



CITY OF
PORTLAND, OREGON

**OFFICIAL
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS MARCH 31ST DAY OF MARCH, 1999 AT 9:30 A.M.

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

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

Prior to the official meeting, the Council honored outgoing City Treasurer David Smith for his years of commitment to excellence and high quality work in dealing with the market and the City's partners in the financial institutions. It was noted how much he had earned for taxpayers by his competent management of City funds. David E. Thurman was sworn in as the new City Treasurer by City Auditor Gary Blackmer.

Agenda No. 417 was pulled from Consent. On a Y-5 roll call, the balance of the Consent Agenda was adopted as follows:

CONSENT AGENDA - NO DISCUSSION

Mayor Vera Katz

- *400** Extend legal services agreement with Hoffman, Hart & Wagner LLP for outside litigation representation (Ordinance; amend Agreement No. 31579)

Disposition: Ordinance No. 173188. (Y-5)

- *401** Authorize Intergovernmental Agreement with Oregon Health Sciences University to administer the City's Blood Borne Pathogens Program (Ordinance)

Disposition: Ordinance No. 173189. (Y-5)

- *402** Extend Legal Services Agreement with Reeve Kearns PC (Previous Agenda 368; amend Agreement No. 31950)

Disposition: Ordinance No. 173190. (Y-)

- *403** Increase petty cash checking account for the Office of City Attorney to \$4,000. (Previous Agenda 369)

Disposition: Ordinance No. 173191. (Y-5)

- *404 Amend contract with Health Trends, Inc. for Hearing Conservation Program services (Previous Agenda 370; amend Contract No. 31268)

Disposition: Ordinance No. 173192. (Y-5)

- *405 Pay settlement of claims for Randy Brusse (Previous Agenda 371)

Disposition: Ordinance No. 173193. (Y-5)

- *406 Pay claim of Karin Thomsen (Previous Agenda 372)

Disposition: Ordinance No. 173194. (Y-5)

- *407 Authorize appointment of Pamela Levin to the position of Senior Financial Analyst at a rate of pay above mid-range (Previous Agenda 373)

Disposition: Ordinance No. 173195. (Y-5)

- *408 Authorize Limited Tax Improvement Bonds, 1999 Series A (Previous Agenda 374)

Disposition: Ordinance No. 173196. (Y-5)

Commissioner Jim Francesconi

- 409 Accept completion of Brooklyn, Couch and Clinton Park restroom renovation project, authorize final payment and release of retainage (Report; Contract No. 31103)

Disposition: Accepted.

- 410 Accept completion of Woodstock and Rose City Park restroom renovation project, authorize final payment and release of retainage (Report; Contract No. 31394)

Disposition: Accepted.

- 411 Accept completion of Columbia Park restroom renovation project, authorize final payment and release of retainage (Report; Contract No. 31550)

Disposition: Accepted.

- *412 Declare surplus property located near SW Kelly and Hamilton Streets; relinquish to the Oregon Department of Transportation (Ordinance)

Disposition: Ordinance No. 173197. (Y-5)

- *413 Authorize agreement for acquisition of the Stoble Property adjacent to Mock's Crest at 2206 N. Skidmore Terrace in the Locally Significant Local Share Target Area (Previous Agenda 376)

Disposition: Ordinance No. 173198. (Y-5)

- *414 Contract with Aldrich, Kilbride & Tatone LLP for \$58,185 for consulting services for restructuring of Parks Stores (Previous Agenda 377)

Disposition: Ordinance No. 173199. (Y-5)

- *415 Authorize an agreement with the Friends of the Children's Museum to provide a grant for payment of the President of the Children's Museum for Fiscal Year 1998-99 (Previous Agenda 378)

Disposition: Ordinance No. 173200. (Y-5)

- *416 Authorize a contract and provide for payment to furnish certain FY 1998-99 City vehicle requirements (Previous Agenda 379)

Disposition: Ordinance No. 173201. (Y-5)

Commissioner Charlie Hales

- *418 Authorize a temporary loan from the Water Fund to the Transportation Operating Fund until proceeds from the Central City Streetcar Bond sale are available (Ordinance)

Disposition: Ordinance No. 173202. (Y-5)

- *419 Authorize a State Historic Preservation Office grant application requesting \$22,550 to augment funding to prepare National Register Nominations for Historic Landmarks and Districts in the City of Portland (Previous Agenda 382)

Disposition: Ordinance No. 173203. (Y-5)

Commissioner Dan Saltzman

- *420 Authorize grant application to the U.S. Environmental Protection Agency for funding in the amount of \$22,000 for wetland restoration at the east Whitaker Pond (Ordinance)

Disposition: Ordinance No. 173204. (Y-5)

- *421 Authorize contract to Copenhagen Utilities and Construction, Inc. for the NE 19th and Pacific emergency sewer reconstruction project, Project No. 6550, for \$200,000 and provide for payment (Ordinance)

Disposition: Ordinance No. 173205. (Y-5)

