



CITY OF
PORTLAND, OREGON

**OFFICIAL
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 28TH DAY OF APRIL, 1999 AT 9:30 A.M.

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

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

Agenda No. 548 was pulled from Consent. On a Y-4 roll call, the balance of the Consent Agenda was adopted as follows:

CONSENT AGENDA - NO DISCUSSION

- 542** Cash investment balances March 4 through March 31, 1999 (Report; Treasurer)

Disposition: Placed on File

- 543** Accept bid of Instituform Technologies, Inc. to furnish Insley/Taggart "A" relief and reconstruction project for \$447,347 (Purchasing Report - Bid 99153)

Disposition: Accepted; prepare contract.

- 544** Vacate a certain portion of SE Knight Street, west of SE 14th Avenue, under certain conditions (Ordinance by Order of Council; C-9956)

Disposition: Passed to Second Reading May 5, 1999 at 9:30 a.m.

Mayor Vera Katz

- 545** Approve amendments to Personnel Rules concerning employee transfers and voluntary demotions (Resolution)

Disposition: Resolution No. 35785. (Y-4)

- *546** Establish one Inspection Supervisor II position in the Office of Planning and Development Review in accordance with the Personnel Rules adopted by the City Council (Ordinance)

Disposition: Ordinance No. 173277. (Y-4)

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- *547** Establish the nonelective contribution, Employee Benefit Allowance, for the Cafeteria Benefit Plan known as "Beneflex" for the plan year beginning July 1, 1999 (Ordinance)

Disposition: Ordinance No. 173278. (Y-4)

- *549** Amend contract with Regional Financial Advisors (Ordinance; amend Contract No. 31327)

Disposition: Ordinance No. 173279. (Y-4)

- 550** Authorize the Director of the Office of Finance and Administration to enter into agreements for technical assistance to support the Civic Stadium Executive Committee (Ordinance)

Disposition: Passed to Second Reading May 5, 1999 at 9:30 a.m.

Commissioner Jim Francesconi

- *551** Amend agreement with Oregon Health Sciences University for an additional \$26,000 for occupational health nurse services for 1998-99 (Ordinance; amend Contract No. 30982)

Disposition: Ordinance No. 173280. (Y-4)

- *552** Authorize a contract with JVC Contractors, Inc. to renovate the 4th floor of the Portland Building for Office of Finance and Administration's new Technology Learning Center and provide for payment (Ordinance)

Disposition: Ordinance No. 173281. (Y-4)

- *553** Authorize the Bureau of General Services to enter into an Agreement for Services with Seder Architects for architectural services for the Childcare Center in The Portland Building and provide for payment (Ordinance; Project 9036)

Disposition: Ordinance No. 173282. (Y-4)

- *554** Increase Purchase Order with Boucher Mouchka Larson Architects for the ticket booth/revenue control upgrade (Ordinance; amend Purchase Order No.1020861)

Disposition: Ordinance No. 173283. (Y-4)

- *555** Authorize a contract and provide for payment to furnish certain FY 1998-99 City vehicle requirements (Ordinance)

Disposition: Ordinance No. 173284. (Y-4)

- *556** Amend agreement with U.S. West Wireless for site lease at 10th and Yamhill (Ordinance; amend Site Lease Agreement)

Disposition: Ordinance No. 173285. (Y-4)

- *557** Authorize the Director of Portland Parks and Recreation or his designee to set fees charged at municipal golf courses (Ordinance; amend City Code Section 20.20.010)

Disposition: Ordinance No. 173286. (Y-4)

Commissioner Charlie Hales

- 558** Accept completion for improvement of NE Martin Luther King Jr. Blvd. from NE Failing to NE Shaver, sidewalk project No. 3, and authorize final payment to Portland Excavating, Inc. (Report; Contract No. 32086)

Disposition: Accepted.

