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CITY OF  
**PORTLAND, OREGON**

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**OFFICIAL  
MINUTES**

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A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 23RD DAY OF DECEMBER, 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.

- 1891** Recognition of Gretchen Miller Kafoury for her dedication to public service and the citizens of Portland (Resolution introduced by Mayor Katz and Commissioners Francesconi, Hales and Sten)

**Discussion:** Mayor Katz read the resolution and Council members reflected on Commissioner Kafoury's accomplishments, particularly in the area of affordable housing.

**Disposition:** Resolution No. 35750. (Y-4; Kafoury abstained)

Agenda No. 1872 was pulled from Consent. On a Y-5 roll call, the balance of the Consent Agenda was adopted as follows:

**CONSENT AGENDA - NO DISCUSSION**

- 1852** Accept bid of Pacific Coast Construction, Inc. to furnish Erv Lind Stadium improvements for \$325,175 (Purchasing Report - Bid 99047-rebid)

**Disposition:** Accepted; prepare contract.

- 1853** Accept bid of Soledad Electric, Inc. dba Ampere Electric to furnish NE Martin Luther King Jr. Blvd., Fremont to Shaver, electrical improvements for \$138,999 (Purchasing Report - Bid 99052 SMP-rebid)

**Disposition:** Accepted; prepare contract.

- 1854** Accept bid of Pacific Coast Construction, Inc. to furnish Pittock Mansion improvements for \$501,600 (Purchasing Report - Bid 99066)

**Disposition:** Accepted; prepare contract.

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**Mayor Vera Katz**

**1855** Confirm appointment of Ken Berry to the Portland Cable Access Board of Directors (Report))

**Disposition:** Confirmed.

**1856** Accept Bureau of Risk Management report regarding Prudence Twohy bodily injury claim (Report)

**Disposition:** Accepted.

**\*1857** Authorize Revenue Bonds to finance unfunded PERS liability (Ordinance)

**Disposition:** Ordinance No. 172956. (Y-5)

**\*1858** Authorize contract with Workforce Development Board for planning and assistance for the Outer Southeast Employment and Development project (Ordinance)

**Disposition:** Ordinance No. 172957. (Y-5)

**\*1859** Pay claim of Marcelino Gongora (Ordinance)

**Disposition:** Ordinance No. 172958. (Y-5)

**\*1860** Pay claim of Thuan Nguyen (Ordinance)

**Disposition:** Ordinance No. 172959. (Y-5)

**\*1861** Pay claim of US West Communications (Ordinance)

**Disposition:** Ordinance No. 172960. (Y-5)

**\*1862** Pay claim of Marcelino Samuel Gonzalez (Ordinance)

**Disposition:** Ordinance No. 172961. (Y-5)

**\*1863** Extend legal services agreement with Lehner, Mitchell, Rodrigues & Sears LLP for outside litigation representation (Ordinance; amend Agreement No. 31640)

**Disposition:** Ordinance No. 172962. (Y-5)

**\*1864** Extend legal services agreement with Hoffman, Hart & Wagner for outside litigation representation (Ordinance; amend Agreement No. 31768)

**Disposition:** Ordinance No. 172963. (Y-5)

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- \*1865** Adjust FY 1998-99 Budget recognizing and appropriating additional year-end balance from FY 1997-98 (Ordinance)

**Disposition:** Ordinance No. 172964. (Y-5)

**Commissioner Jim Francesconi**

- 1866** Accept contract with J.P. Contractors, Inc. as substantially complete and authorize final payment and release of retainage (Report; Contract No. 31347)

**Disposition:** Accepted.

- \*1867** Accept a public trail access easement from Skyline Ridge Development, LLC and assign to Portland Parks and Recreation (Ordinance)

**Disposition:** Ordinance No. 172965. (Y-5)

- \*1868** Amend contract with LGA Architecture to include additional services in the amount of \$1,380 (Ordinance; amend Contract no. 30116)

**Disposition:** Ordinance No. 172966. (Y-5)

- \*1869** Authorize the purchase of 73 digital copiers through the State of Oregon price agreement and provide for payment (Ordinance)