- *422 Amend Agreement with CH2M Hill to increase scope and amount of compensation for instrumentation and control services for various projects at the Columbia Boulevard Wastewater Treatment Plant (Previous Agenda 384; amend Contract No. 31596)

MARCH 31, 1999

Disposition: Ordinance No. 173206. (Y-5)

- *423** Contract with PriceWaterhouse/Coopers for auditing services for the Bureau of Environmental Services (Previous Agenda 385)

Disposition: Ordinance No. 173207. (Y-5)

Commissioner Erik Sten

- *424** Increase contract with CTSI Corporation for outdoor water-use surveys by \$82,000 for a total amount of \$212,000 (Ordinance; amend Contract No. 31261)

Disposition: Ordinance No. 173208. (Y-5)

- *425** Authorize a contract and provide for payment for the construction of 8-inch and 6-inch water mains in the SE 26th and Belmont mains package (Ordinance)

Disposition: Ordinance No. 173209. (Y-5)

- *426** Authorize the Bureau of Transportation Engineering and Development to contract with WCI Cable to remove Lakota-Saltzman landslide debris in Forest Park without advertising for bids and provide for payment (Ordinance)

Disposition: Ordinance No. 173210. (Y-5)

- *427** Contract with Portland Community Design for \$20,500 to provide for architectural services in carrying out Community Development Block Grant eligible activities and provide for payment (Ordinance)

Disposition: Ordinance No. 173211. (Y-5)

- *428** Amend contract with Murray, Smith & Associates, Inc. for \$251,200 to provide additional professional engineering services (Ordinance; amend Contract No. 31977)

Disposition: Ordinance No. 173212. (Y-5)

- *429** Authorize the Mayor to submit a community based energy efficiency plan proposal to the Urban Consortium Energy Task Force for \$75,000 (Previous Agenda 386)

Disposition: Ordinance No. 173213. (Y-5)

- *430** Authorize the Mayor to submit a proposal "Beyond Recycling: The Next Steps in Waste Reduction" to the Environmental Protection Agency for \$60,000 (Previous Agenda 387)

Disposition: Ordinance No. 173214. (Y-5)

- *431** Amend agreement with JOIN to increase the budget by \$1,500 to modify the scope of work and provide for payment (Previous Agenda 388; amend Contract No. 31853)

MARCH 31, 1999

Disposition: Ordinance No. 173215. (Y-5)

- *432 Contract with Human Solutions, Inc. for \$26,921 to support affordable housing development and provide for payment (Previous Agenda 389)

Disposition: Ordinance No. 173216. (Y-5)

- *433 Authorize agreement with Johnson Creek Commons LLC to participate in a water efficiency Pilot Project of a 15-unit low income apartment complex at a cost not to exceed \$23,000 (Previous Agenda 390)

Disposition: Ordinance No. 173217. (Y-5)

- *434 Authorize an agreement with Degenkolb Engineers for \$96,100 to provide engineering and construction monitoring services for the groundwater pump station seismic upgrades (Previous Agenda 391)

Disposition: Ordinance No. 173218. (Y-5)

City Auditor Gary Blackmer

- *435 Assess system development charge contracts and Private Plumbing Loan Program contracts (Ordinance; Z0701, Z0702, T0019, T0020, K0003, K0004, P0041)

Disposition: Ordinance No. 173219. (Y-5)

REGULAR AGENDA

- *417 Amend agreement with the Oregon Department of Transportation to reduce the amount of Congestion Mitigation Air Quality funds for the Steel Bridge Pedestrian and Bicycle Crossing Project (Ordinance; amend Contract No. 50171)

Discussion: Elsa Coleman, Office of Transportation, said this removes the federal funding from the Steel Bridge project, allowing them to meet a more rigorous schedule by not having to go through the Oregon Department of Transportation bidding process. This reason alone would not be good enough, but there are a number of projects with various federal monies attached to them so this, along with other transfers of monies, clears up the Eastbank where all their federal money will be Congestion Mitigation and Air Quality (CMAQ) program money with only one source of regulations to follow.

Disposition: Ordinance No. 173220. (Y-5)

- 436 Accept bid of PCI Mechanical Construction for Linnton Pump Station improvements for \$384,666 (Previous Agenda 393; Bid No. 99113)

Discussion: Mayor Katz said there had been some question on the words "may/shall."

Darin Matthews, Purchasing Procurement Manager, said the lowest bidder on this project,

MARCH 31, 1999

Harder Mechanical, was rejected for failure to submit required good faith effort documentation by the required deadline.