- *559** Authorize the Purchasing Agent to sign a purchase order as a contract with Morton Traffic Markings for the purchase of a thermoplastic striping machine in the amount of \$99,895 without advertising for bids and provide for payment (Ordinance)

Disposition: Ordinance No. 173287. (Y-4)

Commissioner Dan Saltzman

- *560** Authorize the Office of Neighborhood Involvement to apply to Multnomah County Department of Community and Family Services for Community Dispute Resolution Services funds in the amount of \$66,000 over a two-year period (Ordinance)

Disposition: Ordinance No. 173288. (Y-4)

- *561** Authorize a contract to S-2 Contractors, Inc. for the N. Interstate emergency sewer repair, Project No. 6548, for \$240,000 and provide for payment (Ordinance)

Disposition: Ordinance No. 173289. (Y-4)

- *562** Authorize the continuance of negotiations for the purchase of easements required for construction of the Whitaker Slough culvert replacement project, authorize the City Attorney to commence condemnation proceedings, and to obtain early possession (Ordinance)

Disposition: Ordinance No. 173290. (Y-4)

- 563** Authorize the Bureau of Environmental Services to enter into a Memorandum of Agreement with the Oregon Dental Association (ODA) to seek voluntary compliance with Code Chapter 17.34 and subsequent Administrative Rules through ODA-developed Best Management Practices of Dental Waste (Second Reading Agenda 509)

Disposition: Ordinance No. 173291. (Y-4)

Commissioner Erik Sten

- *564** Contract with St. Johns Business Boosters for \$46,000 for the St. Johns Target Area project and provide for payment (Ordinance)

Disposition: Ordinance No. 173292. (Y-4)

- *565** Authorize agreement with the USDA-Forest Service for mitigation and monitoring activities (Ordinance)

Disposition: Ordinance No. 173293. (Y-4)

City Auditor Gary Blackmer

- *566** Authorize permanent bonded lien interest rates for installment payment contracts financed by 1999 Series A Limited Tax Improvement Bonds (Ordinance)

Disposition: Ordinance No. 173294. (Y-4)

REGULAR AGENDA

- *548** Apply for a grant from the U.S. Department of Justice, Office of Community Oriented Policing Services, Troops to Cops program (Ordinance)

Discussion: Mayor Katz asked that this be withdrawn.

Disposition: Withdrawn.

- *567** Amend Title 17, Public Improvements, to transfer and clarify authority for sewer, drainage and water system improvements from the City Engineer to the Chief Engineers of the Bureau of Environmental Services and the Bureau of Water Works (Ordinance introduced by Commissioners Hales and Saltzman; amend Title 17)

Discussion: Commissioner Saltzman said this ordinance clarifies the authority of the Chief Engineers at the Bureau of Environmental Services (BES), Bureau of Water Works and Transportation as to who has jurisdiction over certain matters. As stormwater management becomes much more complicated, it makes sense for the chief engineer for Environmental Services to sign off on many of those projects, rather than the Transportation or Water Bureau Engineers.

Linda Dartsch, BES, said this is primarily a housekeeping measure to make things more efficient. An amended exhibit has been submitted.

Commissioner Hales moved to accept the amended exhibit. Commissioner Saltzman seconded and hearing no objections, the Mayor so ordered.

Disposition: Ordinance No. 173295 as amended. (Y-5)

Commissioner Dan Saltzman

Commissioner Saltzman read a proclamation declaring the week of May 3 through May 9 as Great Blue Heron week.

Mike Houck, Audubon Society, said many groups are cooperating on this year's events and invited Council members to participate.

- 568 Endorse and support the Day of Acknowledgement resolution and support the Oregon Uniting project (Resolution)

Discussion: Commissioner Saltzman said this marks the 150th year of the enactment of Oregon's Territorial Exclusion Act which excluded African-Americans from living in Oregon. This resolution is an attempt to be up front about the State's past history and move toward racial healing. He said the City is also supporting Oregon Uniting, a broad-based community coalition dedicated to advancing racial justice through public education and honest dialogue. These dialogues on racial reconciliation will be held throughout the State by trained facilitators.

Steve Freidman, Director, Metropolitan Human Relations Center, read the resolution calling for a Day of Acknowledgement to recognize Oregon's discriminatory history and acknowledge people of all races and ethnic backgrounds who have worked for positive change. Oregon Uniting hopes to bring this resolution before every City Council and County Commission for ratification and will also sponsor dialogues and hold a summit on racial reconciliation next year.

Deena Pierrot, BES employee, described the accomplishments of the Bureau's Diversity Committee.

Jonathan Graves, BES Diversity Committee member, read a statement prepared by the Committee. He said racism is the most vital issue confronting the community and stressed the need to solve the problem of institutionalized racism in every area of life.