**Disposition:** Ordinance No. 172967. (Y-5)

- \*1870** Authorize the Bureau of General Services to negotiate a contract with Aaron Faegre & Associates for architectural services for the expansion and remodel of the Portland Communications Center and provide for payment (Ordinance; Projects 9051 and 9052)

**Disposition:** Ordinance No. 172968. (Y-5)

**Commissioner Charlie Hales**

- 1871** Accept renovation by American Building Construction of Peninsula Park restroom as substantially complete, authorize the final payment and release retainage (Report; Contract No. 31630)

**Disposition:** Accepted.

- \*1873** Authorize the continuance of negotiations for the purchase of a temporary construction easement required for construction of slide damage repair, authorize the City Attorney to commence condemnation proceedings and to obtain early possession (Ordinance)

**Disposition:** Ordinance No. 172969. (Y-5)

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- \*1874** Authorize acceptance of a Quitclaim Deed for the N Columbia Boulevard, N Lombard Street and N Burgard Road improvement project and designate and assign parcels of land as street area (Ordinance)

**Disposition:** Ordinance No. 172970. (Y-5)

- \*1875** Authorize an intergovernmental agreement with the State of Oregon to provide up to \$44,033 for the Lents Town Center project, an approved Transportation Growth Management Program planning project (Ordinance)

**Disposition:** Ordinance No. 172971. (Y-5)

**Commissioner Gretchen Miller Kafoury**

- \*1876** Amend agreement with Sabin Community Development Corporation to increase compensation by \$10,000 and provide for payment (Ordinance; amend Contract No. 31889)

**Disposition:** Ordinance No. 172972. (Y-5)

- \*1877** Contract with Central City Concern in the amount of \$500,000 to reduce the operating debt for the renovations of the Rose Wood Apartments for persons with HIV/AIDS and provide for payment (Ordinance)

**Disposition:** Ordinance No. 172973. (Y-5)

**Commissioner Erik Sten**

- 1878** Accept the project by Oregon Asphaltic Paving Co. to reconstruct Road 1008 in the Bull Run watershed as substantially complete and authorize final payment (Report; Contract No. 31867)

**Disposition:** Accepted.

- \*1879** Authorize an intergovernmental agreement with the Multnomah County, Division of Community Programs and Partnerships, for \$120,000 to provide services for the Block-by-Block Weatherization Program (Ordinance)

**Disposition:** Ordinance No. 172974. (Y-5)

- \*1880** Provide additional funds to C. W. Neal Corp. for the Mt. Tabor Reservoir 5 liner project, Project No. 3184 (Ordinance; amend Contract No. 31738)

**Disposition:** Ordinance No. 172975. (Y-5)

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**1872** Accept completion for improvement of NE Martin Luther King Jr. Blvd. from NE Fremont to NE Shaver, median project #1, and authorize final payment to Dirtworx. (Report; Contract No. 31971)

**Discussion:** Cay Kershner, Council Clerk, noted that an amendment had been proposed to change the name of the contractor from All Concrete Specialties to Dirtworx.

Commissioner Hales moved the amendment and, hearing no objections, the Mayor so ordered.

**Disposition:** Accepted as amended.

**REGULAR AGENDA**

**1851** **TIME CERTAIN: 9:30 AM** - Direct City Bureaus to implement anti-discrimination protections on the basis of gender identity (Resolution introduced by Mayor Katz and Commissioner Kafoury)

**Discussion:** Mayor Katz said this directs the City to develop strategies to implement anti-discrimination protections for trans-gender and transsexual members of its own work force. It also calls for expansion of the City's mediation efforts to resolve discrimination claims and those will now be extended to resolve claims based on gender identity.

Commissioner Kafoury said Council was approached two years ago by the transsexual and trans-gender community about this issue and then asked the Metropolitan Human Relations Commission (MHRC) to compile a fact-finding report. That report, issued in October, 1996, called for some additions to the Civil Rights Code but the City decided that, because of certain court challenges, the timing was not right. Now it is time to at least change the way the City does business and eventually it hopes to extend these protections to the community as a whole. Commissioner Kafoury said she sees this as first step to see how the City can deal with the health insurance issues, which are the most difficult.