Jim Van Dyke, Deputy City Attorney, said he was asked at the last Council session if Council had discretion to reject this bid and his answer was yes, which is still his answer but only if Council finds a bidder's failure to follow the requirements of this bid constituted a minor error. If Council finds it constitutes a significant flaw, then Oregon law does not permit the waiver of that particular requirement. Staff's recommendation to reject Harder's bid was based on the conclusion that this error was significant, based on the long-term viability of the good faith efforts program. Timeliness is important and not a minor error. Council can conclude differently. A Harder Mechanical attorney asked for information on bids rejected last year for the same failure and for the difference between the bids that were rejected and the next lowest bids that might have been accepted. Last year, there were 56 projects bid over \$200,000 of which there were six with good faith efforts documentation. Of those six, two bidders made mistakes on the day of bid submission and the other four lacked subsequent documentation due the day after bid day. Three bidders never turned in the documents at any time, for unknown reasons. One was rejected because, despite turning in the documents, it did not make good faith efforts or made inadequate efforts. Mr. Van Dyke said there were some apparent bidder mistakes because some bids were so low. Bidders are entitled to withdraw their bids when they make obvious bid mistakes.

Mayor Katz said she and her staff reviewed the material and they are convinced Purchasing made the right call and Harder unfortunately did not substantially comply with all the requirements. In the last session, Commissioner Francesconi raised the issue of changing the language on the documents and in City Code from "may" to "shall." That should not enter into this particular decision but she is committed to reviewing that issue.

Guy Randles, Harder Mechanical representative, said they appreciate Mr. Van Dyke's determination that Council has discretion to overlook the minor, 3.5 working-hour, delay in getting the good faith documentation to the City. Mr. Van Dyke indicated the City has never rejected a bid on the basis of a delay in getting the good faith efforts documentation. To do that in this case, it will cost the City more money and deprive minority and emerging small businesses a chance to participate. He said Purchasing staff exercised discretion to allow PCI more time to submit their good faith efforts documentation than Harder had. PCI was given oral notification and then given the 24 hours, which technically gave them 25 hours to submit the documentation. Harder's bid demonstrates the commitment to good faith and Mr. Randles questioned the rationale behind the rejection based on the now-2.5 working-hour delay. Mr. Randles said accepting this bid would set a precedent for manipulation where a bidder, after seeing what the other bids are, could turn in the good faith efforts an hour after the deadline.

Commissioner Francesconi questioned Mr. Randles' assertion that the City had never done this before and the policy implication if a bidder wants to drop his bid by not submitting the documents.

Mr. Van Dyke said Harder turned in the documents on bid day but did not turn in the documents due the next day (Friday) until Monday. He said the documentation they had about whether or not it had happened before is not available. They only researched 1998 so far. Regarding the policy implication, bidders sign a compliance form so that failure to

MARCH 31, 1999

turn in the next-day documents could result in the City collecting on the bid bond. Every time this happens, it will be a judgment call. The conclusion that this was not a minor error is that the purpose of the program is to focus on prebidding opportunities for subcontractors as the disparity study and complaints show bidder activity after bids are received, such as bid shopping. Sometimes contractors do not know who their subcontractors will be and whether they will bid it out on bid day. Insisting on timeliness will, hopefully, alleviate other problems. Purchasing accommodated bidders by allowing them to turn in the good faith efforts the next day.

Commissioner Hales asked, with the accommodation to the real world, if the recommendation would be made to change "may" to "shall."

Mr. VanDyke said Oregon law only requires bidders to be in substantial compliance with bidding requirements. Even with the word "shall" the bid will be reviewed for substantial compliance. Even had the word "shall" been used, Harder could make the same argument, that it was still in substantial compliance.

Commissioner Francesconi said, given the history and expertise of the Purchasing staff and the number of contracts handled without dispute and the need for certainty in the bidding process, he votes aye. His opinion is that "may" should be "shall."

Commissioner Hales said the very choreographed bidding process is for the basic reason of avoiding base corruption or favoritism, as it should be. The small amount of discretion allowed Council should be used with good judgment and well short of the line crossing into favoritism or corruption. He said he would have used that discretion differently in this case.

Mayor Katz said this is unfortunate, as Harder is a good community partner, but the bureau made the right decision.

Disposition: Accepted; prepare contract. (Y-4; N-Hales)

399 TIME CERTAIN: 10:00 AM – Agreement between City of Portland and Portland area School Districts to work together on City/Schools Agenda (Resolution introduced by Mayor Katz and Commissioner Francesconi)

Discussion: Mayor Katz said her office and Commissioner Francesconi's office were assigned in a Council informal to work with the community school districts to identify in a collaborative manner how the City can support education in this community. Several goals were identified: adequate school funding (although the City is not directly involved); after-school activities; getting children ready for kindergarten; and increasing mentoring and volunteer opportunities for City employees. In addition, decreasing youth violence and looking at how to prevent youth violence were identified. The outcome of the latter work will take several months in order to have good benchmarks. The City can talk about school funding but it does not have the direct influence, other than through the budget, at the capitol. She thanked the participants for their commitment and said she will include this in the budget adjustments which will be reviewed by the public and the Council.

Commissioner Francesconi said the basic message is the schools cannot do it alone.

