



CITY OF
PORTLAND, OREGON

**OFFICIAL
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 10TH DAY OF FEBRUARY, 1999 AT 9:30 A.M.

THOSE PRESENT WERE: Commissioner Hales, Presiding; Commissioners Francesconi, Saltzman and Sten, 4.

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

Commissioner Hales asked that Item 211 be heard first as students from Hollyrood School are present.

- *211** Grant revocable permit, with conditions, to Hollyrood Elementary School Parent Teachers Association for a covered open play structure in U.S. Grant Park (Ordinance)

Disposition: Ordinance No. 173081. (Y-4)

Agenda No. 194 was pulled from Consent. On a Y-4 roll call, the balance of the Consent Agenda was adopted as follows:

CONSENT AGENDA - NO DISCUSSION

- 187** Accept bid of Pacific Coast Construction for ticket booth/revenue control upgrades for \$739,514 (Purchasing Report - Bid 99057)

Disposition: Accepted; prepare contract.

- 188** Accept bid of Ruffin Enterprises, Inc. dba Ruffin Construction to furnish a greenhouse replacement for \$72,190 (Purchasing Report - Bid 99101-SMP)

Disposition: Accepted; prepare contract.

- 189** Accept bid of North Coast Electric Company to furnish dry cell batteries for \$33,228 annually for two years (Purchasing Report - Bid 99116)

Disposition: Accepted; prepare contract.

- 190** Accept bid of Schnauzer Construction, Inc. for HVAC improvements for \$49,840 (Purchasing Report - Informal Bid 991276)

Disposition: Accepted; prepare contract.

FEBRUARY 10, 1999

Mayor Vera Katz

191 Approve amendments to Personnel Rules concerning appeals from classification actions resulting from 1997/99 District Council of Trade Unions classification and compensation study (Resolution)

Disposition: Resolution No. 35765. (Y-4)

192 Adopt Memorandum of Agreement with District Council of Trade Unions concerning alternative grievance resolution process for DCTU classification and compensation study allocations (Resolution)

Disposition: Resolution No. 35766. (Y-4)

***193** Amend contract with Complete Business Solutions, Inc. (Ordinance; amend Contract No. 32102)

Disposition: Ordinance No. 173082. (Y-4)

Commissioner Jim Francesconi

195 Accept contract with Clackamas Communications, Inc. for a fire station alerting system as complete and make final payment (Report; Contract No. 31823)

Disposition: Accepted.

***196** Contract with BEST Consulting to provide Telecommunications Engineering Consulting Services (Ordinance)

Disposition: Ordinance No. 173083. (Y-4)

***197** Authorize a contract with Schnauzer Construction, Inc. to furnish and install a natural gas boiler, a heating coil and associated piping and controls at SE Precinct and provide for payment of \$49,840 (Ordinance)

Disposition: Ordinance No. 173084. (Y-4)

***198** Authorize execution of additional documentation for 1900 SW 4th Avenue development building (Ordinance)

Disposition: Ordinance No. 173085. (Y-4)

Commissioner Charlie Hales

199 Set hearing date for Wednesday, 9:30 a.m., March 17, 1999, for the vacation of SW Montgomery Street between SW 5th and 6th Avenues, in connection with the Portland State

FEBRUARY 10, 1999

University Urban Center project (Resolution; C-9958)

Disposition: Resolution No. 35767. (Y-4)

- *200** Agreement with the City of Milwaukie to provide for Phase 2 and 3 engineering, storm sewer and right-of-way acquisition work on the SE Johnson Creek Boulevard, 32nd to 45th Avenues Project (Ordinance)

Disposition: Ordinance No. 173086. (Y-4)

- *201** Authorize the Bureau of Traffic Management to enter into a swap agreement to insure energy price risk for street lighting electrical power (Ordinance)

Disposition: Ordinance No. 173087. (Y-4)

- *202** Contract with BJY, Inc. for \$60,000; Carl Mileff & Associates for \$75,000; EsGil Corporation for \$45,000; Reid Middleton for \$40,000; and The Phillips Group for \$75,000 to provide plan review and engineering services (Ordinance)

Disposition: Ordinance No. 173088. (Y-4)

Commissioner Dan Saltzman

- *203** Authorize contract to lowest responsible bidder for pump station equipment retrofit - Argyle and 13th, Argyle and 19th, Airport Way 2, Airport Way 3 and Swan Island (Ordinance)

Disposition: Ordinance No. 173089. (Y-4)

- 204** Contract with Ashbrook Corporation to retrofit one Winklepress at the Wastewater Treatment Plant with a Winklepress high solids extension at \$125,000; purchase order to be used as contract (Ordinance)

Disposition: Passed to Second Reading February 17, 1999 at 9:30 a.m.

Commissioner Erik Sten

- *205** Contract with Southeast Uplift Neighborhood program for \$21,879 to conduct HCD project-related citizen participation activities in inner and outer southeast BHCD target areas and HCD eligible neighborhoods and provide for payment (Ordinance)

Disposition: Ordinance No. 173090. (Y-4)

- *206** Contract with the Portland Development Commission for \$1,828,042 to provide housing remediation for the Portland Lead Hazard Control program and provide for payment (Ordinance)

FEBRUARY 10, 1999

Disposition: Ordinance No. 173091. (Y-4)

- *207** Contract with Housing Authority of Portland in the amount of \$37,021 to support the development of four family-sized units of affordable housing for people living with HIV/AIDS known as Nathaniel's Way and provide for payment (Ordinance)

Disposition: Ordinance No. 173092. (Y-4)

- 208** Authorize a contract and provide payment for the construction of a 17,000 square-foot uncovered, asphalt paved storage area with associated site improvements at the Water Bureau's Interstate Maintenance facility (Second Reading Agenda 175)

Disposition: Ordinance No. 173093.

Note: Number dropped. See Ordinance No. 173077.

City Auditor Gary Blackmer

- *209** Contract with Oregon Department of Transportation to provide towing hearings (Ordinance)

Disposition: Ordinance No. 173094. (Y-4)

REGULAR AGENDA

- *194** Amend Title 4, Personnel, of the City Code to establish Options 2000 and Choice USA as the City's self-insured medical plans beginning July 1, 1999 (Ordinance; amend Chapter 4.48.07)

Disposition: Continued to February 17, 1999 at 9:30 a.m.

- 185** **TIME CERTAIN: 9:30 AM** - Approve the NE 32nd / 33rd / Hassalo Street Traffic Calming Project report and recommendation (Report introduced by Commissioner Hales)

Discussion: Crysttal Atkins, Bureau of Traffic Management, described the project, which was initiated in 1997 and is overwhelmingly supported by Laurelhurst residents. The estimated cost is \$120,000. A traffic committee of 26 neighborhood members established goals and made compromises as needed. Because diversion was fairly problematic, the Committee, after a lot of discussion, decided to focus on reducing speeds. She described the location of the proposed 22 speed bumps, the curb extensions and the median islands and noted the signal changes planned for 39th and Hassalo. Ms. Atkins said the project was presented to neighbors at an open house and ballots were then mailed out to 228 residents, with a 66 percent approval rate.

