



---

CITY OF  
**PORTLAND, OREGON**

---

**OFFICIAL  
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 17TH DAY OF MARCH, 1999 AT 9:30 A.M.

THOSE PRESENT WERE: Mayor Katz, Presiding; Commissioners Francesconi, Hales and Saltzman, 4.

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

Agenda No. 332 was pulled from Consent. On a Y-4 roll call, the balance of the Consent Agenda was adopted as follows:

**CONSENT AGENDA - NO DISCUSSION**

- 329** Accept bid of Landmark Ford to furnish eight each extended cab 3/4 ton pickups for \$185,728 (Purchasing Report – Bid 99125)

**Disposition:** Accepted; prepare contract

**Commissioner Jim Francesconi**

- \*330** Increase contract with Pacific Cascade Controls for the installation of energy management and control systems to Portland Parks community centers by the sum of \$75,477 (Ordinance; amend Contract No. 31364)

**Disposition:** Ordinance No. 173167. (Y-4)

- \*331** Grant Specially Attended Transportation permits to Abdelsatar Goda dba TransCare Medical Transportation and Ephrem T. Kassaye, dba Medex Transportation Services (Ordinance)

**Disposition:** Ordinance No. 173168. (Y-4)

**Commissioner Charlie Hales**

- 333** Amend the Zoning Code to clarify regulation of certain painted wall signs (Ordinance; amend Code Section 33.286.070)

**Disposition:** Passed to Second Reading March 24, 1999 at 9:30 a.m.

- \*334** Approve modifications to contract with Metro for the South/North Transit Corridor Study (Ordinance; amend Contract No. 50304)

**Disposition:** Ordinance No. 173169. (Y-4)

**MARCH 17, 1999**

**Commissioner Dan Saltzman**

- \*335** Authorize a contract and provide for payment for the construction of N. Emerson-Michigan sewer rehabilitation, Project No. 6355 (Ordinance)

**Disposition:** Ordinance No. 173170. (Y-4)

- \*336** Authorize a contract and provide for payment for the Joint Funding Agreement with U.S. Department of the Interior, U.S. Geological Survey, for water resources investigations in the Johnson Creek Basin, Project No. 6220 (Ordinance)

**Disposition:** Ordinance No. 173171. (Y-4)

- \*337** Authorize a contract and provide for payment for the design of Sellwood Basin storm sewer separation project, Unit 3, Project No. 5930 (Ordinance)

**Disposition:** Ordinance No. 173172. (Y-4)

- \*338** Authorize a contract to Dunn Construction, Inc. for the N. Albina and Michigan emergency sewer reconstruction project, Project 6554, for \$100,000 and provide for payment (Ordinance)

**Disposition:** Ordinance No. 173173. (Y-4)

- \*339** Authorize a contract with the lowest responsible bidder(s) for the Inverness bike path and provide for payment (Ordinance)

**Disposition:** Ordinance No. 171714. (Y-4)

- 340** Consent to the transfer of Miller Sanitary Service, Inc. solid waste and recycling franchise to USA Waste of Oregon, Inc. (Second Reading Agenda 312)

**Disposition:** Ordinance No. 173175. (Y-4)

**Commissioner Erik Sten**

- \*341** Amend agreement with Lutheran Family Services to increase budget by \$6,000 and provide for payment (Ordinance; amend Agreement No. 31962)

**Disposition:** Ordinance No. 173176. (Y-4)

**REGULAR AGENDA**

- 332** Accept report on animated signs and direct the Bureau of Traffic Management to continue its investigation of the effect of animated signs on traffic safety (Report)

**Discussion:** Cay Kershner, Clerk of the Council, noted that some minor amendments had been distributed to Council earlier.

MARCH 17, 1999

Commissioner Hales moved the amendments. Commissioner Saltzman seconded and, hearing objections, the Mayor so ordered.

**Disposition:** Accepted as amended. (Y-4)

**328 TIME CERTAIN: 9:30 AM --** Accept the continuance of the Enterprise Zone program as a tool for business investment and creating job and business opportunities for North/Northeast Portland residents and businesses (Resolution introduced by Mayor Katz)

**Disposition:** Mayor Katz said two years ago a hold was placed on any further enterprise zones until Council felt comfortable about moving ahead. She also told community members at that time that if they wanted the enterprise zones for a particular purpose, they needed to make that request themselves, rather than having them come from a City bureau or agency. In addition, the Workforce Development Board was asked if it thought enterprise zones were a good tool for workforce training. She said the Northeast community was able to put together packages that not only benefit corporate enterprises that wish to locate or expand here but also benefit the community itself in a variety of ways. She said this is not a "give me" without any contribution by the corporations to the community.

