



CITY OF
PORTLAND, OREGON

**OFFICIAL
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 12TH DAY OF MAY, 1999 AT 9:30 A.M.

THOSE PRESENT WERE: Mayor Katz, Presiding; Commissioners Francesconi, Hales, 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. 639 was pulled from Consent. On a Y-5 roll call, the balance of the Consent Agenda was adopted as follows:

CONSENT AGENDA - NO DISCUSSION

- 619** Accept bid of Ben-Ko-Matic to furnish one 12-cubic yard catch basin and sewer cleaner for \$226,723 (Purchasing Report - Bid 99087)

Disposition: Accepted; prepare contract.

- 620** Accept bid of MEC Digital to furnish a multi-channel logging recorder system for \$171,794 (Purchasing Report - Bid 99115)

Disposition: Accepted; prepare contract.

- 621** Accept bid of Vancouver Paving Co. to furnish Inverness bike path for \$229,990 (Purchasing Report - Bid 99154)

Disposition: Accepted; prepare contract.

- 622** Accept bid of Platinum Construction for East Police Precinct remodel for \$66,954 (Purchasing Report - Bid 99176)

Disposition: Accepted; prepare contract.

- 623** Accept bid of Manuel Q. Franco Reforestation to furnish mulching services for \$82,050 (Purchasing Report - Bid 99177)

Disposition: Accepted; prepare contract.

- 624** Accept bid of JVC Contractors, Inc. to furnish Office of Finance and Administration 12th floor remodel for \$278,511 (Purchasing Report - Bid 99180)

Disposition: Accepted; prepare contract.

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Mayor Vera Katz

- *625** Give preliminary and final approval for the issuance of Multifamily Housing Revenue Refunding Bonds in an amount not to exceed \$7,345,000 (Ordinance)

Disposition: Ordinance No. 173333. (Y-5)

- *626** Give final approval for the issuance of Multifamily Housing Revenue Bonds in an amount not to exceed \$13,000,000 (Ordinance)

Disposition: Ordinance No. 173334. (Y-5)

- *627** Authorize General Obligation Emergency Facilities Bonds and General Obligation Refunding Bonds (Ordinance)

Disposition: Ordinance No. 173335. (Y-5)

- *628** Establish three Senior Administrative Specialist positions in the Portland Energy Office in accordance with the Personnel Rules adopted by the City Council (Ordinance)

Disposition: Ordinance No. 173336. (Y-5)

- *629** Contract with Booth Research Group to provide assessment center services not to exceed \$37,000, plus travel costs, at lowest available fare (Ordinance)

Disposition: Ordinance No. 173337. (Y-5)

Commissioner Jim Francesconi

- *630** Grant revocable permit to the Portland Rose Festival Association to use Tom McCall Waterfront Park from May 24 through June 20, 1999, or as approved by the Portland Parks and Recreation Bureau (Ordinance)

Disposition: Ordinance No. 173338. (Y-5)

- *631** Grant a revocable permit to the Portland Rose Festival Association to erect and maintain flags and banners on the ornamental light standards in downtown Portland from May 23 through June 27, 1999 (Ordinance)

Disposition: Ordinance No. 173339. (Y-5)

- *632** Grant a revocable permit to the Portland Rose Festival Association to vend and sell Rose Festival items on downtown City sidewalks on June 2, June 5, June 9 and June 12, 1999 (Ordinance)

Disposition: Ordinance No. 173340. (Y-5)

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- *633** Grant revocable permit to Portland Rose Festival Association to close certain streets from June 24 to June 27, 1999 to hold the Rose Festival Art Festival: waive fees for some permits and inspections (Ordinance)
- Disposition:** Ordinance No. 173341. (Y-5)
- *634** Grant revocable permits to the Portland Rose Festival Association to hold the Starlight Parade in downtown Portland on June 5, 1999 (Ordinance)
- Disposition:** Ordinance No. 173342. (Y-5)
- *635** Grant revocable permits to the Portland Rose Festival Association to hold the Junior Rose Festival Parade on June 9, 1999 (Ordinance)
- Disposition:** Ordinance No. 173343. (Y-5)
- *636** Grant revocable permits to the Portland Rose Festival Association to hold the Grand Floral Parade on June 12, 1999 (Ordinance)
- Disposition:** Ordinance No. 173344. (Y-5)
- *637** Grant a revocable permit to the Portland Rose Festival Association to close portions of city streets prior to the Grand Floral Parade for formation area from 5:00 a.m. to 1:30 p.m. on Saturday, June 12, 1999; for erection of seating in Winning Way from 8:00 a.m. Friday, June 11, through 4:00 p.m., Saturday, June 12, 1999; and for a float display area after the parade from 12:00 noon Saturday, June 11, through 8:00 p.m., Sunday, June 13, 1999 (Ordinance)
- Disposition:** Ordinance No. 173345. (Y-5)
- *638** Contract with United Pipe and Supply Company for irrigation parts and materials in the amount of \$235,000 and provide for payment (Ordinance)
- Disposition:** Ordinance No. 173346. (Y-5)
- *640** Authorize amendment with Jeanne Lawson Associates for public involvement services related to a Master Plan at Portland International Raceway (Ordinance; amend Contract No. 31712)
- Disposition:** Ordinance No. 173347. (Y-5)
- *641** Contract with Gresham Ford for purchase of two vans in the amount of \$49,059 without advertising for bids and provide for payment (Ordinance)
- Disposition:** Ordinance No. 173348. (Y-5)
- *642** Authorize a contract with the lowest responsible bidder(s) for the Archives Building fire protection system (Ordinance)
- Disposition:** Ordinance No. 173349. (Y-5)

- *643** Authorize Purchasing Agent to issue a contract to purchase a new Y2K-compliant logging recorder for Bureau of Emergency Communications (Ordinance)

Disposition: Ordinance No. 173350. (Y-5)

Commissioner Charlie Hales

- 644** Transmit Certificate of Completion for contract with K.F. Jacobsen, Inc. for asphalt overlay project 1998 and authorize final payment (Report; Contract No. 31827)

Disposition: Accepted.

- 645** Set hearing date for Wednesday, 9:30 a.m., June 16, 1999, for the vacation of a portion of SW 62nd Avenue, south of SW Pomona Street, in connection with consolidation of property owned by the Oregon Department of Transportation (Resolution; C-9957)

Disposition: Resolution No. 35788. (Y-5)

- *646** Contract and provide for payment for construction of the NE 32nd/33rd/Hassalo traffic calming project (Ordinance)

Disposition: Ordinance No. 173351. (Y-5)

- *647** Contract and provide for payment for installation of curb extensions and other work associated with Council-approved bikeway projects (Ordinance)

Disposition: Ordinance No. 173352. (Y-5)

- *648** Revocable permit to Portland Institute for Contemporary Art to close NW Davis Street between NW 12th and 13th Avenues on June 3, 1999 (Ordinance; waive Code Section 14.24.030)

Disposition: Ordinance No. 173353. (Y-5)

- *649** Increase contract with WRG Design, Inc. for NE 158th Avenue LID design and construction services and provide for payment (Ordinance; amend Contract No. 29758)

Disposition: Ordinance No. 173354. (Y-5)

- *650** Authorize application to the Oregon Department of Transportation and the Oregon Department of Land Conservation and Development for several grants in the amount of up to \$1,355,000 for transportation and growth management programs (Ordinance)

Disposition: Ordinance No. 173355. (Y-5)

Commissioner Dan Saltzman

- 651** Revise the membership and meeting schedule of the Mid-County Citizens Sewer Advisory Board by repealing and replacing Exhibit A of Ordinance No. 158705 (Second Reading Agenda 593)

Disposition: Ordinance No. 173356. (Y-5)

- 652** Amend contract with Century West Engineering Corporation to extend the term and appropriate funding for FY 1999-2000 (Second Reading Agenda 598; amend Contract No. 30561)

Disposition: Ordinance No. 173357. (Y-5)

Commissioner Erik Sten

- *653** Authorize a contract and provide payment for water demand monitoring equipment, software and installation services (Ordinance)

Disposition: Ordinance No. 173358. (Y-5)