Michelle Druce, Laurelhurst Neighborhood Association Board member and Traffic Committee Chair, said the process developed by the traffic committee included significant

input from residents who did not live on the project streets as proponents did not want to simply shift problems from one neighborhood street to another. Most of the traffic on these streets, about 6,000 automobiles a day, is cut-through traffic, with most drivers traveling above posted speed limits. This project reflects Laurelhurst's recognition that traffic is its number one concern. It also reflects many compromises but is supported by the majority of residents. She said the committee tried to focus on safety and livability issues with an emphasis on making the situation safer for children and transit users. The 39th and Hassalo intersection was of special concern because of the large number of traffic accidents there and the danger that results from having protected left- and right-hand turn lanes, thus inviting a lot of cut-through traffic. Ms. Druce said the Neighborhood Association tried to notify all residents, not just those living on the project streets, so that everyone would know what was happening. It is a very complicated project which they would like Council to support.

Other individuals speaking in support included:

Steve Bleiler, 3428 NE Hassalo, 97232
Mark Heintz, 916 NE Floral Place, 97232
Tammy Reinecke-Wong, 3431 NE Oregon, 97232
Marie Bleiler, 3428 NE Hassalo, 97232
Tracy Nichols, 3829 NE Hassalo, 97232
Dick Bogue, 1130 NE Imperial Avenue, 97232
Mark Parker, 3615 NE Hassalo, 97232
Thea Parker, 3615 NE Hassalo, 97232
Don Gardner, 908 NE 33rd, 97232
Bob Glascock, 34221 NE Hassalo, 97232

Supporters said this project is badly needed to slow traffic and increase pedestrian safety on Hassalo. They pointed out that Hassalo is a local service street and should not be striped with a yellow line. They also supported removal of the protected left turn lane at 39th and Hassalo which allows motorists to cut through the neighborhood rather than taking Sandy and 33rd and Broadway. Many also testified as to the thoroughness and fairness of the process.

Individuals speaking in opposition to the project included:

Greg Kopra, 3716 NE Hassalo, 97232
James Culpepper, 3725 NE Hassalo
Kenneth Jones, Kerns Neighborhood Association
Mavis Fletcher, 725 NE 32nd Avenue, 97232
Jim Rice, 3724 NE Hassalo, 97232

Opponents criticized the process for its failure to include some residents living right in the middle of the project and for the lack of continued notification, particularly to Kerns residents. Concern was also expressed that traffic will be diverted from Hassalo to adjacent and narrower streets, causing traffic back-ups there. Several opponents questioned the proposed placement of speed bumps and islands and the negative effect these will have on

FEBRUARY 10, 1999

emergency vehicle access. Mr. Jones said the Kerns Neighborhood Association believes the project is a waste of funds that will only divert traffic onto streets whose residents were not allowed to vote. He argued that resources should instead be spent to provide a traffic light and a left turn lane at 33rd and Sandy. He also contended that this project is not being coordinated with the Hollywood/Sandy project currently underway.

In response to questions from Council about traffic diversion, Ms. Atkins said staff is always concerned about not just shifting traffic from one street to another. She said staff always does traffic counts both before and after such projects are completed and those counts are compared to see if there has been an unreasonable increase. In this case, if they find that diversion to other streets is a problem, they will go into mitigation either to modify the original project or remove the diversion project. In the 20 years Transportation has been doing such projects, only five projects have had to be mitigated.

Ms. Atkins also responded to questions regarding the ballot area. She said in general it includes everyone who lives on the project street and those who live on local service side streets within 200 feet, or approximately one block. Ballots are not sent to people who live on streets with higher classifications. The rationale for inclusion is that the further away one lives from the project street, the less benefit there will be.

Commissioner Francesconi said he will approve the project for three reasons: 1) a dangerous situation currently exists that needs to be fixed; 2) the expertise of staff who have concluded that this is the right thing to happen; and 3) his reluctance to second guess the citizen involvement process. He cautioned the neighborhood that people do have a right to disagree and express different points of view and that care should be taken not to pit one citizen against another.

Commissioner Hales said a project is not a failure when total consensus does not happen. Instead, the measure is whether everyone has had their say before moving to get as much agreement as possible. He said a lot of good work has been done there and this project will make this a safer street and safer neighborhood although the City does need to make other improvements in the area, especially at 33rd and Sandy.

Commissioner Saltzman said he learned during his election campaign that traffic is a major concern in every neighborhood. He is a proponent of traffic calming projects but agrees on the need for a signal at 33rd and Sandy.

Commissioner Sten said he is convinced a good cross section of residents were involved and that every viewpoint was debated.

Disposition: Approved. (Y-4)

*186

TIME CERTAIN: 10:30 AM - Authorize a contract with Central Northeast Neighbors and the City of Portland for a bulky waste cleanup project in the amount of \$282,929 (Ordinance introduced by Commissioner Saltzman)

Discussion: Commissioner Saltzman said this gives residents places to get rid of their washing machines and other bulky items that are hard to get rid of.

Sue Keil, Bureau of Environmental Services (BES), said this cleanup is something that will really help homeowners and is a service the City hopes to eventually offer all neighborhoods in the City.

Jerry Mounce, Solid Waste & Recycling, BES, described how the collection process will work, including the involvement of haulers, and said the hope is that it will make a positive difference in the amount of illegal dumping. She noted that this will enhance but not take the place of traditional cleanups.

William Warren, Central Northeast Neighbors, said they project that 42 percent of the target residents will participate, which translates into 82,000 households. He said this project has been a great way for neighbors to work with other organizations, such as non-profits, metal recycling companies and home rebuilders. He said people will pay \$8.00 for the pickup service and most think that is very reasonable. Volunteers are being enlisted from the neighborhood associations, especially to help with door hangers and inform the elderly and those with disabilities.

Ginny Seivers, Program Manager, Central Northeast Neighborhoods, noted that 50 percent of the money received will be returned to the neighborhood associations if they assist by providing volunteers.

Commissioner Francesconi said this is a very creative program and a tremendous model for others.

Commissioner Hales said BES is really a leader in using community resources and congratulated Central Northeast Neighbors for its participation in this innovative effort.

Disposition: Ordinance No. 173095. (Y-4)

Mayor Vera Katz

- 210** Create an independent committee to recommend City Charter changes for funding the unfunded Prior Service Obligation of the Fire and Police Disability and Retirement Fund (Resolution)

Discussion: Commissioner Saltzman moved an amendment that calls for the committee currently reviewing the Fire and Police Disability and Retirement Fund (FPD&RF) to look at the option of covering new hires by PERS. Commissioner Sten seconded.

