Deputy City Attorney, introduced an amendment to ensure that fair market value is capable of some expansion and adaptation to changing law and practice within the appraisal community.

Commissioner Kafoury moved the amendment, Commissioner Francesconi seconded and Mayor Katz so ordered.

Ms. Wessell said this ordinance involves a set of interests very important to people -- private property -- and, as a constitutional lawyer for the City, she has been deeply entwined in discussions about due process, equal protection, fair practice, takings and just compensation. This ordinance reflects sound constitutional principles, especially in response to the changing view of the U.S. Supreme Court in regard to property rights and interests. From the tested legislation drafted by other cities over some years, they had the benefit of being able to work with the most current analyses of what is the reasonable balance between government regulation of property and protecting property owners' interests. She did note that constitutional law is an evolving balancing act and she is confident that the ordinance contains mechanisms responsive to changing law.

Baruti Artharee, Portland Development Commission (PDC) Director of Housing, said Council charged it to evaluate the implementation impact of the 60-year affordability piece. It was broken down into four areas: 1) would there be an impact on potential investors or owners; 2) what methodology would be used to actually designate units for extended periods of affordability; 3) what incentives would be applied; and 4) what type of flexibility could be built into the implementation. Some commented that there could be an endless debate on exactly what the costs would be and many others stressed that the designated units would need to be very clear, fair and easy to understand. In the last two years, the City has produced 2,800 units in the multi-family area. Once market-rate units, units that had federal tax credits and other HUD subsidy, and units owned by the non-profit community were eliminated, about 900 units over the last two years remained. Therefore, the recommendation is that those units which have received 30-year affordability be required to be affordable for 60 years, with appropriate incentives. In some neighborhoods, there are 100 percent affordable housing units and there has been much discussion from the stakeholders about keeping these units affordable for 60 years and what the impact would be. The conclusion is that if some units are kept affordable at 60 percent of mean family income, mixed-unit neighborhoods would

evolve as incomes and housing prices rise for the rest. Mixed-unit neighborhoods is a goal. Regarding incentives, there is a need to adjust the property tax obligations for the for-profit community as it plays an important role. Fee and SDC waivers are also important for this community. Other incentives that could be employed are higher rates of returns to investors and increased loan amounts. These strategies could be implemented through the Request For Proposal (RFP) process.

Commissioner Francesconi asked if PDC could put out an RFP with a 60-year affordability with no incentives to look for responses and then adjust it if there are none.

Mr. Artharee said, based on feedback from the development community, this year it is highly unlikely there would be much response. But, in the changing market and under different circumstances, it is a possibility.

Commissioner Francesconi asked if it is correct there are no legal issues about the 60-year affordability and in requiring notice from the smaller landlords.

Ms. Wessel said, legally, a contract relationship is being established relative to the 60-year affordability. Regarding notice, only a relatively small group has received subsidies specifically directed toward creating/preserving affordability to begin with. This group has received a pretty substantial benefit, so imposing notice and a time line is reasonable.

Commissioner Francesconi said, regarding the first universe, the federally-subsidized projects and contracts, some jurisdictions have imposed fines and actual prohibitions on changing the use of the property.

Ms. Wessel said those penalties have traditionally been defended based on government's duty to help poor people not lose their housing. It certainly does, however, constitute a substantial intrusion on the rights and interests of property owners. In this ordinance, she determined it was not proper for the City to take those steps without compensation. Therefore, the City must make a fair market offer before any negative, major financial contribution would be imposed on the owner. Only if the owner has refused the City's highest and best use fair market offer is a fine imposed.

Commissioner Francesconi asked about determining the fair market value and if a bona fide offer would come into account. He further inquired about condemnation.