Commissioner Francesconi said the negative effects of the systemic exclusion of African-Americans, Latinos and Native Americans remain today and result in the inability of those groups to pass on accumulated capital. He said one weakness is that the diversity of the City is not reflected in the City's own employment force or on City-appointed boards. He said he would like to work to rectify that and encourage the business community to achieve a more diversified work force as well. He also wants to support more minority home ownership and provide better strategies to help small businesses.

Commissioner Sten said it is important not to forget the past and at the same time recognize there is still a long way to go.

Mayor Katz said this resolution is sensitive to the State's history of discrimination and also to the growing diversity of its current population. She said City government itself needs to increase employment opportunities in order to reflect that diversity.

Disposition: Resolution No. 35786. (Y-5)

- *569 Authorize a contract and provide payment for a professional services contract to assist Bureau of Environmental Services staff in performing the Johnson Creek predesign project, Project No. 6220 (Ordinance)

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Discussion: Commissioner Saltzman said Johnson Creek is a 54-square mile watershed, covering six political sub-divisions, with a perennial problem with flooding. From 1940 to 1945 the Army Corps of Engineers tried unsuccessfully to gain public support for flood control projects and Metro also tried. A comprehensive plan, the Johnson Creek Resources Management Plan, has now been proposed and the issue is back on the front burner due to the Clean Water Act and the Endangered Species Act listing for fish. This project will be a joint effort with BES, the Bureau of Parks, the Portland Development Commission (PDC) and the Planning Bureau.

Wrandoll Brenes, BES, said the purpose of the Johnson Creek predesign is to develop a number of projects that will provide flood management, improve water quality, enhance vegetation and increase fish and wildlife habitat. The projects include the FEMA remapping, watershed modeling, public involvement and alternative analysis. The modeling will identify the predesign projects and their potential locations, meeting many of the objectives identified over the past several years. BES has partnered with other agencies, including the US. Geological Survey and Corps of Engineers, and this contract will pay for professional services to assist in the final phases of the predesign.

Commissioner Francesconi asked if this work was connected to the watershed summit that was held in the Johnson Creek area.

Mr. Brenes said predesign staff did attend the summit and continue to participate. The summit was very valuable because not all the watershed is within Portland's boundaries and the City alone cannot resolve all the issues.

Commissioner Sten said there are 28 adopted plans for Johnson Creek and the summit highlighted the need to agree on an action plan, not just do more research. This contract will play a key role in giving the people attending that summit a road map.

Linda Dobson, BES, said this shows that the City is minding its own business and has evaluated its own area. Then it can effectively coordinate with others and provide more detailed information on what is coming downstream as well as how the City can affect what happens within its own boundaries. BES is keeping in close touch with the interagency and policy committees.

Commissioner Francesconi asked whether access to Johnson Creek is part of this and what the role of Parks might be.

Mr. Brenes said BES is partnering with Parks to acquire properties in harm's way and establish criteria for providing connectivity to other green spaces and opportunities for improved water quality and reduced flooding.

Ms. Dobson said the Brookside water quality facility, which also serves as a park facility, is one example of that partnering and more such projects will be identified through this predesign. BES is working closely with Parks to coordinate the acquisition programs and with PDC in regard to the Lents revitalization plan.

Mayor Katz asked about the status of the FEMA mapping effort.

Mr. Brenes said staff is reviewing the modeling work done by the U.S. Corps of Engineers now and that will lead to a remapping and an application to FEMA to incorporate changes to the flood plain map.

Ms. Dobson said the Bureau will bring this issue to Council before it applies to FEMA for the changes.

Commissioner Sten said Johnson Creek is the best hope in the City for having a healthy stream in an economically diverse area. Council's decision to regulate the flood plain laid the groundwork for this and it looks like the strategy is working.

Disposition: Ordinance No. 173296. (Y-5)

City Auditor Gary Blackmer

570

Assess benefited properties for the cost of constructing street and storm sewer improvements in the SE 48th Avenue/Mitchell Local Improvement District (Hearing; Ordinance; C-9906)

Discussion: Lola Gayley, Portland Office of Transportation (PDOT), said this is a Local Improvement District (LID) for one block of street and sewer improvements which was accepted as complete in January. Today PDOT is asking permission to assess property owners for the improvements. She said two remonstrances have been received and people are here today to testify.