Madelyn Wessel, Chief Deputy City Attorney, said during this first step the City will explore and then push hard to break down barriers within its own work force. The resolution calls for developing explicit protections on the basis of gender identity for inclusion in the City's 1999-2000 affirmative action plan. They will then be brought back to Council for consideration. She suggested that Council use the definition of trans-gender adopted by West Hollywood but work with the community to make sure that works. The resolution also calls for exploring the feasibility of offering health insurance which would cover medical treatment for people dealing with trans-gender identity. This is a complicated issue which may have fiscal implications. Ms. Wessel said the resolution names her as the project manager for an expanded mediation program that includes claims based on gender identity. The mediation program is available to those in the private sector as well, if employers are willing to mediate. Finally, the resolution calls for an evaluation by the Bureau of Purchasing to see whether the City's Equal Employment Opportunity (EEO) Contractor Certification Program can be expanded to include review of non-

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discrimination based on gender identity. She hopes this work can provide the basis for further expansion to the community.

Lori Buckwalter, Director, It's Time Oregon, said issues of gender identity are not well understood and there has been a lot of confusion about what it means. This is not an issue of special rights or disability but of allowing people to become more complete citizens and full participants in the community. She said while this will entail more work, it is a significant start. Employment, insurance and health care are primary issues for those who are gender variant. This resolution will help people gain a greater understanding of the issues and provide a context for further protections.

Allanya Guenther, Executive Director, Phoenix Rising Foundation, said the Foundation fully supports this resolution, an unfortunately necessary step that needs to be taken to legislate fair employment practices. Legislating such practices does change the culture over time and this will make Portland a safer place for all citizens.

Kristin Taigen, Executive Director, Equity Foundation, said this responds to an express need from the City's workforce. Implementation of a health insurance policy will have a significant effect on the lives of trans gender and transsexual people. She said this is another step which recognizes that discrimination is never profitable or appropriate.

Damon Woodcock, Portland Police Bureau, said as a female to male transsexual currently in transition, he personally has not experienced any discrimination in the work place but knows that fear and hatred of those whose gender identity does not conform to the norm does exist. He said everyone should feel safe in the work place and have the right to basic health care.

Roy Cole, Pastor, Metropolitan Community Church, said it is time for the City to take this step. He said doing the right thing builds a better community which values rights of every individual.

Thom Kincheloe, Western Field Organizer, Human Rights Campaign, said his organization strongly supports initiatives that counter discrimination based on real or perceived gender identity.

Elaine Lerner, President, Northwest Gender Alliance, said there is a great deal of confusion and controversy concerning trans-dressers and transsexuals, who are the objects of ridicule, fear, discrimination and even violence. She does not expect people to respect her as a transgender person but would like them to listen and try to understand. What the City is doing today rejects discrimination against the trans-gendered and allows them to more fully participate in the community.

Liz Duecker, Chair, Lesbian Community Project, said the young people in her organization consistently bring up issues of transgender discrimination and safety. She is proud to live in a City that takes the lead in protecting the most vulnerable members in the community.

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Kim Roth, Volunteer Liaison in the Mayor's Office to the gay, lesbian transgender, transsexual and cross-dressing communities, said this issue was one which divided the gay/lesbian and the "trans" community when she first began work on this. From this experience, she learned that one does not always need to understand things -- sometimes just accepting them is enough. She added that mediation has tremendous potential to help resolve discrimination claims in this area.

James Van Dyke, Co-chair Oregon Gay and Lesbian Law Association, said this resolution extends basic principles of fairness and equal rights to a group that frequently faces discrimination for reasons unrelated to their abilities. He remembered the late Joanne McNamara, the first transgender attorney in the State, who educated many about the discrimination that transgendered people experience.

Jean Harris, Executive Director, Basic Rights Oregon, said today is a day to celebrate what is happening in the State of Oregon, a day when the gay/lesbian and bi-transgendered pledge to no longer be afraid of the extreme right wing which continues to attack on work place, health benefit and other issues.