Ms. Wessel said the fair market value definition was developed by coarsely tracking the kind of substantive analysis undertaken in condemnation. Meaning, government must pay the full, fair, highest and best use price of the property. Any bona fide offer will be considered as part of the appropriate valuation. The ordinance is not written so that the City must automatically pay a "bona fide" offer, however, as there may not be one. In response to the question about condemnation, she said it was modeled, not duplicated, on the content of the condemnation process. That process has problematical timing and expense for all parties. The City will work with an owner on this as it confers some good tax benefits.

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Commissioner Sten said owners had expressed confusion about the intent of the "Fair Market Value" section in Exhibit A.

Ms. Wessel said that language is straight from the uniform jury instructions when a jury is to determine fair market value. She recommends against removing the language especially as they have built in a little more flexibility.

Commissioner Sten asked if there is a plan to check, within six months or a year, on whether the 60-year affordability policy is working well.

Mr. Artharee said the policy is to be implemented according to the administrative procedures, which give PDC the flexibility to monitor this.

Mayor Katz noted they will also go to the State legislature on this.

Mr. Artharee said there are a couple of pieces that will go to the legislature: tax abatements and resources. The latter ties into the work being done by the Oregon State Housing Department to secure more money for the housing trust fund.

Commissioner Francesconi noted a letter from Harold Schnitzer outlining a strategy to extend the 10-year property tax abatement targeted to properties in the central city, the most vulnerable citizens, and extend the 15-year depreciation allowance and allow it as a credit against State income tax. This would not require an expenditure of City dollars.

Steve Weiss, Board President of Community Alliance of Tenants, 2727 SE 16th Avenue, said he had two concerns about the final draft. In an earlier meeting, he suggested that all replacement fee funds be used to finance rental housing projects serving households at or below 50 percent of area median income. Since then, the Comprehensive Housing Affordability Strategy Study shows a surplus of 13,640 available units affordable to those at 30 to 50 percent of area median income and a recent report by the Center on Budget and Policy Priorities shows a shortage of 35,000 affordable units for those 30 percent or below median area income. He requested that the end of the sentence of Section 30.01.070(B) be changed to read "at or below 30 percent Median Family Income" and a similar change be made in Section III(D)(4) of the Administrative Procedures. Mr. Weiss also asked for language prohibiting no-cause eviction during the 90-day opt-out notice period. He reminded Council this is a first step, not a final action, and that federal and state resources are diminishing.

Janet Byrd, Director, Oregon Housing NOW Coalition, 2710 NE 14th, said her coalition has been deeply involved in preserving multi-family housing since 1993. In 1997, Congress acted to restore the right to prepay their mortgages to the owners of HUD assisted housing and to opt out of project-based Section 8 contracts. Since then, there have been some significant housing losses. Preservation of project-based Section 8 is less expensive than trying to build housing for the "Universe A" group. The \$30,000 replacement fee is very necessary as vouchers may or may not cover rent and relocation expenses for this group. Congress and HUD truly believed they were solving the nation's housing problems in the 1970's so the

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programs were given a time limit. The lesson from that is to create permanent solutions.

Tasha Harmon, Executive Director of the Community Development Network (CDN), said the 60-year affordability requirement should be a permanent requirement. CDN asks that a penalty and relocation assistance be added if owners do not accept a fair market offer and that language be added to commit the City to preserve affordability once these units are purchased.

Peg Malloy, Co-Chair of the Housing and Community Development Commission, said the City needs to strategically plan which housing projects are most susceptible to removal from the affordable stock and then be prepared to act. The original concept was to designate a number of affordable units in a project in direct proportion to the amount of local public subsidy the project receives. This allows the City to promote the development of mixed-income projects which would become self-supporting.

John Groenwald, Metro Multifamily Housing Association, 921 SW Washington, said the association asks Council to vote no on this ordinance as it places an unfair burden of responsibility on a small niche -- the landlords. He objected to previous statements that it is the "feds" changing the rules because when a third party interjects rules and regulations into the contractual agreement between two parties, that third party does change the rules. He said the proposal ignores the condemnation procedure and compels private parties to sell to the government.