- *654** Authorize a contract with Tyco Valves & Controls to furnish metal-seated butterfly valves for the conduit isolation and improvements project for \$1,288,260 and provide for payment (Ordinance)

Disposition: Ordinance No. 173359. (Y-5)

- *655** Authorize the Water Bureau to contract with Ant Hill Marketing for a regional water conservation media campaign for peak season 1999 (Ordinance)

Disposition: Ordinance No. 173360. (Y-5)

- *656** Contract with Southeast Uplift for \$43,000 to implement Foster Target Area Project's action plan and provide for payment (Ordinance)

Disposition: Ordinance No. 173361. (Y-5)

- *657** Contract with the Housing Authority of Portland for \$199,520 for staffing to develop facilities for the homeless and special needs populations and provide for payment (Ordinance)

Disposition: Ordinance No. 173362. (Y-5)

- *658** Amend contract with the Portland Community Reinvestment Initiative, Inc. to increase total funding to \$44,658 and extend the completion date to support the rehabilitation of two units of affordable housing for persons with HIV/AIDS (Ordinance; amend Contract No. 31525)

Disposition: Ordinance No. 173363. (Y-5)

City Auditor Gary Blackmer

659 Approve Council minutes for July 1, 1998 through December 23, 1998 (Report)

Disposition: Approved.

REGULAR AGENDA

*639 Grant revocable permit, with conditions, to Portland Public School District No. 1J to install and maintain a sports scoreboard in Powell Park (Ordinance)

Discussion: Commissioner Francesconi said all issues have been resolved, thanks to Commissioner Hales.

Disposition: Ordinance No. 173364. (Y-5)

617 **TIME CERTAIN: 9:30 AM** – Adopt Option #2, “Maintaining the Planning Bureau and Increasing the Responsibility of the Planning Director” in the Advisory Team’s report to the Mayor as the organizational structure of the Bureau of Planning (Resolution introduced by Mayor Vera Katz)

Discussion: Betsy Ames, Assistant to Mayor Katz, summarized the process, including formation of an advisory committee and outreach to stakeholders, which was used to arrive at the recommendation to adopt Option #2. She said the stakeholders support the need for coordination among all bureaus and the extension of long range planning beyond the current land-use planning responsibilities. They argued that a separate office, with a strong director who has bureau-head status, should be created to coordinate planning efforts among all bureaus. Coordination between policy development and implementation needs to be strengthened. The advisory team developed its report and recommendation to the Mayor based on the input received and their own professional judgments. The report was sent to hundreds of interested people and posted on the Mayor’s web page. Over 50 organizations and individuals responded and indicated a clear preference for Option #2, maintaining the Planning Bureau and increasing the responsibility of the Planning Director, as well as placing the Planning Director in the Mayor’s portfolio. The resolution adopts Option #2 regarding the organizational structure of the Bureau of Planning, establishes the core functions of the Bureau, calls for formation of a planning coordination team and for initiation of a hiring process for the new director. Three minor amendments are proposed. The first adds language to indicate that the planning coordination team is composed of, but not limited to, the bureau managers listed and the second adds the Energy Office to the list of bureaus represented on the team. The third amendment states that the planning coordinating team “is established to convene.”

Commissioner Hales moved to adopt the amendments and Commissioner Saltzman seconded. Hearing no objections, the Mayor so ordered.

The following individuals testified in support of Option #2:

Paul Leistner, Research Director, Portland City Club
Phil Kalberer, Association for Portland Progress
Corrine Paulson, League of Women Voters

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Garry Papers, American Institute of Architects (AIA)
Irwin Mandel, 1511 SW Park Ave., 97201
Bing Sheldon, Growth Management Committee, AIA
Lili Mandel, 1511 SW Park Ave., 97201
Michael Roche, 3920 SW 40th, 97219

Those testifying in support of Option #2 said it is essential that the Planning Director have authority over planning functions across bureaus and throughout the City. They also strongly supported formation of the Planning Coordination Team as it will force bureaus to talk to each other. They called for selection of a Planning Director with good interpersonal and political skills, someone who is able to persuade the public that the decisions made are the right ones. There was strong consensus for placing the Director's position in the Mayor's portfolio. Mr. Papers called for linking policy and goals with actual projects so people can understand how they are applied in reality.

Commissioner Francesconi said the reason Portland is a terrific city today is because of past terrific planning efforts. He noted that while help is needed in setting priorities, the final decision rests with Council as otherwise there is a danger that, in creating the most livable city in the country, one creates a place working folks cannot afford to live in. He said a strategic plan is needed as otherwise it is very difficult to focus all bureaus on any overriding issues such as the Willamette River. Decisions must also be based on current trends and data. For example, land use developments on MLK are producing enormous benefits but the question is whether these are benefiting the residents who live there. With this planning approach, Council has a better chance of answering questions like that. Another critical piece is aligning capital expenditures with planning efforts to provide needed infrastructure. Council members need to provide more resources for such things as design standards and neighborhood plans. Finally, while these planning efforts take talent more than structure, they also need structure and that is why he believes this belongs in the Mayor's portfolio.

Commissioner Hales agreed with Commissioner Francesconi. He said this change supports the principle that planning should be comprehensive and integrated. However, he noted that the job of synthesizing strategic planning and projecting a clear vision belongs to City Council and cannot be delegated to the Planning Director.

Commissioner Saltzman said he has some concerns about the overall direction. First, Council is the vision provider and he hopes the Planning Director will meet with Council regularly to solve the logistically gray policy areas that will result from trying to coordinate the efforts of all the bureaus. He said it will be essential to give the new Director the elevated stature envisioned in this report. If the position is measured by its budget or number of employees it will not be elevated to the same stature as other bureaus. One way to elevate the statute is to have the Director report to Council directly and have Council make some of the policy calls early on so they do not get to the point where the bureaus are warring with each other. He said he was assured by the Mayor that she will compel bureau heads to attend meetings of the Planning Coordination Team, rather than their subordinates.

Commissioner Sten said while people criticize Portland's form of government, he does not believe the City would ever get the same kind of work from commissioners who are simply legislators and not administrators, too. He said he sometimes finds it hilarious to hear Council members say how great things are and then turn around and say how bad they are without seeing the irony of their statements. He thinks there are inherent conflicts in a

diverse community such as this and just moving the boxes around and hiring a better Planning Director will not solve them. However, hiring a new person will give Council a chance to refocus.

Mayor Katz thanked the focus groups for their input and Commissioner Hales for making major changes in the way the City does business in the Permit Center. She said the City now knows what it has meant not to expand the Urban Growth Boundary and it is time to look at the way the City responds to that. She especially supports the need for data and trends analysis and hopes to work closely with Portland State University and bring that information to Council for discussion. The next step is to hire a new Planning Director and restructure the organization itself. Because of the need to integrate all planning work, it is important that for now the Director be in the Mayor's portfolio. While Council members share a basic vision, there are differences and it will take time and a lot of hard work on everyone's part to put an integrated vision together. She thanked Planning Bureau staff, which has gone through some difficult times but is deeply committed to the City.

Disposition: Resolution No. 35789 as amended. (Y-5)

618

TIME CERTAIN: 10:30 AM – Establish monthly Council evening meetings for a six-month period (Resolution introduced by Commissioner Hales)

Discussion: Mayor Katz asked that the amendment be brought forward.

Commissioner Francesconi proposed an amendment calling for Council to hold any work sessions scheduled for the first Tuesday of every other month at 6:00 p.m., instead of in the morning, either at City Hall or at geographically dispersed locations, if appropriate. This would begin in July, 1999 and conclude in November, 1999.

Commissioner Hales said even though citizen participation levels are high, the City can do better and counter the trend towards alienation and non-participation. This will give people an opportunity to attend meetings where items of special interest are being considered, such as liquor license recommendations and land use appeals. He agreed with the suggestion to make work sessions, where Council figures out strategies and how to attack various issues, more accessible by scheduling some of them at night and out in the community.