Commissioner Francesconi said it is government's role to protect and prohibit discrimination, especially in the areas of employment and health care. Government also has a special role to protect its most vulnerable citizens and must take the lead in educating citizens about why it must do so. He noted that when MHRC was abolished some people felt the City did it simply to avoid dealing with this issue and he is very glad that unfinished business is being taken care of today.

Commissioner Hales said to really describe why Portland is a special place, one cannot talk just about the parks, the river and neighborhoods but must also talk about the fact that it is more inclusive and tolerant.

Commissioner Sten said this has been a tricky issue in some areas and he appreciates the hard work of the Mayor and Commissioner Kafoury as well as Lori Buckwalter and City staff.

Mayor Katz thanked the transgender community for being patient and waiting so long until the City moved on this. This should make their lives a little easier.

**Disposition:** Resolution No. 35751. (Y-5)

**1881** Update Council on the status of certain types of electronic signs and the City's ability to regulate them (Report introduced by Mayor Katz and Commissioner Hales)

**Discussion:** Commissioner Hales moved to accept Item 1890 on the Four-Fifths Agenda, so that testimony could be taken on it as well. Commissioner Sten seconded and, hearing no objections the Mayor so ordered.

**Disposition:** Accepted. (Y-5)

**\*1890** Amend City Code to provide for regulation of signs that constitute a traffic safety hazard (Ordinance introduced by Mayor Katz and Commissioners Hales, Kafoury and Sten; amend Code Titles 16 and 32)

**Discussion:** Commissioner Hales said regulation is not Council's first choice in dealing with community problems but at times it is necessary. In this case, where there is an obvious threat to public safety from these signs, which are clearly intended to distract motorists, it is appropriate for the City to make sure the Traffic Engineer has the legal and administrative tools necessary to solve these problems. This ordinance gives the Traffic Engineer clear authority to deal specifically with the question of animated signs. Several have already been erected and others were in the permit process, which the City has stopped from being installed. He proposed two amendments to the proposed ordinance. The first would remove a redundant sentence in Subsection O (of 16.10.200) which reads: "This authority includes authority to require removal of currently existing signs." Staff believes that authority is already installed in the Code and does not need to be repeated. Commissioner Kafoury seconded Commissioner Hales' amendment and, hearing no objections, the Mayor so ordered.

Commissioner Hales said the amendment also includes a new direction stating that the City Traffic Engineer shall develop criteria and administrative rules for implementation of the new authority granted by this ordinance for Council approval within 60 days.

Goran Sparrman, Director, Bureau of Traffic Management and City Traffic Engineer, said these signs in the public right-of-way are designed to attract the attention of motor vehicle drivers and constitute a real problem. One example is a sign on the east side of the Morrison Bridge in an environment where motorists have a lot of choices to make, exacerbating safety problems. He recommended that these signs not be used.

Linda Meng, Chief Deputy City Attorney, said this exercises the City's police power for the public safety and that is the basis for this ordinance, based on the judgment of the Traffic Engineer that there is a public safety hazard here.

Commissioner Francesconi asked how other cities have handled this.

Mr. Sparrman said they have found, based on some quick phone calls, that a number of jurisdictions are prohibiting any kind of animated electronic signs of the kind Portland is seeing. There seems to be a developing consensus that these signs constitute a traffic hazard.

Mayor Katz asked if the issue is the animation.

Mr. Sparrman said traffic engineering has used signs that have changeable messages that tell drivers about upcoming congestion, safety problems, etc. The new generation of signs have created animation that really catches one's attention for a significant amount of time.

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They also put out a lot of light, creating a highly visible impact.

Commissioner Francesconi asked if, because this is a police power issue, there is any issue regarding the regulation of speech.

Ms. Meng said this does not regulate speech as there is no content-based restriction.