Sharon Fleming-Barrett, Legislative Counsel to the Oregon Apartment Association, Inc., 4110 NE 122nd Avenue, said the intent is laudable but this is a violation of ORS 91.225, local rent control. It is unconstitutional to take private property rights for diminished property use and value, present and future. There is no clarity if the owner decides not to sell or if there is a death in the family. Relocation assistance was not part of the original commitment when they signed on for 20- or 30-year affordability. Incentives are always more successful than punitive fines and restrictions on development result in fewer units for future use.

Ms. Wessel responding to the question of under what circumstances the \$30,000 replacement on Universe A federal preservation property will be triggered, pointed out it is only triggered if the City makes a fair market offer and the owner refuses. The Administrative Procedures (which are still being refined) allow an owner to change his mind by notifying the City. Regarding fair market value, if an owner opted out of the federal program, renovated and put the property on the market, the fair market value would reflect the exact analysis that an appraiser would undertake in any other setting. The procedure used to establish fair market value is different than the condemnation procedure and the substantive outcome is intended to be essentially identical to what would occur through appraisers.

Commissioner Hales asked Mr. Groenwald if there were a particular moment in time in terms of the owners contemplating renovation of the building that they would be vulnerable to not recover that value, or is there just an overall concern with this approach to purchasing.

Mr. Groenwald said commercial transactions are complex and time consuming and each is different. The fact that condemnation is done on a case-by-case basis, which was criticized

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earlier, is a good thing.

Commissioner Francesconi asked Ms. Fleming-Barrett what she could commit her organization to work on to acquire money from the legislature or from the local level.

Ms. Fleming-Barrett said they have helped discover funding sources with the State and they are in for the long range, even though this is a societal, not a landlord, problem.

Harold Schnitzer, owner (with his wife and son) of 450 Section 8 units -- probably the finest Section 8 units in the City, said he speaks with experience as an owner and operator. Fifteen years ago his family undertook development of housing for very low-income peoples and the Assistant Commissioner of HUD has declared it to be one of the finest projects in the United States. He said the challenge in developing Section 8 is how it is done. This ordinance is considering two avenues, the preservation of existing Section 8 (the A group) and the problem of developing new units. There are thousands in need of low income housing. The Livable Cities Committee of a few years ago determined the solution to providing long-term housing is to create a fund to go to the developers to create housing. Money for the fund could be found in the form of a moderate-income transfer tax. Mr. Schnitzer recommended reconstituting the committee to figure out how to develop a fund.

Mr. Schnitzer said the projects built after 1981 have an absolute limitation of approximately six percent on the actual equity invested by the owner, a very limited amount. There are no great fortunes being made by Section 8 owners. There is some accusation that Section 8 rents are twice as much as market and that money is going to pay off a 13-1/2 percent mortgage with the money going to the State. When the State was approached about paying the mortgage down to market rate interest so rents could be reduced, the State said no, it had a private partnership deal with HUD to split the money and keep the excess of about five to six percent which the new bonds paid off. Section 8 owners get six percent on their original equity, which does not escalate with inflation during the 20-year term. Additional money from higher rents goes to the State and HUD, not to the owners. The provision to notify the City is absolutely fair. As HUD beats down the rents, more operators are getting out. The City should offer some incentives equivalent to market rents, such as 10 years' additional tax abatement or a depreciation allowance as a credit against State taxes. Even though the real problems rest with HUD in Washington, D.C., the \$30,000 replacement proposal is outrageous, confiscatory and unconstitutional.

Commissioner Sten said he was startled to hear the suggestion that the City would go into condemnation processes every time something came up. The City clearly has the right to buy these buildings, using an appraisal process identical to that outlined by Ms. Wessel. He said today's proposal is a more honest process than going to court.

Ms. Fleming-Barrett said although condemnation might result in court action, there is a reason the procedure is on the books. It is lengthy and expensive because it allows the property owner due process.