Carri Hinamon, 5115 SE 48th Ave., 97206, objected to the increase over the original estimate and noted that her assessment went from an initial \$8,921 to \$17,107. She added that residents had requested skinny streets to discourage traffic, reduce the impacts to their yards and lower the cost. Her property was not left in good condition after the improvement was completed and the disturbed areas were not reshaped, as had been promised. She was left with a steep, bumpy slope with very abrupt edges and had to put in a retaining wall at a cost of \$2,815 to get her level lawn back. Ms. Hinamon said the street was dug six inches deeper than necessary, which also added to the expense. She said the developer should pay for the street improvement as he is the one who benefits. She said her portion of the cost amounts to nearly a year's wages and requested that her assessment be reduced and that the City pay for the retaining wall.

Harold Kuenze, 4800 SE Raymond, 97206, said six years ago he sold the property to the developer, Joe Van Haverbeke, who signed a statement agreeing to pay for his street improvement in order to get the needed 50 percent majority.

Kay Wallace, 4732 SE Mitchell, 97206, said her assessment is \$3,015 even though she has no driveway on that street. She said her chimney was ruined because the heavy construction vehicles caused so much vibration and she does not understand why the residents have been stuck with this expense.

Moshe Lenske, 4314 SE Crystal Springs Boulevard, 97202, said the Woodstock Neighborhood Association has been involved in this improvement from the beginning. He said the issues of concern today include regulating development on unimproved streets, whether a street improvement should be required and who is to pay. The City LID process

should factor into consideration who uses the new street and a newer, higher density development should take greater proportionate responsibility for the cost than single home dwellers who gain less advantage. He noted that the cost estimates by the City doubled and Ms. Hinamon and Ms. Wallace were told that all areas that were disturbed by the land cut would be reshaped or replanted with grass seed. There is also evidence to show the street was excavated six inches too deep and that affected the angle of the cut, making a retaining wall the only remedy. He said the City should pay the cost of that wall.

Ranee Osborne, 5015 SE 48th Avenue, 97202, said when she moved into her house on this street she knew nothing about the LID as the waiver was not addressed in the title.

Frank Dufay, Manager, Assessments and Liens Division, the Auditor's Office, said the problems that arose here are symptomatic of what has occurred with other LIDS, such as the SW Texas project. Unfortunately, this project has already been built and cannot be delayed, as was SW Texas. He personally believes it is unfair for these folks to get stuck having to pay for a retaining wall but has to defer to Transportation's current policy. He said long-term financing is available at a low interest rate but this points to the need to re-engineer the process.

Commissioner Sten asked how this project was approved.

Mr. Dufay said the developer's property and Mr. Kuenze's constituted a majority and the developer had agreed to pay for Mr. Kuenze's share of the improvement. There was one waiver. The developer paid a little over 50 percent and four other homeowners picked up the remainder.

Commissioner Hales asked what options are available at this point.

Ms. Gayley said the past practice with LIDs is to split up the cost of the improvements among the property owners. Any on-site improvements, such as retaining walls, are charged directly to the property owner receiving the benefit. In this case, because the property owners chose to build a retaining wall, they were told they would have to pay the added cost. If they do not pay, the cost will have to be picked up by all the property owners.

Commissioner Sten said these property owners did not expect to need a retaining wall.

Ms. Gayley explained the options the City had in making this improvement. If a straight grade was chosen, only one sump needed to be built. The alternative was to put a high point in the street and grade the street down to both intersections, requiring two sumps. The straight grade option saved about \$6,600 but that resulted in an extra six inches of excavation in front of Ms. Hinamon's property. Staff always knew considerable excavation would be needed to make the traffic connection and explained to the residents that a 2:1 cut would be needed, which is basically a 30 percent slope. Ms. Hinamon and Ms. Wallace were not pleased with how steep that was and staff told them that further grading could be done to flatten out the slope, that it could be mulched or that a retaining wall could be built but that they would have to pay for that. They chose to get their own contractor to build the retaining wall.

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Commissioner Sten asked if the developer had to come up with a way to do the LID in order to get City approval to build the four houses and is that why he paid Mr. Kuenze's share of the assessment.

Ms. Gayley said yes, the street improvement was a requirement of the development.

Commissioner Francesconi asked if there is any mechanism to make changes to the assessment process retroactively.