Joe Willis, AK Media, objected to the passage of this ordinance and disagreed that no constitutional issue is involved. He said the law is quite clear that when a licensing restriction is placed in front of a speech protection, one must be sure not to go any further than necessary to satisfy the legitimate issues. He said these signs can clearly be made to satisfy those interests as one can control brightness and the frequency of change in message. That has not been done. The legislative finding states that there is a potential for a traffic safety hazard and concludes that these signs should be prohibited. He said the City Attorney should review the first amendment cases to see if that will fly as it is clear that one of those elements is that one cannot go beyond what is needed to address that legitimate interest. In the face of City's very sad history of refusing to respect its citizens' rights to free speech, particularly through signage, this action is especially difficult. He said the City is going too far and should step back and prepare objective criteria based on brightness and frequency of change that do not violate free speech rights.

Commissioner Francesconi asked what voluntary measures his clients might take to limit brightness or frequency.

Mr. Willis said he does not represent the companies that have erected these signs. If he operated the signs, he would get some technical help to make sure the brightness and frequency do not distract to the point where they become dangerous. He noted that many movable signs are allowed on interstate highways.

Citizens testifying in support of the ordinance prohibiting the signs included:

Nancy Friedman, a resident of American Plaza Condominiums  
Andrew Mason, no address stated  
Susan Seyl, 2315 NE Everett, 97232  
Eileen Brady, 1242 SE 60th, 97215  
Virginia Dodson, 2515 SE Salmon, 97214  
Joe Poracsky, 1826 SE 22nd, 97214  
Barbara Holiski, SE Portland resident  
Chris Brown, N. Gantenbein, 97227  
Duke Kershner, no address stated  
Gail Johnson, downtown high-rise resident

Supporters of this prohibition testified as to the intrusive and distracting nature of the signs, which they perceive to be a clear traffic safety hazard and a threat to the City's livability. Several downtown residents objected to the brightness of the signs, which intrude on their living space.

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Darryl Paulsen, Paulsen Signs, noted that this prohibition would also affect movable message signs such as the one at the Performing Arts Center. He said this appears to be arbitrary and subjective and called for the City to develop clear criteria first to avoid being subject to further legal action.

Rich Farasy, Oregon Electric Sign Association, said an article in the Oregonian viewed this as a war between rampant commercialism and the livability of the City. He asked Council to step back and see if cooler heads can find another solution so his clients will not get blasted in the meantime. He said he does not understand charges that the signs amount to rampant commercialism as Tri-Met buses are loaded with signs and double-face electronic signs are planned for all the bus kiosks, which are in the right-of-way. He asked Council to look for other alternatives.

Commissioner Hales asked Mr. Farasay if he could arrange to have the signs turned off if Council waited to act.

Mr. Farasy said he would make every effort to do that.

Commissioner Francesconi said he believes there is no constitutional question here as these signs constitute a traffic hazard. He said he tried to find a way to end these wars with the sign industry but was unable to do so.

Commissioner Hales said this is a question of public safety, not a constitutional issue. He noted that last year 63 pedestrians were killed by autos and every time another distraction is created for motorists, the potential for accidents increases.

Commissioner Kafoury said she was going to offer an amendment to ban cell phones too but did not want to complicate this.

Commissioner Sten noted that he did not support the limits on wall signs because of their effect on murals but this is clearly something that is a hazard.

Mayor Katz said the City needs to do more to ensure traffic safety. She personally found the signs not only garish but also a traffic hazard. Her office received 276 calls from people opposed to these signs, many of whom cited potential dangerous incidents. She said if she were in this business, she would be very nervous about liability.

**Disposition:** Ordinance No. 172976 as amended. (Y-5)

**1882**

Consolidate the Vehicle and Equipment Maintenance section of the Bureau of Fire, Rescue and Emergency Services with the rest of the City fleet under the management of the Bureau of General Services (Resolution introduced by Commissioners Francesconi and Kafoury)

**Discussion:** Commissioner Kafoury said the Auditor's Office recommended some time ago that all fleet services be consolidated. Once the Fire G.O. Bond was passed and they

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realized they would have to come up with ongoing costs of \$2,000,000 for two of the three new stations, she and Commissioner Francesconi decided to move forward with this.