Commissioner Sten said it is a contradiction to him to hear on one hand that owners feel the

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City's asking for 120 days is a taking because it slows things down, and on the other hand say they want the process for each one to go on for years.

Commissioner Francesconi asked Mr. Schnitzer if he agreed that if an owner has a bona fide offer and the City matches it, the owner, given the public interest, should sell to the City.

Mr. Schnitzer agreed. When the owner is willing to sell, the City should be notified and given 30 days to match the offer. But, when circumstances change and an owner does not want to sell, the owner should not have to sell. He said, regarding condemnation, the United States courts have held that the value of a property is the capitalization of the income in place. How does an owner get fair value when the income is depressed because of low rents from HUD? The fair market aspect of this proposal is flawed.

Barbara Willer, Interim Executive Director of Housing Our Families, 39 NE 59th, 97213, said as a community development corporation they are actually representatives of neighborhoods. The preservation ordinance is a tool to maintain neighborhoods and housing affordability. She noted that the non-profits are really community residents, controlled by the community, the neighbors and those who pay taxes.

Mike Houck, Audubon Society of Portland and Coalition for a Livable Future (45 non-profit diverse organizations ranging from the Urban League to 1,000 Friends of Oregon), said he was struck by the similarities in today's discussions to other efforts to address livability in our region. He urged Council to pass this ordinance.

Nancy Haque, Portland Jobs with Justice, a coalition of labor unions, community groups and religious organizations, 4054 NE Rodney, said the Council gave unanimous approval earlier this year on living wages to address the growing divide between the rich and poor. The replacement housing ordinance is important not only for the buildings' tenants but for the City to take a stand for equality.

Mark Kobernick, PO Box 33581, 97292, said it has been mentioned that there could be a new real estate transfer tax in the future committing a small part of each property sale to affordable housing. He is concerned that investors will be scared away from investing in Portland.

Ray Arrigotti, 3401 SE Harold Court, 97202, said he and his wife had been small landlords in Portland for 34 years. He said the small landlords could offer some excellent ideas, such as having Multnomah County cut property taxes to enable the owners to lower rents. The ordinance does not impact him, but he is concerned it might in the future.

John Beardsley, 115 SW Ash, No. 500, said his property at 17 SW 2nd (Universe A) was developed before 1981 for a HUD Section 8 program. He got no notice of this action, has owned his property for 32 years and now only has three minutes to defend his property. If he chose to use his property differently, he would have to pay the City a fine of \$30,000 a unit plus \$1,000 per tenant. The 39 units would add up to \$1,200,000. Condemnation proceedings provide for due process and this is not due process. The fairest Council position would be to renew the HUD Section 8 contracts.

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Chuck Currie, Goose Hollow Family Shelter, 1838 SW Jefferson, 97201, said during the past decade in the nation more personal responsibility has been asked from those of low income who receive public subsidies. This ordinance asks the same from those who receive public subsidies that increase their income while developing housing.

Frank Moran, 623 SW Park Avenue, No. 407, 97205, said he had to relocate from the Roosevelt Hotel, a pleasant residence and, while he is grateful to have a roof, he and others have been stressed and are lonely. Most of them had no idea there was a time limit on these units.

Les Hopkins, Chaucer Court Apartments, 1019 SW 10th, said he and the other 85 residents would need to scurry for affordable housing if the property returned to market rate. Their golden years would quickly tarnish. He noted that the "baby boomers" will soon be joining them.

William Sloan, 4303 SW Chesapeake, 97201, said high rent housing is never affected by proposals such as this.

Jeff Stoll, 7417 SW Beaverton Hillsdale Highway, Suite 525, 97225, said although his property is not impacted he is against this ordinance.

Gary Matusch, 14321 SE Chargin, Clackamas, said this ordinance would slow and perhaps stop private development of lower- and mixed-class housing in a few years. Cities that have gone to rent control have seen the core area deteriorate and this ordinance has ramifications of rent control.