Felicia Trader, Director, Portland Development Commission (PDC), said the City is very good at urban renewal but one of the unintended consequences is gentrification. Tools that are available to deal with it include affordable housing, small business assistance, targeted procurement programs and the quality jobs initiative. This enterprise zone provides tools to promote three programs: 1) industrial jobs in particular geographic areas in the enterprise zones; 2) construction of new facilities for emerging small businesses; and 3) quality jobs to be filled through the Workforce Development Board, working with the First Source Hiring Agreement and procurement plans with the North/Northeast neighborhoods. In some places, it also provides a neighborhood contribution.

Bob Alexander, PDC, described the history of Portland's involvement in the enterprise zone program, and the program changes which have been made since its authorization by the State in 1986. He said over time Portland has developed the most comprehensive list of requirements in the State in order to balance the tax benefit to companies with the need for a high rate of return for the community's investment in tax abatement. He listed some of the State's requirements as well as those that Portland has added, including training and small business programs, childcare provisions and transit pass benefits for projects receiving more than \$1 million in tax exemption benefits. Companies are also required to purchase a minimum percentage of goods and services from the North/Northeast area and increase that percentage each year of the exemption period. Finally, the exemption is capped to a net present value of \$10,000 per employee and any amount above that goes into a community contribution. Mr. Alexander said PDC believes enterprise zones are an effective tool for locational decisions by companies and while property taxes alone will not be the key factor in location, it can be a very important one. He outlined the results to date, including creation or retention of nearly 3,000 jobs within enterprise zones, over \$65 million worth of investments since 1996 plus First Source agreements signed with each of the companies allowing North/Northeast residents access to jobs. Over \$1.3 million in community contributions has been made and another \$1.8 million is expected over the next few years. These funds will be used for workforce training and direct assistance to

**MARCH 17, 1999**

North/Northeast businesses and residents. The enterprise zone program is currently the best tool available to directly assist residents in the North/Northeast community and it is also one of the most effective for company expansion and attraction. An estimated 200 companies have inquired about the enterprise zone since the program was placed on hold and currently four major companies have indicated an interest.

John Ball, President of the Workforce Development Board, endorsed the program as an important tool for workforce development. He noted that the Board specifically did not discuss the economic development aspects or the general tax policy implications of enterprise zones. The Workforce Development Board was charged, when Council created it a year ago, to create a workforce system that is both more community-based and more demand-driven than past systems. Enterprise zones help with both aspects. First, the Board is already working to integrate enterprise zone strategies with an aggressive, community-based planning effort to help determine the allocation of resources. Second, the First Source hiring agreements give the community direct access to private sector jobs and allows the Board to guarantee that successful trainees will have productive jobs. The Board realizes not all the jobs created will be open to area residents because of their specialized nature but the enterprise zone program provides, in those cases, for alternative contributions to local workforce training infrastructure. One example is the Swan Island Training Center.

Nancy Challey, Director, Customized Work Force Training Department, Portland Community College (PCC), said a carefully crafted enterprise zone agreement can bring amazing benefits to employees. She said PCC has taken about 900 people perceived as "at risk" for employment and successfully turned them into operators and technicians who have retained their jobs. She described some of training programs the College is providing for future employees of Welded Tube Company in basic skills, technical training and company culture. The trainees end up with portable skills so they can work in a variety of positions and take those skills from company to company. She said PCC has been involved in many training programs because of these enterprise zone agreements which provide direct connections between the school-to-work program and educational institutions, such as the high schools.

Sam Brooks, Vice Chair, North/Northeast Economic Development Alliance, said the Alliance has been involved in these programs since they began in 1986. The goals – to create more jobs and wealth in this area – remain the same as they were 13 years ago. The only way to prevent gentrification is to help people in the community grow and the Enterprise Zone is a tool to do that. He said the Alliance continues to support the program as it creates both jobs and opportunities for businesses in the community itself. He said they believe this will continue to be a tool for changes that need to occur in North/Northeast Portland.