Citizens testifying in support included:

Ed Jordan , 3811 SE 97th Ave., Lents Neighborhood Association
Bob Ueland, Hollywood Neighborhood Association
Walter Valenta, Bridgeton Neighborhood Association
Sophia Dewey, Wilkes Neighborhood Association
Tom Maddrick, President, Sunnyside Neighborhood Association

Supporters said this will allow people who work an opportunity to have a voice and increase the level of citizen involvement. Mr. Ueland suggested using Coalition offices to help set up the meetings.

Lili Mandel, 1511 SW Park, 97201, said she supports night meetings but strongly disagrees with holding them outside City Hall. She said certain things occur in Council Chambers that would not occur at a neighborhood meeting. She said the City makes many efforts to

keep in touch with neighbors but there is something significant about coming to City Hall that will be lost when meetings are held elsewhere. She said providing childcare would also be a great way to encourage more people to attend.

Commissioner Francesconi said his support for meetings outside City Hall was influenced by the success of Commissioner Sten's meetings in the community on Johnson Creek. He said while meetings will continue to be held in Council Chambers, their formality often does not allow genuine communication. He said he is sensitive to the issue of added personnel time and noted that this will be evaluated after six months to see how many more people attend. He said the purpose of holding meetings away from City Hall is not just to get input from more citizens but to also allow them to see some of the complexities behind the decisions Council must make.

Commissioner Hales said this approach helps deal with two dangers – the isolation of Council members and citizen alienation. He said Council needs to keep looking for opportunities to avoid these dangers and raise the level of participation.

Commissioner Saltzman said he is very supportive of getting out in the community more often. He also asked that Council consider allowing citizens to call in with their questions in the future.

Commissioner Sten said he is ready to try holding work sessions in the community and at night although he does not believe it will result in real conversations with citizens. He is skeptical about melding the need for Council members to be briefed on specific issues with the need to increase public awareness. He said if people attending are allowed to testify then a new format is needed. However, he thinks it makes great sense to hold regular Council meetings in the evenings and in neighborhoods. This proposal is an important gesture but if Council sees only the same familiar faces, then it should be given more thought. He believes there is something to the notion of having a formal process when decisions are made and giving equal access to everyone. He questioned how decisions will be made about which issues are to be heard at night – because a neighborhood lobbies hard or because a Commissioner requests it. He said there are a lot of nuances that need to be looked at and he will be interested to see how this is evaluated.

Mayor Katz said this will require close coordination with the Auditor's Office to identify issues that need to be heard at night. The community facilities need to be ADA and cable accessible. She also likes the idea of having phone testimony. Staff overtime may be a potential problem but, overall, this is a great idea.

Disposition: Resolution No. 35790 as amended. (Y-5)

Mayor Vera Katz

660 Approve the application of Glisan Housing Partners LLC for a ten-year property tax exemption for a transit-oriented development project that includes 228 units of multifamily housing located near NE 60th Avenue and NE Glisan Street, known as the Center Square and Center Station project (Resolution)

Discussion: John Warner, Portland Development Commission (PDC), said PDC is pleased to recommend approval of this project, a high density, mixed-income, mixed-use, transit-

oriented development, located one block from the 60th Avenue light rail station. He said a Transit-Oriented Development (TOD) abatement request was granted by Council in November, 1997, when preliminary approval was given for private activity bond financing. Passage of this ordinance will provide final approval of the bond financing. Staff found that the application meets all requirements for the TOD abatement program and the Commission's loan committee found the abatement was necessary for the project's financial feasibility. He noted that the resolution should be corrected to indicate that the project has 228 units, not 282.

Disposition: Resolution No. 35791. (Y-5)

- *661 Agreement with David M. Corey to perform psychological examinations of Community Police Officer candidates, not to exceed \$60,000 (Ordinance)

Disposition: Ordinance No. 173365. (Y-5)

Commissioner Jim Francesconi

- *662 Lease land south of SW Sam Jackson Park Road and west of SW Terwilliger Blvd. to Dwight Estby Enterprises, Inc. (Ordinance)

Discussion: Susan Hathaway-Marxer, Property Manager, Bureau of Parks and Recreation, said the Bureau seeks approval for the lease of a small piece of parkland adjacent to an existing service station. Access is critically important to the service station operator to allow trucks to service his gas tanks. This land has long been leased to the gas station for this purpose. When this lease was renegotiated with a new operator, the neighborhood was instrumental in making sure improvements to the appearance of the property will occur and landscaping requirements have been added.

Commissioner Francesconi noted that the use is not being changed.

Richard Stein, 901 SW Westwood Dr., board member, Friends of Terwilliger, supported the lease agreement. He said in 1997 a permit was issued to Estby Enterprises, owner of the Texaco Station, to remodel the station but neither the neighborhood nor Friends of Terwilliger were notified. If they had been notified, the application would have gone through a Type III design review but this was not done. He said when the neighborhood found out, it had the option of either stopping the whole remodel or meeting informally with the owner to see if they could reach agreement about their concerns. They agreed on six different elements, three of which Estby has already completed but it is still working on the other three, one of which is the landscaping. He said his biggest concern with this ordinance is that no deadline is set for getting the work done. He asked if something could be added to require that the landscaping be completed by the end of 1999.

Commissioner Hales asked if that could be added to the lease.

Ms. Hathaway-Marxer said the lease does call for the operator to perform in a timely manner but no specific date was set because part of the landscaping involves tree plantings. Once the lease is in place, the City will have more leverage to get the operator to perform.

Commissioner Hales said a deadline might help.

Commissioner Francesconi suggested that Ms. Marxer go back and add a time certain.

Commissioner Saltzman suggested adding language in paragraph three of the ordinance to require that the landscaping be completed by the end of 1999. Commissioner Francesconi so moved and Commissioner Hales seconded. Hearing no objections, the Mayor so ordered.

Commissioner Saltzman asked if the Parks Bureau had done any environmental monitoring to see if the soil was contaminated. If not, this might be a good time to do an assessment, before a new leasee comes in.

Ms. Hathaway-Marxer said ownership of the land has not changed. She said when the prior operator closed, the service station sat unused for a long time. Mr. Estby, who is affiliated with Texaco, was required by the DEQ to dig up the old tanks in order to restart the station. There are no tanks on the Parks Bureau property and the DEQ order did not include the Parks' land. She said this lease was carefully reviewed by the City Attorney as the City is very conscious that this is park land next to a service station.

Commissioner Saltzman said the City still needs to know what contamination might be there. If nothing else, the City might work within the existing DEQ compliance plan, which probably has a sampling requirement, to make sure some of the sample locations are placed on City property.

Mr. Stein suggested adding a sentence stating that soil samples be taken during installation of the landscaping.

Commissioner Francesconi said Commissioner Saltzman raises a valid point but it should be addressed on a Citywide basis, not just on this little piece of property.

Ms. Hathaway-Marxer said she will talk to the DEQ about how the City could use the compliance plan in a positive way with regard to this property.

Commissioner Hales asked staff to report to him on what went wrong during the land use process regarding notification to the neighborhood.

Disposition: Ordinance No. 173366 as amended. (Y-5)

663

Amend Parks System Development Charge Code to clarify the use of the credit transfer mechanism within the Willamette Greenway (Ordinance; amend Code Section 17.13.020 and 17.13.070)

Discussion: Commissioner Francesconi said in the Parks System Development Charge (SDC) two benefits were created for one action on behalf of the land owner or property developer. This amendment changes that to grant only one benefit for one action, not two.

Commissioner Sten said he would like to have an evening meeting with the new Planning Director regarding the Willamette Greenway.

Disposition: Passed to Second Reading May 19, 1999 at 9:30 a.m.

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Commissioner Dan Saltzman

- 664** Amend City Code Chapter 17.36 clarifying sewer user billing for stormwater management (Previous Agenda 539; amend Chapter 17.36)

Commissioner Saltzman said this ordinance better defines the wide range of services provided to residents by the City's stormwater drainage program. In the past, the focus was primarily on stormwater runoff. This broadens the category of what they believe to be legitimate cost-of-service charges.