Commissioner Francesconi said this consolidation will save taxpayer money, add efficiency and increase fire safety in West Portland by providing a third fire station. This resolution asks the Auditor to reconfirm the savings while at same time the City will continue bargaining with the union representing Fleet to make sure the workers are treated fairly.

David Kish, Director, Bureau of General Services (BGS), said Fleet has taken over the care of more and more Fire Bureau vehicles over the past few years. He is confident the City can meet its objective of having 95 percent of its vehicles available every day and noted that Fleet has 44 highly skilled mechanics to handle the work. This resolution proposes to move the Fire Bureau mechanics to Fleet to ensure continuity but the total positions between the two operations will be reduced, including two supervisory positions in the Fire Bureau. He said BGS will guarantee that the Fire Bureau will have the same availability of vehicles and the same high level of service other City bureaus experience. The savings will be confirmed by an independent study by the Auditor's Office.

Jim Crawford, Fire Marshall, said Chief Wall had raised some concerns about sustained savings and quality of service which Commissioners Kafoury and Francesconi have taken into account in this resolution. The Fire Bureau looks forward to working with the Auditor's Office and the Office of Finance and Administration on that.

Dick Tracy, Manager, Audit Services Division Manager, said his office will report back to Council with objective information on the cost savings opportunities.

Commissioner Francesconi asked if this make sense.

Mr. Tracy said yes, his office's 1993 audit indicated there were opportunities for savings but they would like to re-evaluate the overhead and administrative costs to ensure that the savings are still there. They also did not review direct costs, i.e. labor costs and materials and services. However, usually there are efficiencies when a smaller operation is consolidated with a larger one.

Commissioner Francesconi asked if it were correct that the earlier audit, which identified \$273,000 in overhead costs, did not take into account any personnel reductions.

Mr. Tracy said it did not take into account any direct costs, which would be the mechanics and the materials that go into actually doing the work. That is the major cost and that is why they want to go back and look at the overhead.

Commissioner Francesconi said under this proposal they envision having four fewer people because of the need for fewer supervisors. This could result in savings of more than \$300,000. He said a performance agreement between Fire and BGS will ensure that the vehicles are adequately taken care of.

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Commissioner Kafoury thanked Fire Marshall Crawford for his work and apologized for not alerting the Fire Bureau about this action earlier.

Mayor Katz said she hopes the cost savings actually do materialize and that some of the concerns raised by an agency that needs 24-hour service are addressed.

**Disposition:** Resolution No. 35752. (Y-5)

**1883** Vacate a certain portion of SW Multnomah Boulevard between SW 40th and SW 45th Avenues, under certain conditions (Previous Agenda 1809; by Order of Council; C-9943)

**Discussion:** Mayor Katz noted that this was continued from last week because it was on the Consent Agenda and there were not enough votes to pass it at that time.

**Disposition:** Passed to Second Reading January 6, 1999 at 9:30 a.m.

**Mayor Vera Katz**

**1884** Adopt the Five Year Financial Forecast upon which the FY 1999-00 Budget shall be based (Resolution)

**Discussion:** Mayor Katz said the Office of Finance and Administration made a commitment to incorporate the items Council thought should be included, including the response to voters on the fire stations.

**Disposition:** Resolution No. 35753. (Y-5)

**\*1885** Accept a \$12,000 grant from the Oregon Department of Transportation for pedestrian safety law enforcement (Ordinance)

**Disposition:** Ordinance No. 172977. (Y-5)

**Commissioner Charlie Hales**

**1886** Adopt Vintage Trolley operating plan for 1999 and direct payment of funds to Vintage Trolley, Inc. to support operating costs (Resolution)

**Discussion:** Elsa Coleman, Office of Transportation, said this is an effort by Vintage Trolley to sustain service for one more year.