Matt Brown, LID Administrator, said it is cold comfort to tell these people the City will be fixing this problem in the future but there is no remedy now. However, at this point, he does not see anything the City can do. He said the City could pay for these retaining walls retroactively but the question is where to draw the line and how far back to go. He recommended that this improvement be closed out now as otherwise it will continue to accrue interest. If Council decides something can be done retroactively, that can be taken care of later. He said a steering committee has been formed to review financing and allocation strategies, determine how to better involve the participants in the design, look at the service issues and find ways to reduce costs.

Commissioner Francesconi asked if a way has been found to assess a higher amount to those who use the street more.

Mr. Brown said no.

Commissioner Hales said Council has decided the current system is not acceptable but has not figured out what improvements can be made.

Commissioner Francesconi asked Mr. Brown what his timeline is for making a decision.

Mr. Brown said they expect the review to be complete in about 15 months and in the meantime are holding off on the formation of new LIDs. He believes there are no more local, residential LIDs in the pipeline.

Commissioner Francesconi said it does not seem right to let developers make a side deal with one person that shifts the burden to others.

Commissioner Sten asked if Council can change the funding formula now.

Mr. Dufay said it is entirely up to Council how the costs are apportioned but staff is sticking with the traditional way in which these LIDs are done until the process is re-engineered.

Mayor Katz said there is a fairness issue here because of the deal the developer made with one gentleman that impacted everybody else. She asked if Transportation System Development Charges (SDCs) can legally be used on this project.

Ms. Galey said SDC money is meant to be used to improve collector and arterial streets, not residential ones. If changes are made to the usage formula, it would not affect this project as the developer is putting in four single family homes so there are five houses on one side of the street and four on the other.

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Commissioner Sten asked if there is a way to make this fairer, by having the developer pay more and the others less. He said he does not believe anyone should get by without paying something.

Mr. Brown said they cannot do that right now but could work up some ideas and bring them back. Among the options are basing the cost on equivalent dwelling units or the increased property valuation before and after the improvement.

Mayor Katz asked staff to bring this back with some options, preferably ones that they think will be a result of the 15-month study. She said she believes Council would like to treat this one a little differently because of the unusual situation.

Commissioner Hales said the new LID process will be very different from what is in effect now, not just a matter of shifting the cost from one party to another. The City will have to figure out how to subsidize future LIDS as the easy ones have been done and the ones that are left are tougher from an engineering standpoint and more expensive. If the City wants to continue to make progress in building streets where they do not exist, without creating terrible winners and losers, the City will have to sweeten the pot. He said the problem will not be solved just by figuring out how to rob Peter in order to pay Paul.

Mayor Katz noted the additional \$1,000,000 the Council has added to capital projects and said perhaps a percentage of that could be used.

Commissioner Francesconi said he would like to see this done sooner than 15 months.

Mr. Brown said one reason for taking that long is to allow enough time for a quality public process. He said the community expects to have a lot of say about this.

Mayor Katz said Council's consensus is that something must be done now to deal with this LID and assist residents living on this street.

Mr. Lenske said the developer had thirty extra feet on his side which gave him the majority he needed. He said the other problem not yet addressed is the use of the waiver.

Mayor Katz asked if knowledge of the waivers is universal. Do people realize this could cost them a substantial amount of money?

Mr. Brown said there is no disclosure form on a waiver that one signs when purchasing a home. It is on the title report but many people do not understand what waivers mean. While this process is expected to take 15 months, there are some simple things that Council could agree upon earlier, such as amending the Code to require early disclosure of waivers.

Mayor Katz said that should be done soon unless it requires State changes in real estate law.

Disposition: Passed to Second Reading May 12, 1999 at 9:30 a.m.

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Four-Fifths Agenda

Commissioner Hales moved acceptance of the item filed on the Four-Fifths Agenda and Commissioner Sten seconded. Hearing no objections, the Mayor so ordered.

- *570-1** Authorize the Mayor to submit a Livable Oregon Community proposal to the League of Oregon Cities for \$1,000.

Discussion: Commissioner Hales said this is a project done by Bureau of Maintenance employees who equipped a vehicle with solar charges so it would not have to use a gasoline-powered generator. This is a small piece of the League's efforts to focus more attention on creating livable, sustainable communities.

Disposition: Ordinance No. 173297. (Y-5)

At 11:00 a.m., Council recessed.

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 28TH DAY OF APRIL, 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; Pete Kasting, Deputy City Attorney; and Officer Chuck Bolliger, Sergeant at Arms.