Commissioner Saltzman explained that while this may not be the solution, he believes an honest evaluation is needed.

Ed Freeman, Administrator, FPD&RF, said Board members only learned about this

FEBRUARY 10, 1999

proposed amendment yesterday and while they do not want to close the door to viable options for Charter amendments they also do not want to throw the door wide open to anything that might come down the road. He said this issue has been studied in the past and PERS advised the Fund in 1989 that a conversion would be too expensive. He added that the FPD&RF pension and disability rates are currently cheaper than PERS. He said the FPD&RF Board has two concerns about this resolution. First, the Board staff believes it has to be involved along with the Office of Finance and Administration (OFA) in acting as staff to the task force. Second, the resolution calls for the FPD&RF Board to share in the costs connected with the Charter Review Committee. However, the City cannot mandate that as it is a decision for the Board to make. He said at this time the Board has a spirit of cooperation which he hopes will continue. Mr. Freeman added that the Police and Fire unions are adamantly opposed to having two pension plans within their bargaining units. They exist now as a result of annexations but the unions are reluctant to create any more divisions.

Commissioner Sten asked if he believes this can be done in time for the ballot in 2000.

Mr. Freeman said yes, if the review is confined only to funding. However, if the City begins running a whole bunch of proposals before the review committee, it will drag out the process. His perception is that the April deadline can be met.

Commissioner Saltzman said because of the big impact the FPD&RF has on property taxes and the changes that have occurred as a result of Ballot Measure 5, he believes the City owes it to taxpayers to provide an honest evaluation.

Mr. Freeman said the rate on taxpayers today is cheaper than it has been in decades. He said in 1989 the rate was over \$2.00 per \$1,000 while today it is \$1.55 per \$1,000. He said he personally believes it is fine to explore the PERS option if that can be done at a minimum cost and Board staff can be involved in all deliberations, especially if it is to share in the cost. Right now the resolution states that the committee will be staffed by OFA.

Commissioner Hales said he understands that Mr. Freeman's office is available as a resource but that management of the project, as the resolution is written, is the responsibility of OFA.

Mr. Freeman said the Board has a little problem with that as it would like to have some joint responsibility.

Ken Rust, Budget Director, OFA, said this resolution is an outgrowth of Council's decision on July 28, 1998 not to move forward with Charter change until it could look more globally at whether the City's approach was the right one. He said it is a fair question to ask about PERS. Pension liabilities will be the dominant financial factor controlling the City's future. He noted that he met with the PERS Board yesterday and watched it spend \$40 million of the City's money, money which Council has not considered. The City has a near \$1 billion F&PD&RF pension liability and the two together amount to about \$1.3 billion. This is a critical challenge and everyone needs to work together to protect the tax system that funds these benefits as it may very well limit the City's ability to do other important things for the

community. He is hopeful that the end product will be something the City can take to the voters and something that will resolve this issue to the benefit of both the City and FPD&RF members. He said OFA expects to look at every and all options, including PERS, which may undergo substantial change as governments and employers realize the cost of that system. That could make it a more attractive option for FPD&RF members than it has been in the past.

Commissioner Francesconi asked about staffing.

Mr. Rust said OFA was directed by the Mayor's office to draft this resolution with the expectation that it would staff this effort. The notion is that the management of the committee would be OFA's responsibility but it would certainly expect that FPD&R staff would be involved.

Roll was called on Commissioner Saltzman's amendment. (Y-4)

Commissioner Francesconi said he does not believe that legally Council can order the FPD&RF to share the costs and suggested amending the resolution to state that the City will "recommend" that the FPD&R Board pay half.

Commissioner Hales restated the amendment to change the last line in the resolution to state that the City shall bear half the cost and request that the FPD&RF bear the remaining half. Hearing no objection, Commissioner Hales, as Presiding Officer, so ordered.

Commissioner Francesconi said he is very concerned about the financial threat of the pension liabilities on the City's ability to do other things. He said solving this will require the cooperation of everyone as he is very concerned about whether the City can sell this to the public. He said it is not too soon to start with a deliberate strategy to inform citizens about what the consequences could be.

Disposition: Resolution No. 35768. (Y-4)

Commissioner Jim Francesconi

***212** Authorize acceptance of a conservation easement from the Trust for Public Land for the Cottrell Property in southwest Portland near Hoyt Arboretum (Ordinance)

Discussion: Commissioner Francesconi said this will allow the City to acquire an easement valued at more than \$235,000 and involves six family home sites at Hoyt Arboretum. The Parks Bureau will pay \$50,000 of the cost. He said this will benefit the Arboretum, protect existing wildlife and facilitate the future establishment of another public trail.

Disposition: Ordinance No. 173096. (Y-4)

Commissioner Charlie Hales

***213** Add new provision to Title 16 of the City Code to specify incidents of road rage within the crime of reckless driving (Ordinance; amend Chapter 16.70)

Discussion: Commissioner Hales said this ordinance fleshes out the City's reckless driving ordinance to make it clear that behaviors known as road rage are considered reckless driving so that officers can cite people. The City has taken a different approach than Gresham, which created a new offense of road rage. Portland is focusing more on what a vehicle is doing rather than on the emotional or mental state of the driver. He believes that road rage is close enough to reckless driving that it is better to include it as part of that offense.

Police Captain Pat Nelson he believes the City needs to make statement about improper driving and give the Police Bureau another tool to curb it.

Sargeant Gary Saratski, Police Traffic Officer, said as traffic congestion has increased, motorists have become more frustrated, resulting in more aggressive driving behavior and serious accidents. He believes the City should do everything it can to make the public more aware that it opposes such behavior.

Rob Birchfield, Assistant City Traffic Engineer, said aggressive driving is a significant factor in a number of traffic fatalities. A strong message that such behavior is unacceptable is a very positive one for the City to send. This ordinance sets a clear, enforceable standard and, furthermore, it is important for Council to support broader legislation at the Statewide level which could give the City even better tools to deal with aggressive driving.

Commissioner Francesconi said he believes Gresham's law is probably unconstitutional and was at first skeptical that the City could craft something that would be defensible. However, he believes this is constitutional because in this case it is control of a vehicle that counts, not the emotional state of the driver. He said this will add clarity and send a valuable signal to the citizens that such behavior is not acceptable.

Commissioner Hales said this is consistent with the City's philosophy about traffic safety generally, the idea that operating a vehicle on public streets is a privilege, not a right.

Commissioner Saltzman said he supports this and would also like to see State legislation that will help halt those who run red lights.

Commissioner Sten said he thinks the traffic division has sent this message pretty clearly for a long time but appreciates the new tool for delivering it.