MARCH 31, 1999

Schools need more money but they also need the contribution to the life of the schools and children by parents and citizens, such as mentoring programs, pre-school activities, and extending the school day to include art and music. Schools guarantee equality of opportunity and ensure people stay together as a community. Wealth does separate people but some problems have occurred even when the schools had money, for instance the 25 percent drop-out rate (35 percent for Hispanics). School issues clearly require individual responsibility.

Mayor Katz said Mike Harris is working to put together the notion of beacon schools and the proposed budget has a request of \$300,000 for three years to meet the City's responsibility along with the County and, hopefully, the Casey Foundation.

Mike Harris, Coordinator of Schools Uniting Neighborhoods (SUN Schools), said asking an educator to speak for only two minutes is like asking the legislature to fully fund public schools. There is a need to integrate services in support of education. The idea of SUN Schools is not unique to Portland, but what is being done with it is unique – the concept of collaborating services from a variety of different State, City and County sources. For instance, the Parkrose High School program has been built from scratch with services developed around the building itself. It is exciting to talk about fully integrating services and supporting children and families within a single facility. There is now a concept paper and integrated resources and they are on the verge of sending out the request for interest to all the schools and selecting four to eight sites very soon.

Mayor Katz thanked Carol Turner of her office and Kathy Turner of Commissioner Francesconi's office.

Lorenzo Poe, Director, Multnomah County Department of Community and Family Services, said the County does have a budget item asking for about \$200,000 to participate in SUN Schools effort and are considering realigning social services to support it. He noted that Beverly Stein, Multnomah County Commission Chair, regretted being unable to attend.

Commissioner Saltzman said it has been assumed that some chronic problems would go away with a good economy, but they are still there.

Karen Gordon, Director of Metro Child Care Resources and Referral, acknowledged Pauline Anderson, Co-Chair. Her committee's purpose was to look at where the City currently was regarding early childhood and explore how it could be more participatory. The first recommendation is to advocate for fully funding quality early childhood education programs modeled after Head Start. Another recommendation was to advocate for support of affordable child care, which is in crisis. They also looked at bringing together integrated groups to look at this as a system for the City and County and come up with a one-to-five (ages) year plan. They hope to promote early language and literacy efforts for families and child care providers and the transition of young children into the school system.

Betty Campbell, Volunteer and Mentoring Activities Citizens Group, said their purpose was to increase the number of children who have caring adults in their lives. The first objective is to have 10 percent (300) of City employees actively involved with the education and well-being of youth by 2005. Objective two is that the City be a family-

MARCH 31, 1999

friendly employer by 2003 where employees are helped to balance work with family/home life. Each department will develop strategies to increase the involvement of family members in the education of their children, such as increasing attendance at school conferences.

Mayor Katz said Commissioner Hales' office provided an overview of what all the City bureaus do to assist schools.

Keith Robinson, Centennial High School, thanked Council for recognizing that schools are important to a city in many ways that, often, citizens do not know about. He said the City's coalition for school funding is appreciated and has raised the standard for the legislature to improve school funding. The community schools concept has been excellent, too, and will have a big pay-off for the school districts. Children helped by the early childhood program will come to school ready to learn and ultimately achieve a great deal more.

Barbara Rommel, Superintendent of David Douglas public schools, said a critical issue is to make sure the goal of stable funding is put into place. With citizen assistance, it can be achieved.

Annette Mattson, David Douglas School Board, said there has been a renewed effort with the legislature to make sure there are no more cuts to education.

Ms. Rommel said the money received from the City last year was allocated for library books and reference materials which were not covered by the district budget. Music and technology updating were helped, as well.

David Cloud, Parkrose School District Superintendent, said for some time City, County and school administrators have been trying to conceptualize what seamless social services might mean, with the realization that they all serve the same public.

Mark Abrams, Portland School District Board vice-chair, said a student (Lincoln High School) board member pointed out the draft for the resolution did not address disparity and student achievement and the Portland Board asks that this be amended by the other districts.

Rene Sessler, Reynolds School District Board member, said a large portion of her district's citizens does not have children in schools so it is especially important that City Council has shown that schools are vital, playing an important role in society.

Ed Schmidt, Multnomah Education Service District (MESD) Superintendent, said as a regional educational service agency, MESD provides direct services to some of the most needy in the City and County. They are needy in academics, behavior, health, legal and other areas. While many of the resolution's same goals exist for them, their efforts are greatly strengthened from the process and partnership.

Diane Harr, Parkrose School District Vice-Chair, thanked the City and County for their cooperative work.

Commissioner Francesconi said the connections in our families, among friends and with

MARCH 31, 1999

the community bring meaning to our lives. Regarding youth violence, he quoted Robert Kennedy's 1968 observation that there is another kind of violence, slower but just as deadly, that of institutions, indifference, inaction and decay. The slow destruction of a child who goes to schools without books and to homes without heat in winter. Commissioner Francesconi said Portland has a chance to teach our children that we are a community, that we can be brothers and sisters and to strengthen the bonds that are becoming fragile among us.