Commissioner Dan Saltzman

571 TIME CERTAIN: 2:00 PM - Amend Chapter 17.38, Drainage and Water Quality to implement revised stormwater management policies and the Stormwater Management Manual (Second Reading Agenda 508 introduced by Commissioner Saltzman; amend Chapter 17.38)

Discussion: Mayor Katz said it was clear at the last hearing that amendments would be introduced.

Commissioner Saltzman recapped the context in which this is being done. He said one of the requirements of the federal Clean Water Act, passed in 1972, was that the City obtain a pollution discharge permit for its municipal stormwater system. The City was issued a permit by the Department of Environmental Quality (DEQ) in 1995 which requires elimination of any increase in pollution entering stormwater within the City. The City set up a Stormwater Policy Advisory Committee in 1996 to recommend methods for meeting this requirement and in 1997 the committee recommended development of a stormwater management manual to specify requirements on new development and redevelopment. This ordinance would authorize the Bureau of Environmental Services (BES) to implement the manual by administrative rule and will codify the stormwater management policies.

Commissioner Saltzman reviewed the amendments he is now proposing. The first will modify the rule-making section to ensure that there is at least a 30-day notice period for any rule-making changes. The second will modify the Code to require that all redevelopment discharging to a tributary be managed for flow control as well as quality control. The third amendment clarifies the City's intent, by restricting a developer of new subdivisions from using the "in lieu of fee" in order to encourage land developments to be planned with stormwater management as a consideration. Since stormwater is best managed on site, they want to encourage developers to put in the treatment facilities, rather than paying "in lieu of fees" to the City. In response to a concern raised about the composition of the external appeals board, an amendment is being proposed to include an environmental representative and change the quorum requirement to eliminate the necessity for a licensed engineer to be present in order to constitute a quorum. The final issue was the role of the advisory committee, which many people requested at the last hearing. He said attached to a memo he issued earlier is a resolution that will do that. It will have representatives from the environmental community, development and business interests, etc. The committee will be asked to establish benchmarks to measure the success of the stormwater manual and to tackle some of the other issues that still remain. His resolution asks the committee to report back in six months on the issue of "significant" redevelopment and what pollution reduction

standards are appropriate. He said BES is currently proposing a 70 percent removal requirement of suspended solids and some have testified that should be raised to 80 percent. The committee will also be asked to report back annually on how the City is doing with the stormwater regulations.

Mayor Katz said she does not understand what issue seven is about, which calls for redevelopment to meet flow control standards for the entire development.

Becky Kreig, BES, said the amendment would apply to Tryon, Johnson, Balch and Fanno Creeks but not areas that discharge directly into the Willamette or the Columbia. That is already a special category because those streams are experiencing problems with the elevated flows resulting from current development. If redevelopment is required to do some flow control, the level of degradation should start to ease up.

Mayor Katz asked how redevelopment does flow control.

Ms. Kreig said, based on the footprint of the impervious area, redevelopment would provide an opportunity to do mitigation through such measures as tree plantings. She said the additional standard would require redevelopment to detain flows even for annual storms as it is the more frequent but higher winter flows that cause the channels to erode. She said capacity may be driven by the bigger storms (the 10-year ones) but the water will have to be released more slowly.

Dean Marriott, Director, BES, said the original charge was to focus on new development and later significant redevelopment was added. Just recently people have suggested that all redevelopment be included. BES has been somewhat resistant to adding all redevelopment in the manual but believes this amendment will allow the City to focus on redevelopment in the watersheds that have been damaged. This will require that some additional measures be taken in those areas.

Thomasina Gabriele, representing the Institutional Facilities Coalition and the Columbia Corridor Association, said they appreciate the formation of an advisory committee that reports to Council. She urged Council to add some issues to those included in the six-month report back to Council. One concern is the ability to get credits when owners build a facility over the capacity currently needed. They may never plan to need that capacity and could possibly make it available to others. They may also want to build for more than their current needs but with the idea of using that capacity in the future. There needs to be some ability to track that available capacity through subdivisions and subsequent developments. She requested that a phrase be added to the list of pollution reduction standards (in the third "be it further resolved" section) that says "system of assigning credits."

Commissioner Saltzman and Mr. Marriott said they have no problem with that.

Ms. Gabriele said they would also like the committee to address the ability to have more time to review the Best Management Practices chapter and return with some recommendations about the maintenance of on-site, private facilities which receive public run-off.