Disposition: Ordinance No. 173367. (Y-5)

Commissioner Erik Sten

- *665** Authorize a sole source contract with Rapidigm, Inc. for database administration services for the Bureau of Water Works and provide for payment (Ordinance)

Disposition: Ordinance No. 173368. (Y-5)

City Auditor Gary Blackmer

- *666** Amend or repeal sections of the Portland City Code that are obsolete, superseded or preempted by state law (Ordinance; amend Titles 2, 3, 4, 5, 16, 17 and 22)

Discussion: Gary Blackmer, City Auditor, said today they seek Council approval of this first step in a major effort to update all sections of the Code. He said a general review of the Code done by his office revealed any number of white elephants, i.e. references to the Bureau of insect control.

Mayor Katz said Madelyn Wessell, Chief Deputy City Attorney, reminded her over and over again that this needed to be done but that some of the changes might be controversial.

Madelyn Wessel, Chief Deputy City Attorney, pointed out some of the complexities involved and noted that there are huge chunks of the current code that can be eliminated. She used examples from Title 14 to illustrate how many changes need to be reviewed and reconciled with other sections of the Code. She said some issues will be controversial and require a review of past policy decisions. There are major areas of overlap, for instance, between Parks enforcement and Title 14, Public Safety.

Lissa Fagerlund, City Recorder, said while the changes in this ordinance are minor and of a housekeeping nature, even these required a lot of effort. Staff contacts have now been named in each bureau to review future proposed changes for accuracy.

Commissioner Francesconi asked what difference this makes to citizens.

Ms. Wessel said as a lawyer she wants to have a criminal code that is comprehensible and not contradictory. She cannot say that is the state of the City's penal code today. Some sections of Title 14 are unenforceable and need to be removed. There needs to be clarity and an understanding of what is expected of citizens. On another level are the structural

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expectations on staff, which are currently not coordinated. There are bureaus and functions in the Code that do not exist and cleaning this up is a long but overdue process.

Commissioner Francesconi asked for an example of a policy decision that might be needed from Council.

Ms. Wessel said some functions of the City Engineer, who is part of the Office of Transportation under the current Code, have been taken over by the Bureau of Environmental Services. If that Code is cleaned up, a policy decision may be needed about the proper role of each Bureau. This may also bring up some Charter issues.

Mayor Katz left the meeting and Commissioner Hales assumed the Presidency of Council.

Disposition: Ordinance No. 173369. (Y-4)

667 Assess benefited properties for the cost of constructing street and storm sewer improvements in the SE 48th Avenue/Mitchell Local Improvement District (Second Reading Agenda 570; C-9906)

Discussion: Cay Kershner, Clerk of the Council, said there was a request to continue this another week.

Disposition: Continued to May 19, 1999 at 9:30 a.m.

FOUR-FIFTHS AGENDA

667-1 Contribute \$22,500 toward the purchase of the Samadkin Hartono property at the top of Rocky Butte in the East Buttes Regional Target Area (Ordinance introduced by Commissioner Francesconi)

Discussion: Cay Kershner, Clerk of the Council, said this was a routine item that was not filed in time to meet the regular deadline

Disposition: Ordinance No. 173370. (Y-4)

At 11:35 a.m., Council recessed.

MAY 12, 1999

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 12TH DAY OF MAY, 1999 AT 2:00 P.M.

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

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

- 668 **TIME CERTAIN: 2:00 PM** – Prescribe the rates and charges for water and water-related services by the City of Portland during the fiscal year beginning July 1, 1999 to July 1, 2000 and fix an effective date (Ordinance introduced by Commissioner Sten)

Discussion: Commissioner Sten said these rate changes will go into effect July 1.

Mike Rosenberger, Director, Bureau of Water Works, said the overall rate increase will be 7.4 percent. This compares favorably with the typical increase for residential customers in other jurisdictions in the Metro area and with benchmark cities cited in the Auditor's Office Service Efforts and Accomplishments Study. That study also notes that the rates have stayed constant in terms of inflation and indicates that operating costs have decreased two percent over the last four years. Another indicator of performance is that 90 percent of those surveyed in the Auditor's report rate their water service as good or above. He said the Bureau is continuing the low-income subsidy and the increase also includes Service Development Charge (SDC) waivers for low-income housing. He also noted that an accompanying resolution calls for a full review of the rate structure.

Disposition: Passed to Second Reading May 19, 1999 at 2:00 p.m.

- 669 Amend Title 17 of the City Code to revise sewer and drainage rates and charges in accordance with the Fiscal Year 1999-2000 Sewer User Rate Study (Ordinance introduced by Commissioner Saltzman; amend Code Chapters 17.34, 17.35 and 17.36)

Discussion: Commissioner Saltzman said Council's larger goal is to keep sewer rate increases within single digits in spite of all the forces driving them up. He said if the cost of SDC waivers are factored in, a \$750,000 to \$1 million hit, the fee increase will go to double digits. Another issue is the industrial waste discharge rates, which calls for a policy decision by Council. The charges are based on cost of services and reflect a dramatic increase in the rates, which they plan to phase in over three years. There are alternatives, however, as the bureau of Environmental Services (BES) could keep the rates as they are now and charge all industrial users across the board. He said he will offer an amendment calling for BES to demonstrate its cost accounting method for each account prior to assessing it.

Dean Marriott, Director, BES, said next year BES will pass the 50 percent mark in containing CSO discharges, which has been a major factor in the rate increases. He outlined the major activities being undertaken by the Bureau and noted they are being accomplished with fewer staff. He described revenue allocations and sources. Treatment services account for \$21.0 million of the total \$62 million operating budget.

Mr. Marriott reviewed the services and noted that if the interagency services were deleted, the operating budget would be cut by nine percent. The new operating base budget items are up 2.2 percent from last year. If the interagencies are not considered, the base increase would be about one percent.

Regarding the industrial waste discharges, Mr. Marriott said they began last year to develop permit fees and today's proposal calls for full cost of service recovery. Currently the fees are \$75.00 per year for 180 customers and this does not begin to recover the full cost. The rates are currently paid by 13,000 industrial waste commercial and industrial customers. Compared to other districts, the City currently recovers only four percent of its cost from permit fees while the weighted average is 76 percent. BES plans to move up to 100 percent over a three-year period, beginning January 1, 2000. He described the point system by which rates will be set, based on the amount of discharge. He said the Bureau has held numerous meetings with affected customers and shared information about the program impacts. Most seem to favor a point system rather than a fee system. Mr. Marriott said he firmly believes BES' cost figures are accurate and that the charges have not been loaded up to make money. If Council does not adopt the fee program, the Bureau asks that the rate schedule be revisited because the commercial/industrial fee schedule has to be released soon.

Mr. Marriott said the typical residential sewer and stormwater rates will go up 9.4 percent, from a typical \$29.53 per month to \$32.30. No low-income housing exemption is proposed, based on the recommendation of the Mayor during the budget process.

Commissioner Francesconi noted that BES was following Council's direction to go to a cost of service recovery. Will it achieve 100 percent cost recovery in other areas in three years?

Mr. Marriott said they will be assessing other areas where 100 percent cost recovery should be implemented but he cannot identify precisely what the opportunities are today.

Marti Roberts-Pillon, Water Sub-committee member, Public Utilities Rate Board (PURB), said the PURB supports the rate restructuring plan proposed by Commissioner Sten and Commissioner Saltzman but continues to believe that it is important to reduce the franchise fees water and sewer users pay to the City as it views them as robbing Peter to pay Paul for services not directly related to water, sewer and garbage service. Today's ratepayers are burdened with the need to update a highly outdated system and heavy investments will need to be borne by future ratepayers. The SDC exemption also needs to be studied. Regarding cost of service, PURB has a model it will be testing to see if the impact on future ratepayers can be gauged.

Commissioner Francesconi asked if the PURB could look at the cost of service on this particular issue and make a recommendation.

Commissioner Hales asked if the PURB had come to some conclusion about SDCs. He also asked if comparisons to other jurisdictions had been done on industrial pretreatment fees.

Ms. Roberts-Pillon said the PURB has not supported SDCs in the past and has encouraged further review. She said the Sewage Sub-Committee has probably done fee comparisons.