Sheila Holden, Chair, Land-Use and Transportation Subcommittee, North/Northeast Economic Development Alliance, said it took about seven years after the program was initiated in 1986 to fashion something that would benefit existing businesses and bring new businesses to Northeast Portland, the whole idea being to provide more jobs to residents. In the past five years more options have been added and the zone has been expanded. The most critical concerns are to see more monitoring by the Workforce Development Board when it becomes Work Systems, Inc. It is critical that North/Northeast residents get proper training so they can compete for those jobs and it is

**MARCH 17, 1999**

also critical to monitor who gets the jobs, retention rates and wage levels. Those elements are all a part of this program and that is why the Alliance supports it.

Dennis Niche, Wacker Siltronics, read a letter from Jim Harper, Director of Human Resources, describing the company's successful participation in the jobs training programs that were part of its Enterprise Zone agreement. His letter notes that Wacker has trained and hired 731 employees through the semi-conductor training program at Benson High School. The company also implemented a home purchase program, provided subsidized transportation and childcare and implemented a procurement plan for inner Northeast target businesses. Mr. Niche said there are great opportunities to develop more suppliers within the enterprise zone and this is an area that has not been tapped enough. To illustrate the success of the enterprise zone training programs, he cited the example of a young woman, age 23, who earns \$12.00 an hour at Wacker and has saved \$11,000. He said over 900 people have gone through the Wacker training program and the retention rate after two years is about fifty percent.

Commissioner Francesconi said he favors the program but believes the City has not collectivity done a great job of creating wealth, home ownership and business opportunities. His problem is that he cannot understand how many tax dollars have gone into this since 1986, what the specific benefits have been and what these changes will do to make this more effective. How have monies been used to assist small business development and how will they be used now?

Mr. Alexander said the community contribution is created for companies with over \$10,000 net tax exemption per employee and it has only recently reached that level so they are only now beginning to get their first contributions from companies. Wacker was able to use its community contribution for construction of the Clean Room facility at Benson High School. Seventy percent of the community contribution goes to workforce training while the other 30 percent is used for business improvements. PDC has worked with the Alliance on a formula for distributing those funds. The business contributions can be used to increase supplier contacts, for loans to small businesses to upgrade their capabilities and for technical assistance to businesses to help them become successful suppliers.

Commissioner Francesconi asked if these efforts are coordinated with the Albina Community Bank and programs at Portland State for assistance to small businesses. He asked if this program will be coordinated with those.

Mr. Alexander said PDC has worked with the Alliance and will specifically try to tie in with programs offered by the Bank, Portland State and other players.

Commissioner Francesconi asked if employer-assisted housing can be included as a requirement for enterprise zones. Does that make it so restrictive that employers will not participate?

Mr. Alexander said at some point there is a trade-off between the benefits the company and the City receive. The State requirements suggest that the benefits be work related so the first two priorities are childcare and transit access. He said aiding home ownership is a permitted use but, with the limited funds available, they could be used up very quickly.

**MARCH 17, 1999**

Commissioner Francesconi asked what will be different in this program on the workforce side.

Mr. Ball said the Workforce Board will have the ability to take a much broader approach to creating realistic career job opportunities. He said the Board has been directed by elected officials to become much more demand-driven so the planning process will incorporate not just the community-based organizations that are delivering training services but the companies themselves to offer reality-based training and set much more specific outcomes than in the past.

Commissioner Francesconi asked what guarantees there are that those hardest to serve and residents already there will benefit, as opposed to people who move into the area.

Mr. Ball said if a company is creating jobs so specialized that enterprise zone residents will not fill all or most of them, the Workforce Board can use enterprise zone resources to create an infrastructure that helps prepare people for other career-track jobs in the labor market. The Board is looking beyond administering individual programs to a more broad-based labor market, career-track, demand-driven system. Their accountability requirements have disadvantaged workers as one of their key outcome groups.

Commissioner Francesconi asked what can be done to strengthen Jefferson High School by extending some of these programs there.

Mr. Ball said the Workforce Development Board would be glad to work with the School District on how some of the school-to-work resources might be used in the high schools. The Board is in the final stages of preparing a very aggressive school-to-work strategy for this labor market which includes the school districts in the form of some model academies. They will report back to PDC on that within several months.