Commissioner Saltzman asked if she wanted that included in the scope of the committee's work but not necessarily within the six months.

Ms. Gabriele said they hoped all this could be done within the six months.

Commissioner Saltzman said he had no problem with that either. He noted, however, that the resolution creating the citizens advisory committee is not yet before Council. It will come back separately so there will be time to add those.

Jere Retzer, Crestwood Headwaters Group and West Multnomah Soil and Water Conservation District, said, as he understands it, the amendment for Section C.3 has deleted the word "additional" so it now reads: "any development or redevelopment that contributes discharge." He believes that will take care of his greatest concern, which is when an area with a large amount of impervious surface, such as a 20,000 square foot parking lot, is redeveloped for row houses or a similar project. Under the proposed policy no quantity or flow control would be required for that project even if the flow went into Fanno or one of the other greatly disturbed watersheds. With this amendment, full control would be required in those places.

Bob Grimmell, kffp Consulting Engineers, said while the performance approach he testified about at the last hearing has some limitations, many of the innovative successes in treating stormwater in Portland have been the result of demonstration projects. He suggested adding some language to the manual that encourages developers to take on demonstration projects.

Mayor Katz asked Mr. Marriott if he has a problem with that.

Mr. Marriott said they believe the manual, as written, allows people to submit an alternative treatment plan under the performance-based approach and the Bureau will definitely entertain those, particularly if they demonstrate innovative technology.

Mayor Katz said Council always encourages demonstration projects.

Mr. Grimmell said another concern is the project-by-project emphasis of the manual. Because so much of the City is already built up, projects that involve both the public and private sectors are probably the most important thing. Those who take an "I've met the requirement of the manual and am home free" approach will miss opportunities to provide regional control structures, parks, etc.

Commissioner Saltzman said he would like the advisory committee to stay on top of this issue to see if the manual stifles more creative and collective solutions but would like to get a track record first.

Mr. Marriott said the whole concept of developing a manual with this much detail leads one down the path of perhaps stifling innovation. BES realizes that is a risk but several years ago when it suggested picking a target and letting everyone figure out how to get there, people begged for more direction. That is what has been provided and he believes BES can gauge how this is working as the track record is developed.

Commissioner Francesconi said basic minimum standards in this arena are also needed and the manual tries to provide that. While he remembers that Mr. Grimmell suggested earlier

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that this be done with pure incentives, he does not think that is possible, given the urgency of this problem. The manual sets out the basic standards and still provides flexibility.

Mayor Katz said the advisory committee may want to consider what incentives might be provided for a development that goes beyond the call of duty. However, there needs to be something at the permit center that allows people to check and see if the requirements are met. Beyond that there needs to be something to encourage people to be creative and take a more regional approach and, without incentives, she fears that will not happen. The advisory committee can watch and see if the manual is too constraining.

Mr. Marriott agreed. He said the stormwater treatment plan in Portland is just at the point of institutionalization and they will analyze what works and what might be beneficial as an incentive. He said the City is trying to lay the foundation by taking this first step to solve a severe stormwater problem.

Mr. Grimmell said his company has very few rules and tries to avoid setting out typical ways of doing things. Having a manual will make some people fearful of doing anything outside it. Having people in BES who are able to say this is the right thing to do is important.

Commissioner Saltzman said he believes the BES director has that discretion.

Mayor Katz said the question is whether you can institutionalize that within the organization.

Mr. Marriott said his original intention was not to have a manual at all but everyone, including developers and environmental activists, asked for some structure. This is the Bureau's first attempt to do that and he hopes some of the structure can be removed over time to encourage performance-based treatments. But for now, he wants to get something started and get some history about what works and what does not.

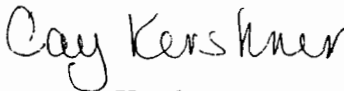
Mayor Katz said benchmarks are needed first and then the structure can be loosened up.

Commissioner Saltzman moved adoption of the four amendments to the Code as proposed in his memo to Council. Commissioner Francesconi seconded and, hearing no objections, the Mayor so ordered.

Disposition: Passed to Second Reading as amended on May 5, 1999 at 9:30 a.m.

At 2:45 p.m., Council adjourned.

GARY BLACKMER
Auditor of the City of Portland


By Cay Kershner
Clerk of the Council