Kathleen Dotten, Portland Wastewater Treatment Association (PWTa), a group of large sewer and water users, said they strongly support the PURB recommendations, especially the lowering of franchise fees. The Association is also concerned with watershed enhancement and fish recovery and believes the cost of such programs should not be borne disproportionately by companies that use large amounts of water. When costs are charged people should know what their fees are being used for. She said the increase in fees for companies holding waste discharge permits represents a tremendous cost shift for a small group of users and will have a devastating effect on them. She asked Council to review the charges as they believe that while some level of cost recovery is probably acceptable, the cost accounting system should be based on actual data, not just the consultant's rough estimate. Also, they believe it would be better to wait until BES has implemented the recommendations on efficiencies.

Bob Okren, PWTa, said he is not convinced this is revenue neutral and believes the issue is whether BES and PURB have met the challenge laid down by Council to move towards full cost recovery. This is a revenue manipulation strategy directed at very easy targets, the 180 companies with discharge permits. The proposal is represented as cost of service but is actually a program cost, for a program mandated by the federal government. The program must exist whether anyone discharges into the Columbia Boulevard Treatment Plant or not. He said PWTa also has grave concerns about the development of a proposal based on estimates. He said companies belonging to PWTa have dramatically decreased their demands for pretreatment and yet their costs have increased almost exponentially. He said these companies are faced with these fees only because they are regulated, not because they discharge dirty or toxic water.

Other individuals testifying in opposition to the imposition of fee increases for companies holding waste discharge permits:

William Raycraft, Prism Industries Paint Shop, 7522 NE 13th,
Herb Nissen, East Side Plating, 8400 SE 26th Place
Ross Edington, Eastside Plating, 8400 SE 26th Place
Gary Renberg, Eastside Plating, 8400 SE 26th Place
Roald Berg, Associated Chemists, 4401 SE Johnson Creek Blvd., 97270
Steve Brown, Associated Chemists, 4401 SE Johnson Creek Blvd., 97270
Guy Marshall, Columbia Steel, 10325 N. Bliss
Bob Roach, 8302 SE 13th, 97202
Dave Taft, Columbia Wool Scouring, 2030 N. Columbia
Steve Shirely, ABCO Sanitation Services
Dave Murray, manager of Environmental Services at PCC Structural, a subsidiary of
Precision Castparts, 4600 SE Harney Dr.
Peter Moscow, attorney representing PWTa and Gail Achterman
James Orr, Terre Back, an environmental consulting firm,
Karl Ockert, Bridgeport Brewpub, 1313 NW Marshall, 97209
Fred Bowman, Portland Brewing Company, 2730 NW 31st
Jennifer Gomersall, Environmental Engineer, no address stated
Jim Hobbs, Auto Warehousing Company, N. Marine Drive

Those speaking in opposition said their fees are being raised significantly and unfairly, in some cases even when they are not discharging into the system but simply because they have Standard

Industrial Classification permits from the Environmental Protection Agency (EPA). They noted many instances where companies have invested heavily in capital improvements to lower their water consumption and educate employees about water use and effluent flows. They testified that BES is acting too aggressively to recover costs and that these unfair assessments place them at a competitive disadvantage and will scare off other small companies from locating in Portland. They also supported testimony asking Council to hold off on imposing these fees until a cost accounting system is in place.

Commissioner Sten said he was unsure whether PWTAs position is that members should pay \$15.00 a year, clearly just a symbolic fee, or that they should pay the fair cost, which is not yet understood. He wishes more work had been done on the City's side since the PWTAs asked Council to put this aside last time at a much lower level.

Ms. Dotten said while PWTAs believes some level of cost recovery is probably reasonable the debate is over where that line falls and about what constitutes cost recovery.

Mr. Okren noted that BES came before Council requesting \$55,000 in fees several months ago, a "put it under the rug" approach to the cost recovery idea. He said PWTAs has been clear all along that the information coming from BES does not indicate what the cost of the program is. He quoted three separate numbers on three separate BES documents issued in the last 48 hours. He said PWTAs would be in a much better position to respond if they knew what was wanted first.

Commissioner Francesconi asked if a cost shift is involved, with other businesses helping to subsidize this fee. He said he is having trouble justifying a 96 percent cost shift to other commercial businesses.

Ms. Dotten said they believe the data utilized to indicate full cost recovery is not valid and that is why they are asking Council to wait. If there are cost shifts such as this away from the general rate base and over to a fee base, then ratepayers should see some relief. Her concern is that this will not provide ratepayer relief and that the incremental amount will be used to fund other programs such as salmon recovery. She fears the end result will be an increase in both the rates and fees that will push business out of the area after those businesses have reduced their consumption and done all the things they have been asked to do.

Commissioner Francesconi noted, however, that other industrial users will see a rate decrease of one percent if this is passed. He could understand the PWTAs position more if they admitted that at least 50 percent of the cost was theirs.

Ms. Dotten said she would be happy to own up to the cost this segment of the population should bear but neither they nor BES has the information to make that decision.

Mr. Okren said they believe the cost associated with managing this mandated program is a public burden but no one has indicated what the cost of the program itself is. BES is attempting a market economy approach to charging customers. That is fine but then the Bureau has to be prepared to justify every nickel and dime when it imposes fees. Without clear information to show how the costs were developed, this should not be adopted. He said there is no provision to revisit the fees no matter what they are and no matter on what basis they were developed. Also, nothing is said about what happens if a company places less demand on the pretreatment program.

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Commissioner Saltzman said the larger question of 100 percent cost recovery is a policy call that needs to be addressed but BES did some estimates about what it cost to administer this program, which BES is mandated by the Clean Water Act to enforce, even on members who are not discharging into the City's system. He said BES will commit to develop the cost accounting that goes into these permit fees, recognizing that those proposed today reflect the Bureau's best professional judgment. He proposed an amendment calling for "the Director of BES to establish a cost accounting system to track the cost recovery through the fees. This accounting system shall be developed with the involvement of the industries which are charged the permit fees and these fees will not be charged until this accounting system is in place." In essence, BES is saying that between now and January, it can provide this information.

Ms. Doty said the fact remains that the rates would be based on retrospective estimates as opposed to data collected after the cost accounting system is put in place. The rate adjustment should be based on that information

Commissioner Saltzman said BES plans to look at actual time spent and then return to Council. The fee schedule proposed in the ordinance would be adopted but, before fees are collected, BES will be able to demonstrate the actual cost of service. If it cannot, the fee will be adjusted. Everyone really wants to get the cost accounting issue resolved as, if it is not resolved by January 1, the fee schedule as proposed will go into effect.

Mr. Marriott said he was struck by how many of those testifying talked about the improvements they have made to conserve water, reduce the use of chemicals and so forth. He said those are primarily responses to pricing signals. Now they pay \$15 per year and get no pricing signal for the industrial permit program as it is buried in the commercial/industrial sewer fee. BES is presenting a point system with six categories and some firms will be able to lower their fees based on certain activities, such as the amount of wastewater flow or frequency of monitoring, they have undertaken to change their business practices.

Commissioner Francesconi noted that a lot of people testified they could not lower their fees by conserving.

Mr. Marriott agreed that some businesses have already moved aggressively to conserve water and it may not be possible for them to go further without a very substantial investment or a change in their processes. Others may not have gone that far.

Dave Gooley, Director, Business Services, BES, said this will also motivate BES to become more efficient as right now the costs are invisible and buried in the rates. Customers will be able to see the cost accounting that generates these fees.

Mr. Marriott said one company, Columbia Steel, testified that it is a non-discharging company and objects to paying any fee. Currently the DEQ requires the City to control non-discharging businesses because they have the potential to discharge. The BES consultant has recommended that the City challenge that interpretation by the State and BES hopes to pursue that recommendation. That is also why the lowest possible fee is charged non-discharging customers. He said BES laboratory costs and payments to DEQ for permit fees are currently \$130,000 a year. That does not pay for any inspectors or permit writing. This proposal will raise \$160,000 in the first year, not a dramatic amount above what can be documented. Council will have to approve the industrial permit program each year as part of the rate ordinance and is free to adjust that as desired. Testimony was also heard regarding the budget note, which directed

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BES to seek additional revenues. What it is really seeking is rate relief for the most customers in the industrial/commercial classification. For this reason, BES believes it has remained true to the intent of the budget note.