Disposition: Ordinance No. 173097. (Y-4)

- 214 Support proposed state-wide legislation that specifically identifies "road rage" aggressive actions as heightened criminal offenses (Resolution)

Disposition: Resolution No. 35769. (Y-4)

- S-215 Implement provisions of Resolution 35759 as amended and create the Office of Planning and Development Review (Previous Agenda 161; amend City Code Title 3.30)

Discussion: Commissioner Saltzman moved the Substitute ordinance. Commissioner Sten seconded.

Margaret Mahoney, Director, Bureau of Buildings, explained that this ordinance takes some preliminary actions to implement the resolution adopted earlier relative to Blueprint 2000. It creates the Office of Planning and Development Review, assigns staff in the Bureau of Planning to the office and provides for the interagency agreements with the five other bureaus involved in development review. This also amends Code 33.710.090, substituting the words City staff for references to Bureau of Planning staff and directs staff to prepare a work program for updating and amending other provisions of the Code to effect the transfer of staff to the Office of Planning and Development Review. It outlines a possible future amendment to Title 3 describing these functions but does not provide for adoption at this time.

Commissioner Francesconi asked if planning support staff, the ones who actually write the Code, are part of this.

Ms. Mahoney said no, they are not. She said part of the work that needs to be done is to see which functions support development review and which support long-range planning as there may be some overlap. Right now the planning support group remains with long-range planning.

Dawn Hottenroth, President, City of Portland Professional Employees Association, said the Association's main concern is the timing for splitting up the Planning Bureau as it strongly believes that the functionality between the two planning groups -- long-range and current -- needs to be maintained and how they will work together in the future needs to be determined. She said they would like to see Item B in the resolution delayed, either until a work plan is developed to indicate exactly which staff will move, or until the Mayor returns with her proposal regarding the planning function as a whole. She said one idea is to establish an agreement that would give current and long-range planning staff some ability to rotate. That kind of agreement might be similar to what they end up with when they begin to develop a strategic planning process that brings together staff from the various bureau that are involved in long-range, endangered species, housing and community development and strategic planning efforts.

Commissioner Francesconi asked why this merger should happen now.

Ms. Mahoney said the primary concern is to move ahead with implementation and provide

direction to new staff. She does not disagree with the concerns Ms. Hottenroth has raised about maintaining transferability but the bureaus need to get on with creating a new unit that can work together. She noted that staff will be moving into the new building in six months.

Commissioner Francesconi asked if Ms. Mahoney believes the concerns about transferability can be addressed and that morale will be improved because staff knows these issues are being addressed.

Ms. Mahoney said while there are morale issues on several fronts, transferability will be addressed generally through the bargaining units. All parties want to maintain the ability to transfer so she does not see a problem in agreeing to some specific language as to how that can occur in the future.

Roll was called on the Substitute Ordinance.

Commissioner Francesconi said once Blueprint 2000 was approved, it separated the implementers and the planners. In order to speed up the permitting process, Council supported Blueprint 2000, although that raised issues that need to be dealt with through interagency procedures. Those need to be dealt with rapidly, both for the sake of morale and clarity. The importance of long-range planning needs to be amplified and tied to strategic planning to give focus to how land is used for housing, endangered species, etc. He noted that this has been a painful process for many in the Planning Bureau.

Commissioner Hales endorsed the importance of continuing dialogue with employees to resolve the concerns that have been raised.

Commissioner Sten said he continues to support Blueprint 2000 although he is somewhat confused about the difference between the resolution Council passed several weeks ago and this ordinance. He is sympathetic to the union's desire to spend more time working out the details but does not believe this ordinance preempts that. There is still a six month period to address the concerns.

Disposition: Substitute Passed to Second Reading February 17, 1999 at 9:30 a.m.

- 216** Amend the Comprehensive Plan Map and change the zone of property south of N. McCosh Street from IH, Industrial, to R2, Residential; and south of N. VanHouten Place from R5c to R2c, Residential; and remove the River Natural Greenway Zone overlay from the flat portion of the former Reidel site (Second Reading Agenda 184; LUR 98-00812 CP ZC CU MS AD)

Disposition: Ordinance No. 173098. (Y-4)

FEBRUARY 10, 1999

Commissioner Erik Sten

*217 Amend contract with Synergen Associates, Inc. to purchase computer hardware and software for the Water Bureau Inventory Management System, increase cost by \$125,000 and provide for payment (Ordinance; amend Contract No. 32107)

Disposition: Ordinance No. 173099. (Y-4)

218 Grant a franchise to TCG Oregon for a period of ten years (Ordinance)

Disposition: Passed to Second Reading March 17, 1999 at 9:30 a.m.

Communications

219 Request of Dan Handelman, Portland Copwatch, to address Council regarding Police Internal Investigations Auditing Committee (PIIAC) reforms and police accountability (Communication)

Discussion: David Lowe, Portland Copwatch, PO Box 42456, 97242, noted that one year ago Council held an informal session after the Police Chief refused to accept the majority decision of Council, sitting as PIIAC, calling for sustained findings of misconduct. He called for giving PIIAC more teeth to promote police accountability and said the Police review board should be a true civilian oversight body that gives the community a venue for filing complaints that does not involve calling upon the very organizations whose members have acted wrongfully. He requested that language be written into Police union contracts and the Code to ensure that the recommendations of PIIAC and City Council are binding on the Police Chief and allows for PIIAC to have independent investigatory and subpoena powers. Specifically, police should be required to testify before a review board as a condition of employment and all cases of lethal force should automatically be reviewed by PIIAC. Council should also appoint the citizen's panel it promised to convene last year and empower it to propose all changes necessary to make PIIAC a working review board, including holding both daytime and evening meetings to allow maximum input from citizens.

Dan Handelman, Portland Copwatch, said he hopes Council can do something to get this process in motion again.

Disposition: Placed on File.

At 12:25 p.m., Council recessed.

FEBRUARY 10, 1999

WEDNESDAY, 2:00 PM

DUE TO THE LACK OF AN AGENDA

THERE WAS NO MEETING

FEBRUARY 11, 1999

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 11TH DAY OF FEBRUARY, 1999 AT 2:00 P.M.

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

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

***220** **TIME CERTAIN: 2:00 PM** - Amend City Code to prohibit certain signs and amend permit requirements for alteration of existing signs (Ordinance introduced by Commissioner Hales; amend Title 32)

Discussion: Mayor Katz said Council has reviewed the whole history of this issue and it is unfortunate that there has been one lawsuit after another filed against the City on these issues. Usually the tradition in the community is to try to work such things out but in this case another lawsuit was filed before the City had a chance to do so. Today Council is looking at this not only as a traffic safety matter but also as an aesthetics issue. Both have a strong rationale for what Council will be acting on this afternoon.