Commissioner Francesconi asked if there is anything the City can do to expand the Clackamas County Enterprise Zone to benefit Marshall High School and the southeast part of town.

Mr. Alexander said there are limited amounts of industrial land where businesses can locate in that area. The City worked with Clackamas County to expand its zone, which Council approved last year, but in that particular zone there are none of the additional requirements the City imposes. The City would have to apply to the State, in competition with other jurisdictions, and make a case in terms of how many residents would benefit, how many acres could be developed, number of jobs created, etc. PDC believes that would not be successful at this time.

Mayor Katz asked if a tie could be made between the metals program at Marshall High School and job guarantees at Precision Castparts.

Mr. Alexander said the metals program was focused around Precision Castparts, which is part of the Clackamas enterprise zone. He said the City could continue the program for that part of the zone but further expansion is more problematic in terms of capturing additional companies in that area.

Mayor Katz said this country is not very good at training young people or building

**MARCH 17, 1999**

workforce skills. The high school drop out rate is 25 percent because kids believe that education is irrelevant. How does one use workforce development to reach those who rattle around for a number of years, working at McDonald's and Burger King, until they figure things out.

Mr. Ball said the school-to-work program provides a great opportunity to reduce the number of kids who wander around the margins of the labor force for five or six years. These issues need to be seen as systemwide problems, related to workforce development, transportation and childcare. They must also learn from the private sector, such as McDonalds, which is extremely accomplished in acculturating young people to the work place in a very short period of time and very cost effectively.

Commissioner Francesconi said an argument can be made that tax abatements are not needed in this strong economy to create incentives to get people hired but a more powerful argument can be made that these incentives are needed more than ever and in more neighborhoods. He said he would like to work actively on the school-to-work program, particularly at Jefferson High School, as well as on employer-assisted housing and assistance to small businesses.

Commissioner Hales said this is a battle about suburban sprawl and the departure of manufacturing jobs from the Central City so people who remain lose access to those jobs or move. Portland is operating from a position of strength now as it still has a manufacturing base and an educational system that is prepared to provide training programs, although this is still a bit creaky. What it comes down to is whether people in the community have access to training and jobs and prosperity or does that all drift away as the good jobs go somewhere else. Without an active effort and the use of public policy tools like this, the good jobs will not remain.

Commissioner Saltzman also offered his assistance in making this happen in a more dramatic fashion. The City still has a lot of work to do in North/Northeast and this program is a very effective tool. While home ownership is important, for most people the priorities are how to get to work and what to do with your kids. He would like to find ways youth involved in the juvenile justice system or the state correctional system can be plugged into some of these opportunities, especially in this tight job market.

Mayor Katz remembered how contentious this issue became, with people in the community asking why the City was providing corporate welfare in such a strong economy. The public did not understand that this is not a give-away program and that a community was benefiting too. It is a matter of balancing the benefits between the companies and the community and the City is now making sure the benefits tip to the side of benefiting the community. This is not an easy business and everyone needs to help if this is to be a success.

**Disposition:** Resolution No. 35773. (Y-4)

**342**

Accept bid of PCI Mechanical Construction for Linnton pump station improvements for \$384,666 (Purchasing Report - Bid 99113)

**Discussion:** Darin Matthews, Procurement Division Manager, said this bid award, to PCI Mechanical, is being contested by Harder Mechanical, which had its bid rejected by the

**MARCH 17, 1999**

City when it failed to submit the required good faith efforts documentation by the required deadline.