Commissioner Saltzman moved the amendment he had described above. Commissioner Francesconi seconded.

Commissioner Saltzman asked Mr. Marriott how he would review the information. Will actual costs from this day on form the basis of the permit fee?

Mr. Marriott said it is difficult to predict exactly how this will go because of the commitment to work with the permitted customers. The goal is to have the data by this summer so that prior to January there would be several months' worth of data from which to extrapolate the annual cost.

Commissioner Hales said this raises some basic issues. First, is 100 percent cost recovery appropriate? For instance, the community now pays a substantial percentage of the cost on the assumption that it receives much of the benefit. Another basic issue is to what extent Council is pure in its utility rate making. Does it use the rate structure to carry out other policies too? If one goal is to maintain the City's manufacturing base, then the rate structure will have a dramatic effect on such targeted industries as food processing and metals. These are policy issues that are highlighted by the testimony heard today. A final question is how an equivalent industry in the Unified Sewage Agency in Washington County is treated.

Mr. Marriott said Washington County's cost recovery is about 15 percent.

Mr. Gooley said the EPA recently encouraged local governments to move towards better cost recovery and the utilities are slowly moving to that.

Commissioner Hales said he would like to know what Washington County is planning to do. He said the City has to look at how competitive it is.

Commissioner Francesconi asked if there are any estimates about how these rate increases might affect jobs. He also would like to know if there are any projections about the number of SDC units that might be produced.

Mr. Gooley said they do not have those estimates now. He said they proposed this because they believe it will increase equity and accountability in BES. It will also help in a small way to get the monthly sewer rates down.

Commissioner Sten said he does not think the current \$15 is enough and supports Commissioner Saltzman's amendment to get the cost accounting in place. He is comfortable with a 33 percent increase in the first year although he believes there is still room for more discussion about whether to go to 100 percent. He also likes the idea of challenging BES to get its costs down.

Commissioner Francesconi said he is not comfortable about going to 100 percent right now but \$15 is not in the ballpark either. He would like some more information on the consequences to the City's manufacturing base of going beyond 33 percent.

Commissioner Saltzman said moving ahead with the 33 percent in the first year will still allow time for more discussions about the level of cost recovery.

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Commissioner Hales suggested adding a budget note requesting that BES report back prior to moving beyond 33 percent, which is a reasonable guesstimate for now. That will also give everyone more time to talk about the policy implications.

Ms. Dotten said PWTa would welcome an opportunity to work with BES on the cost accounting. Rather than locking in rates for three years, PWTa would like Council to state specifically that this will be reviewed in one year.

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

Commissioner Hales proposed giving OFA some direction about the budget note.

Commissioner Francesconi said he would feel more comfortable if Commissioner Saltzman and BES work with OFA on the budget note.

Commissioner Hales said the Portland Development Commission (PDC) should probably be consulted about how this fits in with the City's industrial development policy in general. He asked for comment on the SDC waiver issue.

Commissioner Sten said the SDC issue raises a classic policy conflict. He said the question is whether affordable housing units would be charged the new SDCs. At least a few Council members were unwilling to vote for the new charge if it included affordable housing because of the need to balance the cost of housing in the City against the need to collect revenues. That led to the need for a consistent policy throughout the City regarding SDC charges on affordable housing. A Council resolution passed last fall exempted all affordable housing from SDC charges. He said either the City has to have a consistent policy for all four affected bureaus or it has to be consistent with one bureau that operates on a cost of service principle. These two policies may be irreconcilable. He noted that the Water Bureau, Parks and Transportation all have incorporated the fee waivers on SDCs.

Commissioner Saltzman said he is asking that the SDC waivers not be included in BES' budget this year, given the concern for keeping rate increases to single digits.

Commissioner Hales said the Office of Transportation will trade financial situations with anyone right now as its revenue has flattened out and people are being laid off while, at the same time, there is enormous demand by citizens for the projects SDC revenues would build. It rankles him for Transportation to be granting these waivers while other bureaus do not. He feels strongly that Council must be consistent across the board or else revisit this issue.

Commissioner Francesconi said Parks has lost revenue because of the SDC exemptions but he feels that was the right thing to do. He said while Parks is foregoing revenue, it is not charging other citizens to help subsidize that through an enterprise bureau fund. He said he will go along with BES and not require an SDC exemption for low-income housing because of the many demands on BES. He questioned raising rates for low-income ratepayers in order to subsidize an unknown number of other low-income people into units that are not yet built. That does not make sense to him. It would be better to wait a year until there are some incentives in place to lower the rates for low-income seniors. He said Council should revisit this issue and take a comprehensive look at the SDC policy.

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Commissioner Sten said he believes strongly that BES has overestimated the amount of SDCs that will apply. He said \$2.8 million is budgeted for SDCs and the bureau is estimating that \$1 million will be affordable housing. He said he cannot imagine that over one third of the development in the City over the next year will be low-income housing.

Mr. Gooley said BES assumed a loss of revenue of \$750,000. The Portland Development Commission's (PDC) estimate was for 300 units of affordable housing while BES' estimate was between 400 and 500 units. He said BES is very sensitive to underestimating anything because of the immediate impact on programs. He said they are trying to be reasonably conservative and there will be a noticeable rate increase whether the waivers amount to \$500,000 or \$750,000.

Commissioner Sten said he thinks the numbers are about double what they will actually be. He said Council allocated General Fund dollars for the Housing Investment Fund at half the past level, based on the belief that the SDC charges would be in place. He said if Council budgets according to policy resolutions that are then not followed, it makes proper planning impossible.

Commissioner Francesconi said utility rates are not the way to fund the Housing Investment strategy.

John Southgate, PDC, said PDC's estimate of the number of affordable housing units was significantly lower than BES'. This year a lot of housing funds will be going to preservation, not new construction, and preservation is not subject to SDCs. That will lessen the hit to BES. They will be happy to meet with BES and try to get a better handle on the real dollar amount.

Commissioner Saltzman said he hopes the City can become internally consistent on this issue, which needs to be revisited.

Commissioner Hales noted that the resolution Council passed earlier directed the affected bureaus to submit amendments to their SDC ordinances in compliance with the policy direction of the resolution. These have not come forward and the proposed budget is opposite to the resolution. He asked staff how such policies are enforced and how Council should proceed in such cases.

Ken Rust, Bureau of Financial Management, said the intent was to have SDCs waived for all affordable housing. During the budget process, the Mayor instructed BES not to include the waivers and the Bureau complied. The Mayor's proposed budget was adopted by Council but whether Council members understood that particular change is unclear. The rate ordinance always follows the budget proposals for the utilities and generally that is not a problem because there usually are no issues with potential inconsistencies.

Commissioner Sten said the question is, if Council passes a resolution, whose job is it to make sure it is honored. Or, if it is not honored, to make sure it is discussed.

Mr. Rust said he thought it was understood but realizes now it might have been made clearer.

Commissioner Hales said since the biggest outstanding fiscal issue is the inequity of how the SDC waivers are applied, he would like to get back at this issue and figure out whether this policy should be dumped or enforced consistently. He asked Mr. Rust to return with some kind of proposal.

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Mr. Rust said the fiscal issues are simply a matter of who is going to pay — ratepayers or somebody else. He addressed the question of whether the General Fund has a role in this kind of waiver exemption for utility enterprises, agencies which by Charter are not in the housing business. If one looks at the increase in user charges proposed by Water and BES and the franchise fees collected by the General Fund off that increase, the sum of that incremental revenue would be sufficient to pay the entire waiver costs for both of those bureaus. It is a matter of choice for Council to determine the appropriate way to pay for this program.

Commissioner Hales asked for some additional options next week.

Disposition: Passed to Second Reading May 19, 1999 at 2:00 p.m.