Susan Seyl, representing Vintage Trolley, Inc., said since 1991, when it began operations, Vintage Trolley has supported its operations through sponsorships and contributions totalling \$1.5 million. The budget for 1999 operations is \$360,000, of which \$60,000 comes from Tri-Met, \$60,000 from its sponsors and \$90,000 from special fund-raising efforts. Ms. Seyl noted that no fares are charged. She believes the City set aside \$150,000

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in a special fund for the start-up of a Fareless Square extension to the east side. Because Vintage Trolley already provides this service to the Lloyd District, it believes it is an appropriate recipient of those funds. This is a one-time request because after 1999 it has an agreement with Tri-Met to run the trolley a minimum of one day a week. It will continue to try to extend that operation and is also discussing the possibility of running the trolley on the Central City streetcar lines. She said the Trolley provides an important City amenity, a piece of interactive living history and is a lot of fun. It also provides an important transportation link between the east and west sides of the river.

The Commissioners thanked Vintage Trolley for the great work it is doing.

**Disposition:** Resolution No. 35754. (Y-5)

**1887** Support and endorse the Regional Job Access Transportation Plan grant proposal submitted by Tri-Met to the Federal Transit Administration (Resolution)

**Discussion:** Ms. Coleman said this grant has involved a consortium of all social agencies as well as Tri-Met and the City.

**Disposition:** Resolution No. 35755. (Y-5)

**1888** Amend Title 33, Planning and Zoning, to establish the Portland International Raceway Plan District (Second Reading Agenda 1849)

**Discussion:** Commissioner Francesconi said he is sad there are no plans in Portland for an outdoor amphitheater at the moment. He is proud of Council because, as shown at last week's hearing, when it negotiates on behalf of the public it makes sure that the public benefits outweigh the harm to the neighborhoods and other users, no matter who the applicant is. In this case, Council's judgment was that the harm to the neighborhood, primarily from noise and traffic, and the harm to the existing use, outweighed the public benefit from the amphitheater. He is also proud because Council sent a strong message that it does not do business the way it was done in this case. It will not manufacture grass roots opinion but will deal with the neighborhoods and base its planning on reason, not media campaigns. However, the City still needs the resources of people like Paul Allen and he will work to bring them on board for other projects.

Commissioner Hales said long ago the Parks Bureau asked the Planning Bureau to do a Plan District for the Portland International Raceway. That is what Council is acting on today, now that the matter of the amphitheater has been dealt with. He thanked Planning staff for its work amidst all the smoke and noise of the battle over the amphitheater.

Commissioner Sten said he is even clearer now that Council is making the right decision than he was last week. He noted that Commissioner Francesconi as Parks Commissioner had taken a hard and fair look at this and came to the right conclusion.

Mayor Katz said at the end of last week's hearing she announced she would return to

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Council about a possible alternative. However, the next day she was informed that the Blazers were going to walk away from this potential investment. She said she hopes that as other facilities are studied, the City can accommodate the idea of an amphitheater somewhere in the community that will not harm neighbors. That may not be possible. She thanked everyone who worked hard to try to put something together even though it did not work out.

**Disposition:** Ordinance No. 172978 as amended. (Y-5)

**\*1889** Amend Section 34.30.030.B.7 of Title 34, Subdivision and Partitioning Regulations to be consistent with Title 33 to allow land divisions creating lots less than 50 feet wide (Previous Agenda 1850; amend Title 34)

**Discussion:** Mayor Katz noted that Council members received a report from the City Attorney on the options and asked if Council was ready to vote on this.

Commissioner Hales moved Option One to readopt the previous amendment. He said he is not sure there are three votes for anything here and there is no good choice in how to solve this. However, it appears to him that from a legal and administrative standpoint, the least obnoxious choice is Option One, which is to properly readopt the Title 34 amendment that was adopted earlier, in October.

Commissioner Kafoury seconded.

Mayor Katz said the emergency clause will have to be removed. She asked Council if it wished to hear Ms. Donner speak on this issue.

Council indicated it would be all right.

Ms. Donner said she does not understand the need to rush this through just to accommodate 17 applicants rather than waiting until February. Fifty-foot lots may be okay in some places but the process was wrong. There was no notification and the testimony on cable television was not audible.

Commissioner Kafoury said she supports readoption of the original ordinance because there is a very modest list of properties that will be impacted. She believes, to be equitable, Council should allow these people to do what they thought they could do for some time. If it is changed in the future, so be it. Equity is not served, despite the neighbors' objections, by changing the rules. She said she had received a number of rather poignant letters from people caught in this situation.