Mayor Katz noted that testimony about "what would happen next" is not appropriate for the ordinance being discussed. However, that fear may stop people from making the investment in affordable housing, so Council will be monitoring this ordinance carefully for a negative impact.

Martha Gies, 2109 NE Rodney, 97212, said the talk about a breakdown of community makes it sound like a passive process, which is misleading. The communities are being demolished through the apparent belief that development is the highest goal of the human race. The Roosevelt Hotel owners' decision to not let the City bid destroyed a "home."

Vi Trantham, Community Alliance of Tenants, 2710 NE 14th Avenue, 97212, said housing needed to be kept safe, stable and affordable.

Nick Sauvie, President, Community Development Network, 7211 SE 62nd, 97206, said it makes no sense to let units go to market in areas that are healthy, diverse communities, rather than trying to build more units.

David Hunnicutt, Oregonians in Action and Oregon Apartment Association, said Commissioner Sten's question about the seeming contradiction about condemnation comes from the question of why the \$30,000 hammer would be needed if the City were making a fair

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market value. Condemnation would be cheaper, less time consuming and guarantee a fair market determination. In some condemnation cases, the difference between fair market offers can be 300-500 percent. In this process, the person to make the determination would be an arbitrator, probably an attorney, with the costs shared equally between the City and the owner. The parties essentially will pay for an extra lawyer. In a condemnation action, the owner pays for the attorney but not the judge or jury. Also, an arbitrator may not be as impartial as a judge or jury.

Commissioner Francesconi asked Mr. Hunnicut if he would support the process if it were cheaper and faster.

Mr. Hunnicut said yes if it were cheaper, faster and a determination of fair market value was made by an independent third party with no vested interest in the process and the \$30,000 hammer were dropped. He does not believe the fine would be necessary if the City were offering fair market value.

Commissioner Francesconi said the fine is in place to enforce the decision, just as a judge has such authority. He understands why people are upset with the fine, if they do not understand the ordinance.

Phillis Bohanan, 9106 NE Sacramento, and Marge Stoll, 6605 SW Vermont St., 97223, landlords, both said they were concerned about this ordinance's passage, although their properties are not affected.

Ralph Austin, Executive Director, Innovative Housing (non-profit), said he supports the 60-year affordability requirement as a developer and citizen. The test of its being good policy will be if the public funding to which it is linked goes unused. In the past several years, PDC's RFPs have oversubscribed the funding from two to four to one. The healthy aspect of this dynamic is that competition brings out good proposals. It does stretch credibility that increasing the affordability to 60 years will drive so many developers from the table that the funding will go unwanted. In a market as strong as Portland's, for every developer, for- or non-profit, others will take their place. The 60 years does affect future value slightly, but the discounted value in those years is so speculative that it borders on being meaningless in any analytical way.

Bobby Weinstock, 1845 NW 23rd Place, Housing Program Manager for the NW Pilot Project, said the only hope for people in Universe A to obtain a decent, affordable place to live is project-based subsidized housing.

Malcom Johnson, 14325 SE Crystal Court, 97236, said he owns several Section 8 apartments near properties on the list and fears that, if this passes, it will eventually include other low-income properties.

Mike Ellmaker, 720 SW Washington Street, Suite 510, 97205, said he owns low income downtown property -- along with the others who have been called the "dirty 88" because they have other incomes. This program is really hitched to the Federal Section 8 subsidy

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programs. If those programs are not available then would the opt-out language still apply? As an owner, he has been told the Section 8 renewal legislation has been bumped for the Clinton/Lewinsky stuff. Eliminate the flexibility, eliminate the fairness.

Commissioner Sten said this testimony points up how valuable the Section 8 certificates are, emphasizing the need for this ordinance so those properties are not lost.

Mr. Ellmaker said the goodwill of the 88 landlords is more valuable than those certificates. They have, for 15 to 20 years, been part of the solution. Also, their tenants will not have the opportunity to have a private owner as a landlord.