Jim Van Dyke, Deputy City Attorney, said the disparity study found that many minorities, women and small businesses were not given the opportunity to bid on public work. The City's good faith efforts program was designed to correct that even though the City is legally unable to set quotas or goals. Instead, the City asks bidders to contact a specified number of MWESBs (Minorities/Women/Emerging Small Businesses) prior to submitting their bids. If bidders consistently ignore lower bids from MWESBs, the Bureau of Purchasing will check further on that company's good faith efforts. He said on bid day contractors submit their bids and a one-page compliance form for the good faith efforts. By two p.m. the following day, the lowest bidder is supposed to turn in the remainder of the good faith documentation which shows the people who were contacted and the bids that they received. In this case, Harder Mechanical, the lowest apparent bidder by \$10,000, did not turn its documentation in the next day, Friday as required, but on Monday. There is no dispute about how the good faith program operates but there is tension between what the City is trying to achieve through the good faith efforts and public contracting law which requires that all bidders be on a level playing field. Harder contends that the documentation they turned in on Monday was okay and therefore their bid should be accepted. He said it is always unfortunate when Purchasing recommends that a somewhat lower bid with a somewhat higher percentage of participation by MWESBs be rejected. However, that is part of the price public governments pay to maintain a level playing field for all bidders. He said Purchasing has to abide by strict deadlines so it does not end up making exceptions for some and not for others. Another concern is bid shopping where, after the bid comes in, the contractors shop the subcontractors around to see if any of them can beat that price. Mr. Van Dyke said there is no evidence that happened with Harder but he believes the time line should be honored and Council should reject the bid of Harder Mechanical. He said if this were litigated it would be easier to defend rejection of the Harder Mechanical bid than to justify awarding it to them.

Mayor Katz said the letter from Harder's attorney states that the Bureau's interpretation of the solicitation provision is wrong as the solicitation states that failure to submit documents may render a bid nonresponsive, not shall.

Mr. Van Dyke said that is what the Oregon statutes say. The word "may" is used deliberately because that gives the Bureau some discretion when minor mistakes are made but in this case the mistakes were not minor. Harder simply did not provide the documents at all, and did not call the Bureau, so one could not tell if they had made any good faith efforts. Bidders sign a compliance form that says that documents must be filed by 2:00 p.m. or their bids may be rejected. That is exactly what happened here.

Commissioner Saltzman asked about the implications of bid shopping and whether that results in less participation by MWESBs.

Mr. Van Dyke said Purchasing gets complaints from subcontractors about that but they are difficult to track down. He described City efforts to ensure that if bids are changed there are legitimate reasons to do so.

Commissioner Francesconi asked if it is City policy to automatically disqualify those who



**MARCH 17, 1999**

do not get their bid documents in by the deadline.

Mr. Van Dyke said there is no specific policy. He said he has to look at the language of the bid document, which sets out the 2:00 p.m. deadline and also at Oregon law which defines the lowest responsive bidder as the one in substantial compliance with all prescribed bidding requirements. He said it would be hard for Purchasing to anticipate every single error and put that into the bid documents.

Commissioner Francesconi said unless there is a clear policy and people are alerted, things are left up in the air.

Mr. Van Dyke said the Bureau and Council always have the discretion to determine whether or not a mistake is minor and whether a bidder is in substantial compliance. They can discuss whether it is better to have hard and fast rules or to leave it a little vaguer so discretion can be exercised. He agreed there was no specific written policy in this issue.

Mr. Matthews said Purchasing has consistently applied the 2:00 p.m. deadline requirement. Bidders also sign a compliance form which spells out what must be filed with the bid and what must be filed the following day by 2:00 p.m. That form warns them that bids which do not meet the deadlines may be rejected. The reasonable expectation of the bidders is that these deadlines are important and need to be complied with.

Mayor Katz asked if this can be delayed one week.

Mr. Van Dyke said yes.

Guy Randles, attorney representing Harder Mechanical, Inc., said Harder's bid is \$10,000 less than PCI Mechanical's and its MWESB participation is 6.7 percent of its bid. The next low bidder committed at a level of .8 percent. He said Harder admittedly submitted documentation of good faith efforts 3-1/2 working hours late but there is no question that its submission satisfied the City's good faith efforts requirement. The Bureau believes the City did not have discretion on this matter and if this document was submitted late, the bid automatically had to be rejected, even though the language says it may be the basis for a rejection. Harder believes the City's interpretation is incorrect. The language of the solicitation does not call for automatic disqualification, it simply says the City might do that, exercising its own discretion. Harder believes the City should exercise its discretion and overlook this minor informality. Furthermore, Oregon law is clear that public bodies have the discretion to decide if there is substantial compliance. What is in balance is \$10,000 in savings and a far higher percentage of minority, women and small business participation. The documentation submitted, albeit late, was not something that could be remedied after the bid as it documented efforts taken prior to the bid. As to applying a level playing field, that would favor Harder. If the Bureau's interpretation is accepted it means that those who submit a low bid get the benefit of finding out what all their competitors have bid and then, if they decide they do not want the bid, all they need to do is turn in their good faith documentation one day late. Then the City would reject their bid. This has a terrible potential to manipulate the bid process. Council should consider the reason for the good faith efforts, which is to get the participation. Admittedly, Harder made a minor timing error but they submit that the exercise of discretion here could only end with the award of the bid to Harder.