Commissioner Hales said there are two sound reasons why the City should clarify the Code with respect to signs. First, as streets get busier, sign companies seem to want to send more and more urgent messages to people who should be paying attention to what is going on in the street. There appears to be a conflict between people who should be prioritizing traffic and public safety issues and those who have an understandable but possibly conflicting commercial interest in trying to get messages to those people any time and any way they can. Second, there is also an aesthetic basis for many regulations, i.e. height limitations on buildings. The regulations reflect both a design and livability agenda as well as a public safety agenda. Both bases for public policy underlie what is being proposed. Council is hearing from its citizens that Portland really does not want to look like Las Vegas and he believes there is a strong livability reason to have more stringent sign regulations than the City has had in the past so that its visual appeal and uniqueness is not lost. Based on the changing technology and litigiousness of the sign companies, Council believes it should make a strong statement in its Code about what is in and what is out of bounds.

Margaret Mahoney, Director, Bureau of Buildings, said this ordinance clarifies a number of administrative and enforcement Code provisions, including a definition of signs that is consistent with other provisions of the Code. It clarifies and expands situations in which an appeal is allowed and provides Code language for stop work orders that was previously referenced in other sections. It also limits situations where a permit is required to change a sign. Specifically, a permit will no longer be required when the only change is the copy space itself. The second major thing the ordinance does is to add to the list of prohibited signs those that have changing images. This change arises out of the City's concern for aesthetics and traffic safety. Ms. Mahoney noted that any pending applications are treated

under the Code regulations in effect at the time they are received. She said there are some applications for signs of this nature which would be processed under the current rules.

Evan Kennedy, 2309 SW 1st Ave., 97201, said the sign on Grant and SW 6th Avenue near I-405 is unsafe for drivers at that intensity and at that location. He described a situation where he almost drove through a red light on SW 6th Avenue because he was distracted by the flashing sign.

M. J. Riehl, 1826 SE 22nd, 97214, objected to the electronic sign located at the westbound Morrison Bridge ramp as she believes its blinding bright light is very distracting to motorists there. She urged that the sign be removed or that some limitations be placed on it to make it safer.

Dr. Ray Friedman, Madison Tower, 2309 SW 1st Avenue, objected to the sign on SW 6th, and noted that his bedroom, on the 22nd floor, faces the sign. His first concern is the distraction to motorists but he also believes the sign becomes a harassment issue when it shines brightly into bedrooms. He said that sign is significantly brighter than the others and if does not come down it should at least be turned off between 10 p.m. and 6 a.m. If this does not happen he personally will file a lawsuit against Storeyboards and all the advertisers.

Jim Milne, Madison Tower, 2309 SW 1st, 97201, said signs like the one on SW 6th Avenue are an engineering hazard that was never considered when the highway system was designed. He said since I-405 was built, the traffic load has increased threefold. The sign on SW 6th is a potential safety hazard for people who must change lanes in order to get onto I-405.

Bill Reed, 2808 NE Martin Luther King, Jr. Blvd., said he is rehabbing the Standard Dairy building and is concerned about how to inform people about the 13 businesses that will be located there. He said both size and intensity matter but he does favor reader boards that directly relate to ongoing businesses at the locations where the signs appear. Right now the regulations limit how much exposure one can have on the street and the information one can get across. He is not against regulating for size, intensity or safety but does oppose a blanket prohibition, especially when the City is trying to revitalize some of its streets. For businesses with a limited amount of exposure, signs that serve multi-functions are beneficial both to them and the streetscape. However, glaring signs should be turned off at night.

Commissioner Francesconi asked why signage is important to small businesses.

Mr. Reed said signs help level the playing field for small businesses as advertising in the newspaper and phone book is very expensive. These signs get information to the people driving up and down MLK who are the clientele for the businesses.

Commissioner Francesconi asked how much these signs cost and how much small businesses set aside for marketing.

Mr. Reed said, in his case, a five-by-five storyboard sign would probably cost about \$60,000

and he would not charge the businesses in the dairy for using it. It would be part of the lease. If this passes he probably would not put the sign up since a hand-changed reader board is not easily changed and does not provide the same advantages an electronic sign does.

Mayor Katz asked what kind of retail operations are planned there.

Mr. Reed said a laundromat, gym, restaurant and other neighborhood businesses. No space will be more than 1,000 square feet.

Susan Watts, 11610 SW Woodley Heights Court, attorney representing StoreyBoard, said they believe the City is moving too quickly and before it enacts an emergency ordinance it should step back and consider some of the concerns raised by Mr. Reed as well as the constitutional issues. Whether the City likes it or not, signs, including electronic signs, are protected speech under both the Oregon and U.S. Constitutions. In particular, the Oregon Constitution limits restrictions the City can place even on the manner of these signs. One cannot prohibit signs that are all the color red or make a law that prohibits signs that have pictures. StoreyBoard does not believe the City can pass a constitutional ordinance that limits electronic signs. The other problem with the ordinance is that it is too broad and will disadvantage new businesses that come into City and want to put up electronic signs and cannot. The City will be treating new businesses differently from existing ones. In addition, there is no real evidence that there is a traffic problem. All the studies to date indicate that these signs do not create traffic hazards. While the City has heard individual opinions that the signs are hazardous, there are no scientific studies to back them up. Even things the City does not like are protected by the Constitution, i.e. adult businesses. These signs are also protected and before Council steps in and passes an emergency ordinance that could create the kind of problems Mr. Reed has described and lead to more lawsuits, it should step back and review this. An outright ban will not solve some of the constitutional problems her client has raised in the lawsuit. Regarding Dr. Friedman's testimony calling these signs "harassment," there are things the company can do to limit that.

Commissioner Hales said one alternative to an emergency ordinance would be to have Ms. Watts' client withdraw all its pending applications while the City discusses this and wait to reapply until new regulations are adopted using a slower time table.

Ms. Watts said she is not aware StoreyBoard has any applications pending. They have valid permits and signs in progress and that is what they got the injunction on. She believes AK Media has the pending applications, not StoreyBoard.

Commissioner Sten asked what kinds of compromise might be possible as he too is concerned that there has not been enough discussion or negotiation. He said the problem is that is it hard to negotiate with one company when there are many out there.

Ms. Watts said Mr. Storey told her the signs can be turned off at certain times of the day or slowed down. With some advanced programming, the signs can be used as public service announcements to warn people about traffic problems. Mr. Storey told her there are a lot of

things he would like to do but eliminating signs is not one of them.

Mayor Katz said because the public may not understand why some of these signs are not coming down and more may be going up, she has asked City Attorney Jeff Rogers to explain to the public the legal ramifications of all these lawsuits.

Ron Bentley, American Plaza Condo Association, 2211 SW 1st, 97201, said he has received both written and verbal complaints from many of the residents about the intrusiveness of the 6th Avenue sign, which is blinking at all times of the night, on private living facilities. He personally was almost sideswiped by a person who he could tell was looking at the sign. While the American Plaza residents recognize the rights of advertisers they also believe citizens should be able to accept or reject advertising, which they cannot do if it is pulsating 24 hours a day. He suggested altering the times the sign is on, placing a reflector on it so that it can be seen only from the ground, or changing the angle so it will not shine in people's bedrooms at night.