- 670** Revise residential solid waste and recycling collection rates and charges, effective July 1, 1999 (Ordinance introduced by Commissioner Saltzman; amend Code Chapter 17.102)

Susan Keil, Solid Waste Manager, BES, listed some of the factors putting upward pressure on rates as well as offsets that lower some costs. Why are rates going down for disposal while the City's rates are going up a little bit? She said that is because the disposal contract renegotiation just completed by Metro does not go into effect until January and the savings may go to pay for regional needs such as Endangered Species Act efforts and transportation planning. The City is committed, however, to passing any savings on to the ratepayers. She explained the reasons for the cost increases.

Disposition: Passed to Second Reading May 19, 1999 at 2:00 p.m.

- 671** Develop recommendations for reforming water and sewer rates and direct the Bureau of Environmental Services and the Water Bureau to perform necessary work (Resolution introduced by Commissioners Saltzman and Sten)

Discussion: Commissioner Francesconi asked if the resolution should look at the SDC question.

Commissioner Sten said the SDC issue is only a tiny part of this and he does not want to wrap that into this process.

Disposition: Continued to May 19, 1999 at 2:00 p.m.

At 5:00 p.m., Council recessed.

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 13TH DAY OF MAY, 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, Senior Deputy City Attorney; and Officer Chuck Bolliger, Sergeant at Arms.

- 672 TIME CERTAIN: 2:00 PM** – Consider revised application by the University of Portland on remand of Council decision to uphold the Hearings Officer's denial of Conditional Use Master Plan amendments and adjustments at 5000 N. Willamette Boulevard (Hearing on remand; LUR 98-00812 CU MS AD)

Discussion: Pete Kasting, Senior Deputy City Attorney, outlined the procedures to be followed and the reasons why this was remanded back to Council voluntarily.

Mayor Katz said it is critical to know what options might be available as there was a lot of confusion about what Council could and could not do when this was heard.

Commissioners Hales and Francesconi and Mayor Katz listed their ex parte contacts.

Doug Hardy, Bureau of Planning and Development Review, described the existing conditions and compared those with what will be required under the revised proposal. The revised proposal contains a phasing plan with three separate phases to be completed within the 10-year life of the Master Plan. He listed the approval criteria both for the Conditional Use Master Plan and the adjustments and reviewed the recommendations of the Office of Planning and Development Review. Staff found that the revised plan met most of the concerns raised by the Hearings Officer in her denial. A reduced boundary expansion reduces both the land area and the intensity of the development previously proposed north of Portsmouth and will ensure that most of the development will occur. The surface parking lot would last only as long as there was a demonstrated need for it and it is expected to be replaced eventually either by open space or campus housing. Staff found that the request for adjustments also meet the approval criteria.

Commissioner Hales asked about the landscaping requirements on the interim parking lot.

Mr. Hardy said staff recommended that since the parking lot might be in existence for six years, landscaping was appropriate. This has been included as a condition.

Steve Janik, attorney representing the University of Portland, agreed with the staff report and recommended conditions. He described the process that led the University to seek this voluntary remand, rather than submitting a new application or going through a lengthy appeals process. He said the question arises as to why the University is dealing with an amendment to the Master Plan adopted in 1994. First, in 1994 the University owned about 88 percent of the properties included in the Master Plan expansion area while today it owns virtually 100 percent. It thus became appropriate to return to the City to address how the West Campus expansion could be appropriately planned. Second, the 1994 Master Plan allowed 21 possible future developments. Of those, 18 have already been built and the three that remain do not address the most significant issue of all – the intrusion of student housing into the neighborhood and the desire of students to

live on campus. New on-campus housing cannot be built without amending the Master Plan. Third, the Code says the Master Plans will have lives of between three and 10 years but adds that a new Master Plan must be developed when development allowed by the plan has been completed. That is the point the University is at today. At the previous hearing, Council raised concerns about : 1) the size of the west campus expansion; 2) the location of special events parking and how it would be buffered from the neighborhood; 3) whether there was sufficient justification for the street vacations; 4) exterior lighting on the playing fields; 5) when the housing would be built; and 6) expansion of the Bishop House.

Christie White, attorney for the University of Portland, said the proposals for exterior lighting at Merlo Field and the Pilot baseball stadium, a scoreboard and the vacation of four streets have been withdrawn in response to neighborhood concerns about livability. The original proposal for a 12-acre boundary expansion has been reduced to 6.8 acres and blocks 30 and 31, with the exception of Bishop's House, are now outside the campus boundaries. A modification has been made regarding use of the Bishop's House to limit its use as a residence and occasional meeting place for up to 24 persons. The original request included a 180-space surface parking lot on Block 33 for special events. No phased time line for development of the surrounding housing was included and the Hearings Officer questioned whether this lot would ever be buffered from the surrounding neighborhood. The University has significantly revised that and is now requesting an 82 -space, temporary parking lot that can be replaced at the end of six years by a recreational quad or on-campus housing. The University will now be required to build residential buildings around that lot to insulate it from the neighborhood. She said there was an unfortunate misconception during the last hearing that parking could not be provided west of Portsmouth. That was based on a 1983 land use decision on the Chiles Center, made when the University's boundary did not extend west of Portsmouth so it was reasonable for the Hearings Officer to say that parking should be kept on campus. Now that the University owns 100 percent of Block 33 and 96 percent of the west campus, this parking is in close proximity to special events and will be buffered from the surrounding residential area through the phased development time line. It will be accompanied by significant Transportation Demand Management Practices (TDMP) measures, including a 50 percent subsidy for Tri-Met passes, plus on-going parking management. This lot will also take special events parking out of the neighborhood. Lastly, the 92 townhouses will be reduced to 56. Regarding neighborhood participation, the University held four meetings, two with the University Park Neighborhood Association (UPNA) and two with larger forums. Notices were sent to 1,500 households and 20 persons attended both forums. Members of the Master Plan Steering Committee were present at both forums and at the last meeting with the UPNA. No objections to the new proposal were raised at this time. A large majority of the neighborhood is in support; as indicated by a neighborhood poll showing 71 percent in favor of the original Master Plan amendment. The support may be greater now, given the reduction of requests in the revised proposal. The University has heard the concerns of opponents loud and clear and has responded to them through this revised request.

Dan Danielson, Soderstrom Architects, described the phased development sequence with a buildout on Blocks 28, 29, 32 and 33 for group uses, residential in nature. Blocks 28 and 29 and a portion of 35 will be townhouses, while Block 32 will provide dormitory housing. He noted that at or below grade parking will be provided for each of the facilities. Block 33 is shown as an open recreation field or park. Street improvements will meet PDOT standards, including pedestrian refuges.

Commissioner Francesconi said concerns have been raised about whether the University's

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housing demolition practices and standard of upkeep are contributing to lower property values.

Mr. Danielson said he does not believe that is the case. When demolition occurs, the lots are replaced by grass fields.

Commissioner Francesconi asked if the University is buying property outside the Master Plan boundaries with the idea of eventually requesting another expansion .

Mr. Danielson said the University has not been purchasing homes along Willamette Blvd. However, it has recently purchased two houses on Block 32.

Commissioner Francesconi said, regarding a good neighbor agreement, staff believes the conditions are stronger and have more teeth than an agreement would.

Mr. Janik agreed that having these conditions of approval makes it tougher on the University.

Ms. White described the reporting requirements that are called for in the conditions.

Individuals speaking in support of the University's revised plan included:

Mike Schwab, 7051 N. Wellesly, 97203
Karen Eifler, 6605 N. Monteith Ave., 97203
John Gardner, no address stated
Beth Wager, Senior, University of Portland
Scott DeBerard, 6906 N. Portsmouth, 97203, assistant professor at U of P
Martha DeBerard, 6906 N. Portsmouth, 97203
George Galath, 7051 N. University Ave., U of P faculty member
Karen Lynn, 6731 N. Harvard, 97203, member of UPNA
Bernie Verbout, 4788 N. Harvard, 97203
Patty Gilbo, 4708 N. Amherst, 97203
Rayne Funk, 4833 N. Princeton, 97203

Supporters said the University is a good neighbor and has made concerted efforts to reach out to the community and respond to its concerns. Some questioned the authority of the Master Plan Steering Committee (MPSC) to speak for the UPNA or the neighborhood at large. Aside from members of the MPSC, the revised plan appears to have general support from the neighborhood. They said the revised proposal meets the need for the University to provide on-campus housing and parking in a way that responds to the neighborhood concerns. Many praised the University for its positive contribution to the neighborhood.