**MARCH 17, 1999**

Jim Stillwell, Controller, Harder Mechanical, said they admit they did not turn the document in on time but the reason they are here today is not because this is a big job for them but because of the gloating manner in which Purchasing informed them. The company made a good faith effort and he does not understand why the City would want to throw away \$10,000. How much extra is the City willing to spend? This is the place for Council to exercise its discretion. He said they requested information about how many other bids had been rejected for this reason but were told they had to pay \$15.00 an hour for City employees to assemble that. He said City policy should be altered so the good faith documentation is turned in with the bid itself. In the private sector, no one would spend \$10,000 extra because a low bidder did not turn in a piece of paper.

Commissioner Saltzman asked if Harder would be suing the City, if the roles were reversed.

Mr. Randles said no, it comes down to use of the words: "failure to provide it may be the basis for rejection." There was no failure, as at the time of the bid they committed to the level of participation they were willing to enter into with MWESBs.

Mayor Katz asked if the City would be setting a precedent if it overturned the bid recommendation. Does a history of a company's commitment to hiring MWESBs matter?

Mr. Van Dyke said the City must operate under different rules than the private sector, and those rules occasionally require the City to reject a bid. Mr. Randles, in justifying turning it in Monday, also testified that turning the documentation in two weeks later would not make any difference. If that is true, what is the cutoff date?

Commissioner Francesconi asked why Purchasing does not set a policy that states that bidders who fail to meet the 2:00 p.m. are out. Or why did the letter not state, if you are late that is it? It seems like the contractors are being told one thing but the City wants to keep some discretion on the other hand.

Mr. Van Dyke said there would be no problem stating in the bid document that if the paperwork is not in by 2:00 p.m. the following day, the bid will automatically be rejected. However, it would be hard to completely identify every particular mistake a bidder might make in a bidding document and identify that in advance. It will still require some discretion to see if they are in substantial compliance.

Sue Klobertanz, Manager, Contractor Development Division, Bureau of Purchasing, said they reviewed last year's contracts, at Harder's request, and found that, of 52 formal construction contracts over \$200,000 where good faith efforts applied, there were six low bidders whose bids were rejected for failure either to submit all or a portion of the documentation. That is about eight percent per calendar year.

Commissioner Hales asked if Council has the discretion to go either way in this case.

Mr. Van Dyke said the City can make that call on behalf of Harder but he believes the legal risk is very high that this decision could be challenged.

Ms. Klobertanz said the issue here is consistency of administration. There is hardly a contract that has every "t" crossed and "i" dotted. This recommendation is consistent with

**MARCH 17, 1999**

how Purchasing has administered the good faith policy effort over the past several years. If Council uses its discretion, Purchasing will have to review the good faith effort program and begin to administer it very differently. She said generally a contract performance report is included in the packet that goes to Council which shows the history of a particular contractor's use of MWESBs and their current Equal Employment Opportunity (EEO) status.

Mayor Katz said she would like to see that history when such issues arise.

Ms. Klobertanz said it was the original intent to see that Council got a copy of the contractor performance report as part of the packet. Council could then request that the contractor be present to answer questions.

Commissioner Hales said this is a close call but he believes common sense ought to rule here as the good faith effort is a City policy and it is the City Attorney's job to defend Council policy, not reduce the risk to zero. Sometimes the City will take riskier legal positions in order to advance policy and if a bid is lower and better, according to those policies, he would rather defend the policies than the procedures. In this case Council has the discretion to say this was the low bid and it better advances Council's policy of spending money wisely and encouraging the use of MWESB subcontractors.

Commissioner Saltzman said as someone who has lived and died by such deadlines he believes Harder is basically trying to remedy its screw up by appealing to Council. This is a deadline issue and the City has to uphold the integrity of deadlines. If there is an oversight, that is too bad. If 3.5 hours is not too late then is a week too late? He said the City could find itself being sued in a similar situation with a much larger bid.