Chuck Martin, 944 SE Sellwood Blvd, 97202, said StoreyBoard has created a perfect "in your face" advertising medium which has irritated everyone. He noted that every one of those signs is on someone's property with their permission and, as a business owner, this is painful as he knows those businesses only get several thousand dollars for renting the space. He has asked himself, if he owned the property on 6th, what would induce him to take that money to allow that heinous, horrible sign to be there. Is the person who owns that property desperate for dollars and totally insensitive to the public or did he just get into a bad deal? Mr. Martin said he believes the sign does create a traffic problem and that the property owners should be pursued for creating a nuisance.

Ron Crosier, 2221 SW 1st Avenue, Grant Tower Condominium, agreed the signs are a traffic hazard but his main concern is the aesthetic intrusion into private living spaces. The City is trying to encourage people to live downtown in higher density areas but for that to succeed those areas have to remain pleasant places where people feel comfortable. He noted there are ordinances restricting sound and there should also be restrictions on signs, perhaps restricting them to 50 feet.

Tim Ramis, attorney representing the Oregon Electric Sign Association (OESA), a trade association for the mainstream sign industry, said the association does not represent the billboard industry or any of those engaged in litigation with the City. He said, in fact, the Association and its members have never sued the City. He said the Association is here today because it agrees swift action needs to be taken to develop regulations to deal with the impacts of video boards but it is very opposed to other efforts that would prohibit the types of signs that have routinely been approved through design review in the City. These include signs seen on restaurants, small businesses, theatre marquees, banks and even the post office. The Association believes these are a different category and should be treated separately. It is also very concerned about this process.

Commissioner Francesconi asked if the signs can be treated differently under the constitution.

FEBRUARY 11, 1999

Mr. Ramis said yes because they are physically and technologically different and, in a collaborative process with the industry, experts could be brought in to show the City those differences and how to draft regulations that would treat video boards differently than other types of electronic messaging signs. That conversation has not taken place because of the process here.

Mayor Katz asked Mr. Ramis if he agreed the City needed to move quickly and, if Council so chooses, then begin look at some of these other issues.

Mr. Ramis said months ago he approached the Planning Bureau when the video board issue was raised and asked to meet with them and together craft regulations to deal specifically with the impacts of video boards. That never happened.

Commissioner Hales said a proposal was made which the Planning Commission rejected.

Mr. Ramis said the only conversation the Association had on this matter was with Mr. Knowles after these regulations were drafted. He suggested that the City convene people with the expertise to swiftly draft regulations that deal with the impacts of video messaging. But it would be better to leave aside the other question until the City wants to take up the broader Code issues. That can be done without jeopardizing the effort to respond to these problem signs.

Commissioner Hales asked him if he was requesting that Council not act on the Code in front of it today.

Mr. Ramis said if Council acts today it will drag into this process signs that should not be banned as they have continually passed muster at design review. Council needs to refine the definition of "changing image" signs as a much more focused definition is needed.

Commissioner Hales asked if the Association had any ability to bind its members to not apply for any sign permits while amendments were being considered.

Mr. Ramis said after raising the issue, none of the Association members have put up any signs. However, a trade association does not have the ability to make that commitment. The best way to negotiate a good result is to have a situation where everyone at the table has options. He said the Association has never sued City in 30 years but he sees great parallels in the situation the City faces now and situation faced in the mid-1970s when there were changes in technology and a proliferation of new kinds of signs, which were of greater intensity, size and heights. City staff responded with very tough regulations which brought everyone to the verge of some very expensive constitutional litigation. What happened then is that the Mayor and one Council member said these issues needed to be dealt with across a conference table in City Hall, not in the federal courthouse. Commissioner Schwab accepted an assignment from Mayor Goldschmidt to convene a meeting of all the parties and then hammered out regulations that in the end served for 20 years. That is the process needed now.

FEBRUARY 11, 1999

Commissioner Saltzman asked about whether he had an alternative definition of "changing image" signs.

Mr. Ramis said not at the moment. He said people need to sit down and craft something carefully.

Mayor Katz said the question Commissioner Hales asked is of real concern. If the City cannot be sure there will not be a whole slew of new signs put up during the interim, then it is not really solving the problem. She personally has no problem acting on this today and then doing what Mr. Ramis recommends if there is an area where some agreement can be worked out. She said she is not sure how much of a choice Council has right now.

Mr. Ramis said the Association will urge its members not to engage in any eleventh hour findings. He believes there are only four pending applications now.

Mayor Katz said there are 12.

Mr. Ramis said the association members have learned that to deal credibly with Council there needs to be a fair process. For 30 years it has done that and he would hope Council will take that into consideration.

Darryl Paulson, Ramsey Signs, said the real issue here is video boards, not the standard electronic message centers that have been put up in the past. He is not sure why Council wants to eliminate all future electronic signs in the City and punish the whole business community for the actions of one company. The effects of this amendment would be broad and far reaching, with severe impacts on the business community. He said the last Sign Code change in September, 1996 cost the City close to \$100,000 in lost permit fees alone and he is not sure how that translates into lost opportunities for business. This amendment would dim the vitality of the City over time, i.e. the Broadway district and Rose Garden. He asked Council to envision these facilities without the excitement, information and vitality these signs add. There would also not be any signs that told the time, temperature or Dow Jones indicators. He questioned whether this is the vision needed. He understands the problem with the video boards but believes those are a separate issue and need to be dealt with separately. He asked Council to vote no on these amendments and let them address these things specifically.

Dan Chandler, attorney representing Multi Light of Portland, a member of the Oregon Electric Sign Association (OESA), said he understood there was a request to do a study to see how these video boards affect traffic but that study has not been done. But even if it had been done that does not justify the sledge hammer approach before Council today. He said in addition to the fairly innocuous signs this ordinance would ban, it would also ban ODOT highway information signs and probably makes the Christmas displays on Peacock Lane and PIR illegal as well. They do agree with eliminating the fee for copy changes and would like Council to request an audit and then refund the money that was charged for those. He urged Council to start over on these regulations and work with the OESA members to find a definition that works.

FEBRUARY 11, 1999

Steve Morasch, attorney representing AK Media, 1211 SW 5th Avenue, Suite 1700, 97204, said they object to the proposed ordinance as they believe it is inappropriate to deny everyone the right to move into the 21st Century with appropriate technology, with appropriate controls and regulation. They believe the legitimate concerns, some of which were expressed today, can be addressed through appropriate regulations short of an outright ban. Because the medium of communication is at issue, special preferences and analysis must be performed under the Constitution, which they do not believe has been done in this case because the process has been so rushed. Finally, AK Media submitted several applications prior to the December 23 Council action and has now submitted a polite demand letter into the record requesting that those applications be approved and that permits be issued.