Commissioner Sten said this question will be reargued very soon in the Title 34 rewrite and Council also has some responsibility to the people who applied for permits in good faith. The neighbors have a good case that it should be reargued during the Title 34 process because of the notification process. One compromise outlined by the City Attorney is to readopt the previous amendment for 30 days at which time it would sunset

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and the Planning Commission's or Planning Bureau's recommendation would go into effect until it is reargued once again. He said this compromise might help the current applicants but would then shut the door until it can be reargued. He asked for further advice on that option as he is deliberating between Commissioner Hales's motion and this compromise.

Kathryn Beaumont, Senior Deputy City Attorney, said the first option is to readopt the decision Council made in October on the 40 x 40 amendment. The second option is to readopt the October amendment for a period of 30 days and then have the Planning Bureau's modification of the Planning Commission's recommendation become effective thereafter.

Susan Feldman, Planning Bureau, said their preference would be to readopt the original ordinance but they can live with the second recommendation.

Commissioner Francesconi advocated for adopting the 30-day grace period and going with the Planning staff recommendation, prohibiting the density bonuses. That would leave four people in limbo and the harm to them could be taken care of by this 30-day grace period. The public policy issues, which were not fully aired initially, were aired in the subsequent hearing and the City can take care of the harm and yet preserve the neighborhoods by allowing some development on these lots but not granting all the bonus requirements. That is a fair compromise and a safer course. He does not think Council should wait for the Title 34 rewrite because a mistake in the Code has been discovered. It should be dealt with now. However, on the policy issues, this provides some protection in the neighborhoods and the harm is only to four people and that can be remedied. He will vote no for any other course.

Commissioner Hales restated his motion to support Option One in Ms. Beaumont's December 17 memorandum and readopt the Title 34 amendment previously adopted in October.

Roll was called and the motion failed. (Y-2; N-3; Francesconi, Sten and Katz)

Commissioner Hales moved Option Two, which gives a 30-day grace period and then puts the Planning Commission's recommendation into effect. Commissioner Francesconi seconded.

Ms. Beaumont said she believes that after the Planning Commission made its recommendation, Planning staff proposed a slight modification to make this work administratively under the Code.

Ms. Feldman said the staff concurs with not allowing density adjustments but would like to allow other kinds of adjustments.

Sarah Bradley, Planning Bureau, said the modification appears as Substitute Exhibit B and is designed to be inserted into the second ordinance. It is designed to take the place of the Planning Commission's recommended Exhibit B.

Commissioner Hales said that is what he moves to accept. Commissioner Francesconi seconded.

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Commissioner Hales said this means there is a 30-day period in which the applications submitted can be considered. After that, the Planning Commission's recommendation, as modified by Exhibit B in the Substitute ordinance, would apply.

Ms. Kershner noted that the Substitute had been filed but never adopted by Council. She asked if Exhibit B could be pulled out of that and dealt with by itself.

Ms. Feldman said she wants to make it clear that Council is readopting the original ordinance passed in October for a 30-day period and then adopting the Substitute Ordinance Exhibit B until such time as it is repealed by the new Title 34.

Roll was called on Commissioner Hales' motion to accept Option Two. (Y-5)

**Disposition:** Ordinance No. 172979 as amended. (Y-5)

Charlie Rosenthal, Chair, Tax Supervising and Conservation Commission, offered his personal thanks to Commissioner Kafoury and Auditor Barbara Clark for their contributions to the community.

Commissioner Hales acknowledged his appreciation of Commissioner Kafoury's plain speaking on Council.

Commissioner Sten moved to elect Commissioner Hales as the new President of Council. Commissioner Kafoury seconded and the motion carried.

At 11:55 a.m., Council adjourned.

BARBARA CLARK  
Auditor of the City of Portland

  
By Cay Kershner  
Clerk of the Council

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**WEDNESDAY, 2:00 PM**

DUE TO THE LACK OF AN AGENDA

THERE WAS NO MEETING