Commissioner Francesconi said he is struggling with this because City policy really does not say that. If a bid is a minute late, it should be rejected and that is what the policy should say. On the issue of substantial compliance, perhaps there is some discretion if the material is not complete. But if they do not turn it in, they do not turn it in. A firm deadline is needed and should be stated. Is the understanding in the industry that if they are late, they are late?

Ms. Klobertanz said yes, that is the industry standard.

Mayor Katz said since Commissioner Francesconi is struggling with this and she wants to look at the performance history, she would like to continue this one week.

Commissioner Francesconi said he would like to know why it is a bad idea to have a specific policy and also suggest what that policy should actually say.

**Disposition:** Continued to March 24, 1999 at 9:30 a.m.

**S-343** Recommend that Metro declare the Endangered Species Act listing a matter of metropolitan concern (**Resolution introduced by Commissioners Hales, Saltzman and Sten**)

**Discussion:** Commissioner Hales moved the Substitute which corrects some scrivener's errors. Hearing no objections, the Mayor so ordered.

**MARCH 17, 1999**

Commissioner Hales said Council feels strongly that this is an issue that should be taken up by regional government as it is a concern for the whole metropolitan area, not just the City of Portland, and stretches across jurisdictional boundaries. This instructs the City's two IMPACT representatives, Commissioner Saltzman and himself, to request that this issue be taken up in the regional planning process.

Commissioner Francesconi asked if they are not already taking this up.

Commissioner Hales said only peripherally. They have talked about it as a council of governments but this requests that they exercise their authority consistently across the region.

Commissioner Saltzman said they are trying to take advantage of the Metro Charter process and he believes that if this is an issue that comes from IMPACT, the Metro Council will take it much more seriously. He hopes this will accelerate the process as it will take the whole region to save the salmon.

David Moscovitz, Salmon Recovery Coordinator, Metro, said this will give Metro the ability to develop functional plans with ordinance authority and develop regional requirements on transportation and land use that will address a regional solution for the fish.

David Knowles, Director of Planning, said the City has been much more aggressive in responding to the endangered species listing than other jurisdictions and this encourages Metro to level the playing field across the region. It is also consistent with the Title 3 work on standards already going on in Metro, but this will encourage additional work.

Commissioner Hales said salmon have an amazing sense of navigation that scientists are still trying to figure out but one thing they cannot tell is when they cross the City limits.

**Disposition:** Substitute Resolution No. 35774. (Y-4)

**Mayor Vera Katz**

- \*344** Apply for a \$759,400 grant from the Office of Justice Programs to fund the Domestic Violence Intervention Team project (Ordinance)

**Discussion:** Mayor Katz said this will allow the City to apply for grants to encourage policies which mandate arrests as an effective domestic violence intervention. It also needs to be a coordinated community effort and this grant was put together with Multnomah County, Volunteers of America and Raphael House as well as the Police Bureau.

Commissioner Saltzman said this grant will fund three sergeants, three victim advocates and one district attorney. Part of this grant effort is to respond to situations where a crime has not actually occurred but it is clear that domestic violence is an issue.

**Disposition:** Ordinance No. 173177. (Y-4)

**MARCH 17, 1999**

- \*345** Accept a \$10,000 Oregon Department of Transportation, Speed Enforcement project grant (Ordinance)

**Disposition:** Ordinance No. 173178. (Y-4)

- 346** Ratify the Portland Development Commission's Resolution No. 5212 to purchase the property bounded by 10th, 11th, Jefferson and Columbia in Southwest Portland for acquisition for redevelopment (Ordinance)

**Disposition:** Passed to Second Reading March 24, 1999 at 9:30 a.m.

- 347** Make certain determinations and findings related to and adopting the Fifth Amendment to the South Park Blocks Urban Renewal Plan (Second Reading Agenda 325)

**Discussion:** Commissioner Francesconi said the critical issue in attracting jobs here and competing with the suburbs is the lack of adequate-sized parcels for development. He believes the City may need to be even more aggressive with land acquisition policies, including condemnation. However, it is essential that there be adequate notification and time for public engagement before that drastic tool is used. These amendments allow two public hearings and take the Planning Commission out of the process as it is not necessary for them to be involved.