Commissioner Hales said he saw two lessons from this resolution, one for adults and one for kids. Adults in general are cynical and frustrated about their public institutions, seeing them as the four-letter word, "turf," oriented. They see those in government as bureaucratic, tradition-bound and self-serving, rather than practical, innovative and community-serving. But, this time public agencies are being just that.

Commissioner Saltzman said his primary objective is to make Portland the most family-friendly city in the country and this resolution is a positive step in that direction and he is looking forward to working with everybody involved.

Commissioner Sten said he cares deeply about these issues and appreciates the energy level that Mayor Katz and Commissioner Francesconi have put into this. He noted that a lot more needs to be done and the same diligence will be required for the implementation efforts.

Mayor Katz said she has always prodded and poked to make sure every child succeeded, regardless of their economic, ethnic or religious backgrounds, and she will continue prodding. Each child should be able to take their rightful place in the economy, which is global and very, very competitive. If the children fail, the community fails. The job needs to be done with the resources they have, which means trade-offs, some of which are tough.

Disposition: Resolution No. 35780. (Y-5)

Mayor Vera Katz

***437** Authorize an expansion of the pilot catastrophic leave sharing program (Ordinance)

Discussion: Mayor Katz said Council tries to respond to the needs of its own "family," which hopefully sets an example for the corporate community, other governmental and non-profit organizations. Some employees are faced with the catastrophic illness of family members.

T.K. Hyatt, Bureau of Human Resources, Employee Relations, said the first catastrophic leave program was passed in 1993 for a single employee's catastrophic leave needs, allowing a person to receive donated vacation hours with a cap of 520 hours for each request. This ordinance expands the program to allow an employee to care for a spouse, domestic partner or family member. The cap remains the same but the ban on maximum accrual of vacation hours would be lifted for donation, except for the month of December. Currently, if an employee is at the maximum accrual rate of vacation, they are ineligible to donate.

MARCH 31, 1999

Commissioner Saltzman asked what happens to the hours donated but not used by an individual.

Mr. Hyatt said the remaining hours would be split equally between the two separate banks of sick leave and vacation for the employee who used the catastrophic leave.

Commissioner Francesconi asked why there was a cap.

Mr. Hyatt said the cap limits the City's obligation if the employee resigned and received cash payment for all unused sick leave and vacation. If someone's needs exceeded the 520 hours, that person could make another request and more time could be donated.

Sue Keil, Bureau of Environmental Services, said during the years she's been a manager there have been about five, long-term employees who needed this leave. She noted that they did not need the stress of financial worry as they recovered.

Officer Cyndi Rose, Police Bureau Human Assistance Program, described one of their employee's struggles with her very ill daughter.

Disposition: Ordinance No. 173221. (Y-5)

Commissioner Charlie Hales

438 Support all efforts to restore Amtrak service to Eastern Oregon (Resolution)

Discussion: Commissioner Hales said 50 years ago rail service began a nose dive most affected by the massive federal investment in the construction of the interstate highway system, the biggest public works project in the country's history. This has nearly eliminated rail service in many parts of the country and eliminated it totally in parts of our state. A come-back has begun with the Cascadia effort to improve rail service in the northwest corridor, between Eugene and Vancouver, British Columbia. It continues to grow in popularity and, fortunately, profitability for Amtrak. Now, our Congressional delegation is supporting the effort to restore the Pioneer, the line that until very recently connected Eastern Oregon to the Willamette Valley.

Fred Nussbaum, Director and strategic planner of Association of Oregon Rail and Transit Advocates (AORTA), said his 23-year old, non-profit citizens organization is active in Oregon, the Northwest and across the country. The people who need this rail service the most are the elderly and youths. The resolution does not cost the City any money and connects it to other cities and chambers of commerce in Eastern Oregon.

Commissioner Saltzman noted that US Senator Ron Wyden is advocating daily service to Boise, Idaho on part of the Pioneer. He asked if this were sending mixed signals because the resolution talks about restoring service between Portland and Chicago.

Commissioner Hales said to start where the population is greatest will be financially better for Amtrak.

Mr. Nussbaum said the analysis shows that the longer the route gets, the more freight, mail and package express opportunities there are, so his organization says it needs to at least go

MARCH 31, 1999

to Salt Lake City, Utah to make the intercontinental connection.

Disposition: Resolution No. 35781. (Y-5)

- *439** Authorize application to the US Department of Housing and Urban Development for a \$500,000 grant for Phase 2 of the Portland Central City Streetcar Project (Previous Agenda 396)

Discussion: Commissioner Hales said this will be the next line for the North Macadam District. Construction for the first line begins Monday and they hope interest will increase and there will be a designed project waiting when it is appropriate to build.

Mayor Katz thanked the Portland Development Commission for participating in the first phase of this project with \$7 million dollars of additional resources.