Mayor Katz asked how many applications were submitted.

Joe Willis, also representing AK Media, said he was not sure. They are not for storyboards but are the same technology and were for four different locations. He said they believe these signs have the capability to do things that are good for both the users and receivers and if the City passes something that goes beyond the most narrow reach available, he believes the City is very vulnerable to lawsuits and will not accomplish the results that are wanted. He asked Council to step back and work with the industry to find something that is workable.

Nancy Rangila, American Plaza Condominium Association, said she has lived with ambient lighting from signs for a long time but she can read the electronic sign on SW 6th from her bedroom at 3:00 a.m. She said those who live in this high-rise residential areas object to lighting that disturbs the ambiance.

Commissioner Saltzman asked what she thought of turning off the signs during certain hours.

Ms. Rangila said people who are at home in the daytime are bothered by the constant flashing so she does not believe that would be a totally sufficient answer.

Rick Farasy, President, Oregon Electric Sign Association, said a number of businesses will be greatly affected by what Council intends to do. There needs to be another alternative and, although he can agree with 99 percent of the ordinance, lots of signs that small businesses need to attract customers are being lumped under the same definition of a "changing message" sign. He said he represents about 1,500 small businesses and if Council outlaws this technology completely, they will be denied the ability to reach people going by their place of business. Passing this ordinance will hurt these people.

Saki Tsamtarmas, 5932 SE 92nd, 97266, said he needs to have a sign and hopes that Council will do the right thing in granting him a permit.

Mayor Katz asked City Attorney Jeff Rogers to update Council on the status of current litigation.

FEBRUARY 11, 1999

Jeff Rogers, City Attorney, said Emerald Outdoor Advertising filed a case in federal court against the City's stop work orders on four additional video signs that it had applied for. The City argued vigorously in court that it had a right to issue the stop orders on those signs because they were a traffic hazard and for the other reasons that have been expressed. Today they learned that the federal judge has upheld Emerald Outdoor Advertising's request for a preliminary injunction and ordered that the City cannot stop Emerald from completing the construction or operation of those additional four signs.

Mayor Katz asked if that would still be true if the City Engineer rules they are a traffic hazard.

Mr. Rogers said there may be additional evidence down the line to remove these signs but there is nothing available at this time.

Mayor Katz asked what limits the City's ability to remove signs.

Mr. Rogers said the judge ruled that the City's effort to restrict these signs was a violation of the first amendment constitutional rights of Emerald Outdoor Advertising.

Mayor Katz said one of the attorneys stated that if the City prohibited these signs it would also be vulnerable under the Oregon Constitution.

Mr. Rogers said he disagrees with Ms. Watt's position that this ordinance may be unconstitutional. The example Ms. Watts gave was that the City could not require signs to be all red or not have pictures on them. The City is not doing any of those kinds of things in this ordinance. It does not address the content of the information conveyed in any way. It only addresses physical characteristics of the signs and they believe the City has the constitutional authority to do that and that it is not an infringement on the first amendment or the similar provision in the Oregon Constitution. Mr. Ramis said what the City has tried to do, find a definition that distinguishes between different types of electronic signs, is extremely difficult because, as Commissioner Hales and others have pointed out, if all the industry is not on board, the City may have to go with a broader definition than it would like. First, there is the question of whether a definition could be agreed upon by all the players. If the definition is only agreed upon by some of them and challenged by others, the question then becomes whether it will withstand legal challenge. The history has been that whatever the City has done has been challenged. If the definition does not withstand legal challenge then the question is who bears the cost -- the taxpayers or the portion of the industry that helped work out a definition. History has not been very promising in terms of the City's ability to make fine distinctions between types of signs. That is why this ordinance has taken a broad approach to this kind of regulation.

Commissioner Francesconi asked if the City's authority to regulate is based on safety and aesthetics.

FEBRUARY 11, 1999

Mr. Rogers said he understood that both Commissioner Hales and the Mayor would support this on either the aesthetics or traffic safety basis alone. Either one of these bases would be sufficient.

Commissioner Hales said if Ms. Watts' argument was carried to its conclusion than the City probably could not do design review because it would limit an architect's ability to express himself in the design of a building. Obviously the City thinks there is a public, aesthetic reason to have design review and also to do structural reviews of buildings to make sure they are safe.

Commissioner Francesconi asked why the City has to have safety or aesthetics reasons as a basis for doing this.

Mr. Rogers said if there is a constitutional challenge, the courts look to see if a legitimate government interest is being furthered and if there is a rational relationship between what the government is doing and that interest. The City Attorney's office would assert that this kind of ordinance does not even raise constitutional questions, although they will certainly be raised by opponents. For instance, the City Attorney's office believes the previous Council action restricting the maximum size of signs to 200 square feet is not a constitutional issue as it does not look at expression but just physical characteristics. However, they know, based on history, that the City will be challenged on whatever it does and that constitutional issues will be raised. In that case it is very important to show that there is some legitimate interest being served.

Commissioner Francesconi asked if the City has done any traffic studies.

Mr. Rogers said that is what the traffic engineer and others are looking at now and they believe evidence will be produced but it is important for Council to decide if it supports either of these rationales. If the courts later find that traffic safety is not a sufficient rationale, they believe the record of this hearing and the cases support the City's position that it does not want these signs because of their appearance, not because of anything in the message or content of the sign. That distinction is very important.

Commissioner Francesconi asked if he had any guidance to help him about aesthetics as his views may not be the same as other people's.

Mayor Katz asked him to imagine if the City lost all the cases currently filed and did not do anything on this. Imagine what could happen on every building in a traffic corridor and what the City would turn into if there are not at least some restrictions on billboards. Council has a responsibility to shape the City for the next ten, 15 or 20 years so it should think about what the City will look like then, if it does not act in areas where there are aesthetic issues. Previous Councils did try to control the number of signs in the City until the agreement ran out and were very concerned about the proliferation of these signs all over the City. There are cities around the state that are very strict about these signs because they do not want to look like Las Vegas.

FEBRUARY 11, 1999

Commissioner Francesconi asked if the City would be treating one group of citizens differently than those who already have their signs up. Is there anything to that legal argument?

Mr. Rogers said he does not think this ordinance is overly broad in a legal sense.

Commissioner Sten asked if the City does not win this argument, is it legal to try to find a way to craft regulations regarding the refraction of light or intensity and its impact on neighboring properties. He noted that the City has noise ordinances which prohibit people from playing music at certain levels at all times of the night. That is free speech in a sense but it is restricted. Can the City restrict the visual impact on these people's bedrooms?

Mr. Rogers said he thinks the City could have restrictions somewhat parallel to the noise ordinances. He does not know of any work that has been done on those at this time, however.