**Disposition:** Ordinance No. 173179. (Y-4)

- 348** Make certain determinations and findings related to and adopting the Sixth Amendment to the Airport Way Urban Renewal Plan (Second Reading Agenda 326)

**Disposition:** Ordinance No. 173180. (Y-4)

- 349** Make certain determinations and findings related to and adopting the Twenty-First Amendment to the Downtown Waterfront Urban Renewal Plan (Second Reading Agenda 327)

**Disposition:** Ordinance No. 173181. (Y-4)

**Commissioner Charlie Hales**

- 350** Consider vacating SW Montgomery Street between SW 5<sup>th</sup> and 6<sup>th</sup> Avenues, as initiated by Resolution No. 35767, to consolidate property for construction of a plaza which will accompany the Portland State University Urban Center project (Hearing; Report; C-9958)

**Discussion:** Linda Birth, Office of Transportation, said the City Engineer recommends approval with conditions.

Commissioner Hales moved to approve the report and ask the City Engineer to prepare an ordinance. Commissioner Saltzman seconded. Roll was called.

Commissioner Hales said he is usually reluctant to approve street vacations and take streets

**MARCH 17, 1999**

out of the grid but supports this one because of the transportation and land use benefits that will be provided to the public generally.

**Disposition:** Approved. City Engineer prepare ordinance. (Y-4)

- 351** Accept the concept of cost allocation for relocations and betterments of Bureau of Environmental Services and Bureau of Water Work facilities; incorporate financing from the Portland Development Commission's Five-Year Business Plan (1999-2003) into the Central City Streetcar Capital Finance Plan; adopt the revised Central City Streetcar Capital Finance Plan and direct implementing actions (Previous Agenda 320)

**Disposition:** Resolution No. 35775. (Y-4)

- \*352** Amend construction contract with Stacy and Witbeck, Inc. to carry out sewer and water facilities relocations and upgrades related to the Central City Streetcar Phase I project (Previous Agenda 321; amend Contract No. 31987)

**Disposition:** Ordinance No. 173182. (Y-4)

- \*353** Contract with Inekon Group for the construction of five Astra streetcar vehicles for the Central City Streetcar project (Previous Agenda 322)

**Discussion:** Commissioner Hales moved the amendments. Commissioner Francesconi seconded and hearing no objections, the Mayor so ordered.

Vicky Diede, Office of Transportation Engineering and Development, said the resolution provides a revised capital finance plan so that all elements can be properly tracked. It also adds some additional requirements to the project, such as the extension to the Portland State Urban Center. One of the ordinances amends the Stacy Witbeck contract to incorporate City utility work in Northwest Portland. Item 353 is the formal contract with Inekon for the streetcars and the amended Exhibit A has been signed by Inekon officials in the Czech Republic. The first ordinance amends the contract with Portland Streetcar, Inc. for work related to construction management.

Mayor Katz said PDC put in another \$7 million to make the connection to Portland State. Was the plan amended to include that change in alignment?

Ms. Diede said the existing agreement adopted in 1994 shows a section going into Macadam and Johns Landing. The piece going to the Portland State Urban Center will need to be changed. That can be done either when they do the agreement with PDC for transfer of the funds to the project or when they do the specific engineering plans.

**Disposition:** Ordinance No. 173183 as amended. (Y-4)

- \*354** Amend agreement with Portland Streetcar, Inc. to provide additional services related to the implementation of the Central City Streetcar Phase I project (Previous Agenda 323; amend Agreement No. 31428)

**Disposition:** Ordinance No. 173184. (Y-4)

**MARCH 17, 1999**

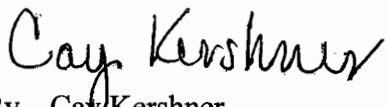
**Commissioner Erik Sten**

**355** Grant a franchise to TCG Oregon for a period of ten years (Second Reading Agenda 218)

**Disposition:** Ordinance No. 173185. (Y-4)

At 11:30 a.m. Council adjourned.

GARY BLACKMER  
Auditor of the City of Portland

  
By Cay Kershner  
Clerk of the Council

**MARCH 17, 1999**

**WEDNESDAY, 2:00 PM**

DUE TO THE LACK OF AN AGENDA

THERE WAS NO MEETING