Disposition: Ordinance No. 173222. (Y-5)

Commissioner Erik Sten

- *440** Amend the Private Lender Participation Agreement with U.S. Bank National Association and Portland Development Commission to increase the loan amount by \$2,000,000 (Ordinance; amend Agreement No. 50875)

Disposition: Ordinance No. 173223. (Y-5)

- *441** Amend Agreement with Portland Development Commission to increase budget by \$7,162,952 and provide for payment (Previous Agenda 397; amend Agreement No. 32035)

Disposition: Ordinance No. 173224. (Y-5)

Communications

- 442** Request of Wayne Stoll to address Council regarding the Sandy Boulevard improvements and median strips in the Parkrose area (Communication)

Discussion: Wayne Stoll, 4110 NE 122nd Avenue, Parkrose, President of the Parkrose Business Association (PBA), said the Sandy Boulevard median strips are driving the businesses on the street crazy. He originally planned to ask Council to drop the median strips, but they are now under construction. Now he suggests, in partnership with the Portland Development Commission, instigating a storefront improvement project similar to that in Hollywood. He and the executive director are gung ho for that but many of the businesses want nothing to do with City government or taxing themselves because of the way they feel they have been treated on the Sandy Boulevard improvement project. The Association needs something in writing on the landscape moratorium to use when applying for a permit, as their landscaping was removed.

Mr. Stoll said once the street is finished there will be a "re-opening" of the Parkrose business district scheduled approximately for July 10, 1999. PBA would like to have Council members, especially Commissioner Hales, attend so the media will let people

MARCH 31, 1999

know they are open for business.

Commissioner Saltzman asked if PBA would be receptive to the storefront project, given the problems with the median strips.

Mr. Stoll said yes as most store operators rent and the landlords do not care to fix the property up.

Mayor Katz said the storefront improvement programs specify areas as well as Urban Renewal areas and money is budgeted, but it is geographic-specific.

Commissioner Hales said Mr. Stoll had a constructive suggestion as the streetscape alone will not solve the problem.

Disposition: Placed on File.

At 11:43 a.m., Council recessed.

MARCH 31, 1999

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 31st DAY OF MARCH, 1999 AT 2:00 P.M.

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

OFFICERS IN ATTENDANCE: Britta Olson, Acting Clerk of the Council; Ben Walters, Deputy City Attorney; and Officer Chuck Bolliger, Sergeant at Arms.

- 443 TIME CERTAIN: 2:00 PM** - Liquor license application for Cleo Lillian Social Club, 3041 N Williams Avenue, Dispenser Class B liquor license (renewal); Unfavorable recommendation, unless restricted (Report introduced by Commissioner Francesconi)

Discussion: Commissioner Francesconi said the Council only makes well-grounded recommendations to the Oregon Liquor Control Commission (OLCC), which have a consistent pattern and therefore are taken seriously and followed by the OLCC. The 1996 State Legislature passed the neighborhood livability law, which takes other factors than just the serving of alcohol into account.

Commissioner Francesconi said the City cares about and values our African-American brothers and sisters, especially on the issue of wealth creation. This is a small, historic business in an area that is rapidly undergoing gentrification. The next-door neighbors are low-income people in subsidized housing who are required to contribute many hours of community service and are also valued. Cleo's complaint record has changed from criminal activity to primarily noise, trash and some intrusion. He said so far some of the community input ranges from closing the establishment to lifting all or most of the present restrictions. The License Bureau is recommending restrictions that would essentially close the club at 11:00 p.m.

Mike Sanderson, License Bureau, said the bureau's recommendation is to set last call at 10:00 p.m., Sunday through Thursday, with a close at 11:00 p.m. On Friday and Saturday, last call would be at 11:00 p.m. and closing at 11:30 p.m. These hours reflect the OLCC's restricted hours alternative recommendation in their original cancellation recommendation. The complaints occurring after 11:00 p.m. on Friday and Saturday are substantial. This effectively splits the baby, where neighbors can get some sleep and does not cost Cleo's their liquor license.

Officer Brian Steed, Portland Police Drugs and Vice Division liquor investigator, said the Police background investigation comes from various sources: district patrol officers; computer dispatch incidents; police reports; precinct command staff; OLCC; and the licensee's record of ability or willingness to work with the system. Since October, 1997, Cleo-Lillian's has had a significant decrease in the number of calls for police service. The Police recommendation is the same as previously, favorable with continuation of the 19 point compliance plan restrictions.

Robert Browning, President of Cleo-Lillian Social Club, said there is a club board and its members will speak.