Bill Gordon, Oregon Housing Coalition Board member and Gray Panthers member, said he, at 90 years old, is positive there has never been such a great degradation of labor, with people earning less than they did 40-50 years ago, or such a high cost for affordable housing. This ordinance will stimulate housing and generate ideas and programs to help create additional housing.

Edith Brown, 1839 NE 14th, Apt. 615, 97210, Elders in Action, said she lives in subsidized housing. Her unit is \$685 but she pays 30 percent of her income for housing, \$207. She and many others would be in dire straights without the subsidy and this ordinance is desperately needed.

Gwen Sieben, 4950 S. Mapleton, West Linn, 97068, asked if this ordinance would create a climate to drive future investors away.

Roger Jones, 2936 SE Taylor Street, 97214, said he is most concerned with the fair market value. It would be a better ordinance if it stated that the \$30,000 hammer did not exist for the appraisal process and the value put into the property were not disallowed. He questioned what constituted speculative value in the ordinance.

Commissioner Francesconi said he disagrees with Mr. Schnitzer's interpretation of the ordinance's appraisal process.

Ms. Wessel said if a private owner were in a position to convert property to condominiums that would be the best and highest use and that protection is built into the definition. The amendment gives BHCD and the City Attorney's office more flexibility to evolve and change the definition administratively to make sure it continues to track with case law and professional appraisal standards that might evolve over time.

Lorraine M. Brixie, Biltmore Hotel, 310 NW 6th Avenue, 97209, spoke in support of the landlord, Mr. Ellmaker, and said she represented other tenants.

Helen Barney, Housing Authority of Portland (HAP), 135 SW Ash, 97204, said her organization and this ordinance are closely aligned and they want every new unit funded with new public, or any, resources to be as affordable as possible for as long as possible. They believe that without private sector participation and investment the community will never be

able to realize its housing goals. Public policy objectives cannot be achieved by regulation alone, it must be balanced by incentives. They are concerned by the direct impact of the ordinance on HAP's own policy to contribute to the preservation agenda by adding between 400 to 500 units each year to their housing portfolio. As an owner of a large portfolio of affordable housing, HAP believes it is important that the ordinance not adversely affect their ability to meet commitments to financial partners and residents. Irrevocably committing to a specific ceiling rent for each unit for the next 60 years could deprive them of the flexibility they need to be a responsible borrower and responsive landlord. Over the last two years, with the help of City housing investment funds, HAP has been able to develop projects with a new depth and breadth of affordability. They cannot possibly predict the management and maintenance challenges this new type of project may bring over the next six decades, but they will be better equipped to deal with them if they have the flexibility to alter the mix of affordability levels within any given project.

William White, Housing Development Center Director, said other cities throughout the nation have also come to realize that public investment in housing must result in the longest possible terms of affordability. Also, dozens of cities and counties in California use exclusionary zoning policy to guarantee permanently affordable housing as a percentage of any large, new development and it is done without any public subsidy. Regarding the 60-year regulation, for-profit developers will be brought to the table if local, flexible money is available. He noted worthy suggestions for the future: dedicated percentage of general fund money; creative use of bonds; possible excise tax related to the housing industry; expansion of property tax abatement programs; and inclusionary housing for new development.

Mayor Katz said the rest of the region needed to make the same commitment.

Joe Pierce, Biltmore Hotel, 310 NW 6th, No. 236, said subsidized facilities are better run privately.

Carol Lee Cotter, 11124 NE Halsey, No. 544, 97220, said her rental property is not a targeted building but she is concerned about determining fair market value. She noted that often a sale is not just the price, but other terms.

Jada Mae Langloss, Powellhurst Nursing Home, cited an instance of tenants being given \$1,000 for each year of residence for relocation when a building was sold.

Ed Pischedda, 735 SW St. Clair Avenue, No. 405, 97201, a founding member of the (then County) Community Alliance of Tenants, said the \$30,000 unit replacement was a fair stick for the carrots in place.