Mayor Katz said the City probably could shut them down during certain hours.

Commissioner Hales said that is an interesting notion that needs study.

Mayor Katz said that would apply to existing signs. One might also tone down the color or speed.

Mr. Rogers said speed and intensity could be regulated but color gets a little trickier as one gets into more intense content. But for those same kinds of reasons the City Attorney's office thinks the ordinance before Council is legally valid as well.

Mayor Katz said the question is that, even if Council approves this ordinance, there will be four additional signs that have to be put up.

Ms. Mahoney said two signs are up currently and there are four with stop work orders plus five or six pending applications waiting for the report of the traffic engineer.

Commissioner Sten said in that case it is worth pursuing the intensity issue regardless of the other issues. It seems to him the light can be engineered so it does not go 23 stories up.

Mayor Katz agreed that the City needs to look at the existing signs in that context to see if some regulations can be adopted that would stand up.

Mr. Rogers agreed.

Mr. Paulson said he believes the OESA could provide a lot of input regarding issues about shielding, brightness and the number of frames per second. There are a lot of technical expertise they could bring to the table that would help define these if they are given the opportunity. He believes they could nail them down pretty tight.

FEBRUARY 11, 1999

Commissioner Francesconi said he is voting aye primarily based on the potential for aesthetic harm to the City, which everyone has worked so hard to preserve and protect. His common sense tells him these signs are a hazard and when he goes across the Morrison Bridge he thinks they are too but he is deeply troubled that there are no studies in the record to back up his thinking, only the opinion of other people who think like him. He said people have a right to litigate but it is time to bring all the parties to the table, including the billboard and electronic sign companies. He would like to see if all these cases could be settled simultaneously, with supervision by a judge, while at the same time the City tries to craft a new ordinance that addresses both the billboards and the electronic sign issue. He is not sure that can be done but Council needs to look at some alternative as he is very disturbed that at the moment he has no other alternative to consider. He hopes these issues can be resolved through a mediated process in a court setting and they can look at what an alternative can do for the billboards, the wall signs and the electronic signs. His three concerns include: 1) the ability of small businesses to get their message out in order to compete with larger ones; 2) taxpayer liability from prior cases; and 3) constitutional issues which still trouble him. For those reasons he hopes all parties can be brought to the table to see if this can be resolved. If not, he believes the current billboard regulation with the 200-foot limitation is constitutional and that this one is too.

Commissioner Hales said, based on his recent experience with sign issues, he believes the City needs to be very clear and avoid some of the interesting, creative distinctions that have been suggested today. The City needs to be in a strong position to respond to citizens who keep telling Council that these signs are not only unneighborly but also dangerous. People are testifying that they have narrowly avoided accidents and he does not think the City should have to wait until there is a body count in front of these signs to conclude there is a traffic safety problem. The testimony Council has heard in the last two hearings on this issue have convinced him that there is. In order to deal with this problem, Council needs to enact Code that is very clear and enforceable. He believes that is what is in front of Council today and that it should be adopted. He is very willing to convene a discussion and talk informally about possible amendments to the Code in the future and other approaches that might be more amenable to the sign industry. But for now the City needs to have a very clear Code that puts it in the strongest possible position to carry out what the community wants it to do.

Commissioner Saltzman said he comes down on this issue more on the traffic safety side based not only on experiences communicated here today but his own as well. These signs seem to be placed in the worst possible traffic locations for accidents. There may be some middle ground here but he believes Council has no choice but to vote aye and avoid a deluge of applications. If there is some way to get everyone together with a judge and work out these lawsuits he would be more than happy to see that happen.

Commissioner Sten said people do need to sit down together and he is bothered that has not yet happened and the City is in this position. He did not support the 200-foot limitation as he likes some of the big murals and was willing, as an aesthetic issue, to trade off big signs he does not like for some art that he does like. He ended up voting for that limitation as a concession to Council because he did not want to create a 30-day window that would allow

sign companies to come in and get permits for 100 signs based on his one vote. Personally, he finds the video boards aesthetically terrible and his intuition is that they cause traffic problems. However, all the rationale Council has given today deals with video boards and this ordinance bans everything. He is extremely bothered by what will happen on the MLK property as Mr. Reed made a compelling case that it is a good place for electronic signs. He said he uses the post office and Trailblazers signs and does not think the City has a long-term policy that makes a lot of sense here. But because of the climate that has been created, Council has to take a very clear stand and this is the only thing that will do it. He will support this but would like to talk about a way to do something here that makes some sense. Council members not only vote their own aesthetic point of view but also try to represent as best they can the views and interests of the majority of people in the City. In this case, he firmly believes the majority does not like these video boards, based on the unscientific but persuasive samplings he took on the bus and throughout town after these signs went up. He cannot say with any confidence that if people were faced with the educated choice of having no signs at all or the kind he believes are valuable and useful to the community, what they would say. He does not think the verdict is in trying to understand what citizens think on these issues. This is a choice where the City is banning all signs that have moving images in order to get to signs in just a certain class. Council owes it to the community, if it cannot work out a compromise with the sign industry, to have more discussion about this. This ordinance not only bans video signs but also bans a fundamental way of communicating in an urban environment. He is willing to do that on a short-term basis but with faith that there will be more talk about this and the City will be able to get rid of garish and potentially dangerous signs but not those that make a lot of sense. The City has a lot more work to do on this to get it right but this action is warranted by the fact that the City lost in court on the stop work orders, that it has signs that are extremely aesthetically bad for the City and could be a traffic hazard, plus the fact that it is getting six more such signs. He would like to work with everyone, however, to try to come up with a proposal he would feel better about.

Mayor Katz said this is a difficult choice for Council, which discussed the lawsuits in Executive Session. Council was very concerned that there are eight cases filed on constitutional issues and the fact that if it waited any longer it would see many more of these signs. Council has a responsibility to deal with the existing signs and she hopes that with the leadership of Commissioner Hales and Margaret Mahoney, the City can go back and see if the existing signs can be made safer and more conducive to a livable environment, especially for those who live downtown. She appreciates the efforts she hopes will be made to try to work with the industry on differentiating moving signs from those that people feel more comfortable with. Can the City get there and will everyone be pleased? She hopes so though probably everyone cannot be pleased. Will the City be sued again even if it finds some solution? Probably, and those are issues the Council will have to deal with once another proposal is before it. She would hope the industry would be willing to sit down and see how one sign can be differentiated from another. She asked Commissioner Hales to take that job on and report back to Council shortly so the City does not keep this kind of ban for a long time without at least trying to resolve some of the issues that were raised. She voted aye.

Disposition: Ordinance No. 173100. (Y-5)

FEBRUARY 11, 1999

At 3:25 p.m., Council adjourned.

GARY BLACKMER
Auditor of the City of Portland

Cay Kershner

By Cay Kershner
Clerk of the Council