MARCH 31, 1999

Robert Shaw, voluntary Cleo Board member, said the club was founded in 1958 to provide recreational and social activities for members and to give charitable and other assistance to the community. Mr. Louis Browning, former club manager, has sold land below market rates for development of affordable housing for low and moderate income families. Ironically, 90 percent of the complaints come from the people occupying those properties. Mr. Shaw said the noise has decreased in the past five years and what there is now occurs mostly as people leave at closing. Noise primarily impacts the new housing directly across from the club, but they knew of its existence at the time of purchase. Cleo's has begun educating patrons on OLCC compliance issues through signage and information in membership application packets. Membership is barred or revoked if a person is in violation. Concerned that club security was ineffective, security personnel were replaced in Spring, 1998. Regarding complaints of loud voices or yelling, patrons think they are communicating normally whereas neighbors hear them as loud. African-Americans use louder voices than the majority of the population which illustrates the cultural difference between club patrons and the new neighbors. In hopes of addressing neighborhood complaints, Cleo's Board made changes such as using the side door at closing, increasing membership fees, introduction of live blues and jazz on weekends, renovating the building inside and out and developing a noise policy which is in effect. Mr. Shaw said since there were few venues for African-Americans to socialize in Portland, the management feels the responsibility to make whatever changes necessary to maintain the viability of the establishment and preserve the richness of their culture and to be good neighbors. Therefore, the Board requests the Council to support a favorable recommendation with no restrictions.

Jackie Johnson, 28 NE Monroe Street, 97212, said she owns her home and a rental about 200 feet from Cleo's. She grew up in North Portland, has lived in other cities, is used to urban living and values diversity. The neighborhood directly affects her life and livelihood and neither she nor her renters have problems with Cleo's. She has noted in attending the Eliot Neighborhood Association (ENA) meetings that it does not truly reflect the diversity of the neighborhood. Problems with neighborhood drug houses have been unfairly associated with Cleo's and problems have reduced since three of them were recently shut down. Ms. Johnson said limiting Cleo's hours even further would damage the club's revenue to the point where they could not survive.

Mr. Browning said paramount to the club is the safety of the patrons and the community and they do have security present. He noted that sometimes when patrons leave and turn the car on, they have forgotten to turn down the stereo and he proposed a solution where only neighbors can park on the east side of N. Williams, to create a buffer. He proposed this (permit parking) earlier, but the City's Traffic Management said it would need to go through ENA and the association had passed up an opportunity for that awhile ago.

Commissioner Saltzman asked how many members they had.

Mr. Browning said about 600, but of course they do not come at the same time.

Elizabeth Waters, 616 NE Fargo, #304, 97212, said when she took her last drink in February, 1990, she could not have imagined she would be advocating for a bar's social club to have restrictions removed from their liquor license. The ENA land use committee should have used historical, cultural value in its decision-making process. Former

MARCH 31, 1999

representative Margaret Carter, the Coalition of Black Men and the NAACP have advocated for the continued existence of the club, which they would not do if it were dangerous and had a negative community impact. Ms. Waters said the crux of this matter is gentrification and the lack of understanding and sensitivity to cross-cultural communication style. With the former, people move into the community without understanding it and insist the community change to fit their expectations.

Commissioner Francesconi asked Mr. Browning about the club working out a good neighbor agreement with ENA so Council would not be in the middle of this dispute.

Mr. Browning said the club is just about past the point of a good neighbor agreement because the OLCC has already added restrictions, some of which came from ENA in 1993. He said he had been a Board member of the ENA for about eight years and on the land use committee for about two years and made himself available to the neighbors.

Commissioner Francesconi said he had been in Cleo's several times and can see the difference from several years ago. However, the record shows some pattern where behavior improves before activity from OLCC, the License Bureau or before hearings but reverts back in the summer. He asked about this, the jazz format and if the bulk of the income comes from Friday and Saturday nights.

Mr. Browning said one of the restrictions is to close earlier in the summer when most people have their windows open. He noted that when people raise their voices to talk over the music and go outside, they are still talking loudly. The age limit has been increased to 25. They will have recorded jazz music as well as the live groups but each change costs money. The bulk of the income is from Friday and Saturday nights. He said some restrictions are reasonable, but they do not want to be restricted out of business.

Commissioner Saltzman asked if there had ever been an attempt to mediate this issue with the neighborhood.

Mr. Browning said he proposed mediation with the most affected neighbors which was expanded into a big July meeting with the Office of Neighborhood Involvement (ONI) there but he was taking all the darts.

Commissioner Sten said he understood there are 19 restrictions now and the Police Bureau recommended favorable with existing restrictions. He asked if they are working okay.

Mr. Browning said yes except for the requirement for uniformed security which at first they took to mean hiring a company which became financially exorbitant. They now have their own uniformed security.

Those in favor of keeping Cleo's open were:

Ross Gill, 28 NE Monroe, 97212
Jack Moore, 27 NE Monroe, 97212
Martha Gies, 2109 NE Rodney, 97212
Jim Laughlin, 6812 N. Hodge, 97203
Roger Ellis, 4528 N. Vancouver
Sharon Taylor, 88th and Washington

MARCH 31, 1999

Lena Brown, 4710 NE Martin Luther King Jr. Boulevard
Harold Williams, 81 NE Graham Street
Cathy Galbraith, 2128 SE 35th Pl., 97214
Jada Mae Langloss, no address given
Sheree Brown, Cleo's Board member
Brian Crosby-Payne, 28 NE Fargo, 97212