E. D. O'Brian, 4310 NE 125th Place, 97230, said their rental property was not affected but they were very concerned about the 60-year regulation.

Louise Weidlich, Neighborhoods Protective Association, noted that this date was the birthday of the U. S. Constitution. She said that corporations and the poor were subsidized, but the middle class had no help.

Tim Gray, 5550 SW Macadam, No. 300, said he is a commercial realtor and does believe this ordinance is the camel's nose under the tent. The original draft of December, 1997 was all-encompassing, including every rental unit in downtown Portland. In the many meetings he has attended, he has been told by the non-profits that this ordinance is only a piece of the pie and they will be back for the rest. Regarding the appraisals, which do establish fair market value, in some markets they are less and some more. The 330 Oak Building went to market under an auction format with a minimum bid price of \$3.7 million and there were seven offers between \$3.7 and \$4.1 million. The City bought the building for \$3.8 million, as the City allowed the owners condemnation for tax and other benefits.

Richard Matza, 2005 SW 5th Avenue, 97204, said a flaw in the 60 years regulation is when the City must buy old buildings in the future.

Ms. Wessel noted that some people have referenced earlier versions of the ordinance. She wanted it on record that those drafts were put forward by the coalition and were never proposed, even in draft form, by the City.

Commissioner Francesconi asked about due process in the arbitration proceedings and also if an owner would get tax benefits.

Ms. Wessel said the appraisal process will establish a price that the City can speedily determine to pay or not. The owner selects the first appraisal, paid for by the City, and the owners can additionally opt to select a second appraisal and/or introduce a bona fide offer to establish full market value. If the City made an offer inconsistent with true fair market value and tried to exact the \$30,000, then the owner could claim that was an uncompensated taking. A friendly condemnation has been built in to allow the owners access to Federal tax benefits.

Commissioner Francesconi asked for a description of the arbitration proceeding itself and if due process were built into it.

Ms. Wessel said they were still working to develop a defined arbitration process predicated on the concept that a neutral, independent third party decides claims.

Mayor Katz asked about the 90-day notice and how that might conflict with the landlord/tenant statutes.

Ms. Wessel said no one has indicated there is a conflict or that it is problematic. Part of the reason to introduce this in the code framework is to give a lot of time to build it into any planning.

Mr. Artharee spoke about replacement reserves and how to keep them affordable for 60 years. They are working on what an appropriate amount is to make sure the properties are maintained throughout the 60 year period. Currently, the State requires the reserve to be \$200 per unit per year.

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Mayor Katz asked Council how much more time is needed to address the fair market value, the one issue most people got stuck on.

Commissioner Sten said he thought people were stuck on the concept of the City having the right to buy. He does not see the fair market value separating the parties and therefore, it is not necessary to give it more time. This is a fair process.

Commissioner Kafoury said it should be moved to the second reading and then they could hear testimony on the funding.

Mayor Katz said there will be an opportunity to "tweak" this before next week when amendments can be introduced.

Commissioner Francesconi expressed concern that this ordinance is not sufficient to protect Universe A citizens as the City does not have the resources to purchase the buildings. The City needs the private sector cooperation to get the tax incentives and extensions.

Disposition: Passed to Second Reading, as amended, September 23, 1998 at 9:30 a.m.

REGULAR AGENDA

Commissioner Erik Sten

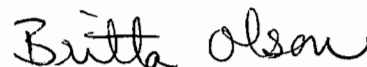
- 1381** Declare intent to purchase Preservation Projects and direct the Office of Finance and Administration to research options and recommend a financial strategy to purchase Preservation Projects pursuant to City Code Chapter 30.01 (Resolution)

Discussion: Commissioner Sten said this was a straightforward resolution which does exactly what the title says.

Disposition: Continued to September 23, 1998 at 9:30 a.m.

At 5:58 p.m., Council adjourned.

BARBARA CLARK
Auditor of the City of Portland



By Britta Olson
Acting Clerk of the Council