Those in favor said the noise was less than in past years and the club is targeted as the cause of noise and disturbance that comes from the area's urban environment. Much of the noise comes from the Rose Garden which has all kinds of activities and those patrons park all over this neighborhood. Cleo's has not had any crime connected to it or its members. Kids hang out in the empty lot next to the club which has nothing to do with Cleo's. The ENA meetings have addressed the needs of the few rather than the neighborhood at large. An informal canvas of residents at different times of the day indicates that the majority, 75 percent, want Cleo's to stay open. African-American people do speak loudly, especially in a social setting, not just in a club. The neighborhood has excellent cultural diversity and the club is one of the few places in which African-Americans feel comfortable, but they are being told to tone down their culture to make others comfortable. Gentrification has displaced a great many people. The Memorial Coliseum, at the close of the 1950's, took 476 housing units and 50 businesses, followed by Emanuel Hospital taking housing and businesses. There are only three African-American businesses left on Williams Avenue. A great many restrictions can destroy this business.

Those in favor of closing Cleo's or further restrictions were:

Sandy Parker, an adjacent row house occupant
Carol Kennedy, 3008 N. Williams
Sonia Sujo, 6 NE Monroe
Leslie Mooers, 3012 N. Williams
Lee Perlman, 512 NE Brazee, Eliot Neighborhood Association
Steve Rogers, 533 NE Brazee, Eliot Neighborhood Land Use Chair
Craig Anderson, 14 NE Monroe

The above people cited late night noise of car alarms, people literally screaming at each other--not just loud voices--, physical fights, drug dealing and occasional gunshots, public urination and garbage. The summer is the worst and people cannot have open windows and must find a way to buy air conditioners, despite the City's ordinance prohibiting noise after 10 p.m. If awoken in a frightening way, it is very difficult to get back to sleep. Cleo's intrusions have forced residents to change their lifestyles and just because people have moved to the neighborhood should not mean they have to put up with such intrusions. Many of the residents are used to urban living and noisy, busy streets but these problems are not "normal." Cleo's promises have not been kept and mediation and arbitration have been tried over the years. Complainants have been intimidated and harassed. This is not about racism but about responsibility and accountability. There was consensus that parking on the other side of the street would help.

Commissioner Francesconi requested a five minute recess.

Commissioner Francesconi recommended closing at 11:00 p.m. on Sunday, Monday, Tuesday and Wednesday, but at 1:00 a.m. on Thursday, Friday and Saturday and to leave

MARCH 31, 1999

the other restrictions in effect.

Mayor Katz asked why the Thursday, a work night, closing should be 1:00 a.m.

Commissioner Francesconi said to be consistent with the prior hearing on the Paragon Restaurant and so Cleo's can make more money.

Commissioner Hales said he worried about specifying hours as conditions because of the possible different versions to be sent to OLCC.

Mr. Sanderson said considering the hours is just what the OLCC does, so Council should be able to as well. Offering conditions individually tailor-made may work with Cleo's because of the number of years the bureau's been involved with it and the known facts because of the duration, but this approach just would not work for the bureau.

Commissioner Sten said he is comfortable with the current restrictions and does not see curtailing the hours as making a big difference. He does not remember the License and Police Bureaus ever disagreeing. He said the parking idea is a good one.

Commissioner Saltzman said he would like to see a good neighbor agreement developed through a good faith effort on both sides.

Mayor Katz said the changing demographics, with neighborhood infill, may require Council to address the issue of hours while keeping the flexibility.

Mr. Sanderson said the hearings involving the Northwest area developed the policy that if an outlet has been doing business for decades without a problem, it is untouchable. However, if it is a problem outlet or a new one coming into a demonstrable problem area, the closing would be 1:00 a.m. This evolved from a factual basis.

Mayor Katz said the primary issue is the noise. Cleo's needs to make an extra effort.

Commissioner Francesconi asked if Cleo's had the suggested hours for six months and if that worked could they get more. Can the OLCC do that?

Mr. Sanderson said the OLCC would not put neighbors at risk for additional violations. It does not experiment. An alternative must have a high probability to fix the problem. The good neighbor agreement is a must and consideration should be given as to what type of security is out there at 1:00 a.m. As a club, the noisy members can be sanctioned.

Commissioner Francesconi made the motion of a favorable recommendation with closing hours of 11:00 p.m. Sunday through Wednesday and 1:00 a.m. Thursday through Saturday with the existing conditions remaining and with a good faith effort to establish a good neighbor agreement with the Eliot Neighborhood Association. Commissioner Hales seconded.

Commissioner Francesconi said Mr. Browning as a person, an African-American and businessman is an important asset to the community and the City. Divisions that plague the community between residents and business and black and white must be bridged.

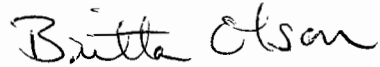
MARCH 31, 1999

Commissioner Hales said this has been a difficult but hopeful hearing.

Disposition: Favorable recommendation with restrictions. (Y-4; N-Sten)

At 4:30 p.m., Council adjourned.

GARY BLACKMER
Auditor of the City of Portland



By Britta Olson
Acting Clerk of the Council