Stacy Mercer, 5815 N. Warren, speaking for opponents to the revised Plan, said she had petitions from over 40 people who oppose this but feel it will not make any difference. She is delighted to hear that her home has been removed from the University's map for the first time. She said the University bought her neighbor's house for just over \$30,000 although she knows the homes are worth a lot more than that. One reason school attendance is going down, according to the principal of the nearby public school, is due to the University's expansion. She said her home is 200 to 300 feet away from three proposed six-story dorms and 56 townhouse units. These buildings will house an estimated 872 college students just yards from her house, jamming them into an area the equivalent of about three square blocks. She said this will destroy the quiet and livability of the neighborhood, bringing in a multitude of cars and visitors all hours of the day

and night. The opponents also believe the University can expand on the current campus. She said there is plenty of room to build those dorms and student housing at several locations, including the large area adjacent to Merlo Soccer Stadium or the maintenance and parking area below Mehling Residential Hall. She suggested replacing some of the older dorms with larger ones and building a parking lot on campus to accommodate both student and special events parking. Ms. Mercer said the University has systematically bought and demolished houses in the area for years and has demonstrated an attitude of manifest destiny, forcing the huge Chiles Center into the neighborhood on the outermost boundary. They were required to provide on-campus parking for it but have reneged on that requirement and special event parking has spilled over into the neighborhood for years. This year the Hearings Officer rejected the University's expansion plan because of its failure to provide adequate parking for the Chiles Center and because of the negative impact the expansion would have on surrounding homes.

Mike Salvo, 4785 N. Yale, past president of the UPNA but today representing the MPSC, said this is not about whether the University is good or bad but about land use laws and Codes that all must abide by. When these laws and codes are applied in an unbiased way, as the Hearings Officer did in her recent decision, it becomes clear that the amendments are a collection of things previously denied that still do not meet the approval criteria. In this case, citizen involvement has been ignored. He noted that a lot of activity has been going on between City staff and the University regarding this plan yet no opportunity was given to citizens for input other than the two forums mentioned. Insufficient notice was provided about the UPNA meetings. Given enough lobbying and pressure by professional consultants and influential members of the University, it seems the outcome is easily predicted. Mr. Salvo said at least some of Hearing Officer Elizabeth Norman's objective findings will be thrown out and citizens simply do not have an equal voice. He drew attention to three issues. First, the City Council is already on record that if additional paving for parking is necessary, it should be provided on the main campus, whether in parking structures or surface lots. The original approvals for Chiles Center assumed any additional parking would be on the existing campus and, as the Hearings Officer notes, the University never contradicted that assumption. She further notes that putting a parking lot on Block 33, instead of housing, means that other housing has to be demolished in order to place new housing in the proposed expansion area, leading to leapfrog development that is damaging to remaining residential uses. The earlier application also was denied because the University was unable to show that the Plan would not detrimentally impact the privacy and safety of residents in the expansion area. Mr. Salvo said this is a land-use issue, not a traffic or transportation issue, and the property across Warren Street is privately owned. Council should recognize that a central parking structure located on the present main lot, built as part of the Pilot House expansion plan, is the single most rational answer to all concerns. Regarding building setbacks, the Hearings Officer noted that where the University constructs individual buildings is based largely on where it manages to acquire enough property and this kind of development will have a devastating impact on remaining residents. Large residential dorms will not be compatible with the adjacent residential development. He said Council's vote today will send a message as to whether the process is fair and based on law or whether that, in order to prevail, you need to have enough money to influence Council to reject the work of its own Hearings Officer. He urged Council to support its previous findings and uphold the Hearings Officer's earlier decision.

Doug Mercer, 5815 N. Warren, said with the current expansion proposal, the University proposes again to leapfrog into the neighborhood and build three six-story dorms and 56 townhouses at the outermost boundary of the proposed expansion. This systematical expansion destroys the neighborhood and has caused many neighbors to sell their homes to the University

before their property value and livability is destroyed. If the University is not stopped now, this leapfrogging will continue onto N. Warren (which has just been eliminated from the plan) and across Willamette Boulevard. Many neighbors have grown weary of fighting this expansion for so many years to stop the University from exceeding reasonable boundaries. All they want to do is peacefully co-exist. This expansion will bring nearly 1000 students into their neighborhood. He said he and his wife live three blocks from the Portsmouth boundary and believe they have the right to expect the boundary to remain at Portsmouth. Given the 1994 Master Plan, which was intended to protect the neighborhood for 10 years, they are disgusted that they must again be here today to fight for their homes and neighborhood. He noted that after passage of the earlier Plan and the expected protection, they invested many thousands of dollars on renovating their home but now, five years into the plan, they are trying to prevent yet another expansion.

Commissioner Francesconi asked Mr. Mercer to rate the revisions and their significance.

Mr. Mercer said they feel like a dog that has just been tossed a bone as they will still have 872 college students in towering dorms and townhouses 200 to 300 feet from them. Traffic will only increase as students will be going in and out 24 hours a day. Last night he circulated a petition for three hours and every single person except one signed it, expressing opposition to the revised plan:

Other individuals speaking in opposition to the revisions included:

Ray Piltz, 7209 N. Buchanan, 97203, North Portland Citizens
Committee
Heber C. Heine, 5801 N. Warren, 97203
Sol Lubliner, 4788 N. Amherst, 97203
Leonard Chambers, 4805 N. Willamette, 97203

Opponents said the UPNA is heavily dominated by University of Portland employees and Council should talk to the people who live there. They suggested that the University locate the dormitories and parking on the main campus and called for a parking study to see how much parking is needed. They said the University is a bully that is never satisfied and asked that Council deny the new plan and honor the decision of the Hearings Officer and require that the University accomplish all the City mandated it to do in the 1994 Master Plan. They said the University has not yet solved its student or special event parking problem but yet wants more land for a living hall. They said the neighborhood has become frustrated by the futility of trying to fight the University time and again.

In rebuttal, Mr. Janik said the home purchase referred to by the Mercers occurred 10 years ago and the most recent purchase was for \$300,000. The maximum number of students living in all the new housing would be 675, not 872. The dorm itself will be four stories, not six. Housing students on campus relieves the pressure of students living in a single-family residential area, relieving the pressure to increase density there. He said notices for the April 21 meeting went out 16 days in advance. Mr. Salvo talks about lack of privacy but lives 10 blocks away from the expansion area and the house he is talking about is a rental. Mr. Janik introduced an E-mail into the record from Mr. Salvo to the University in which he offered to sell his property for \$490,000 even though its market value is \$160,000 "because of its strategic value to the University." He said Mr. Piltz claims that the University refused to go to his neighborhood association meeting but that group wanted a forum separate from those that had already been set up and so it declined

to attend for that reason. He said testimony that the University's enrollment is down is also erroneous.

Ms White said, also in rebuttal, the University does not have a daily parking deficit, only a special events deficit of 82 spaces which can be accommodated on a temporary basis when parking is built within the west campus at or below grade. The conditions of approval in the 1994 Master Plan continue to apply with the exception of those relating to the west campus.

Mr. Danielson, the University's architect, said there are no other alternative sites within the campus for housing expansion. He questioned whether the neighborhood would want to see another dormitory as tall as Mehling Hall, which is approximately 100 feet tall. What the University is asking for is housing in the expansion area that would be sensitive to the neighborhood and provide housing to students in close proximity to their classes.

Ms. White noted that Mr. Mercer was asked how he would rate the revisions. He was rather complimentary during the first forum and congratulated the University for its responsiveness to neighborhood concerns.

Commissioner Francesconi asked what it would cost to build an 82-space parking structure.

Mr. Danielson said no one would build a structure that small. It would have to be a minimum of 300 spaces for an approximate cost of \$10 million.

Commissioner Hales said he would like to hear more about the notion of not requiring interior landscaping on a parking lot that will be demolished in a few years.

Mr. Danielson said he would favor such a proposal as once such lots are well landscaped it makes them difficult to take out. However, it would also be good to provide perimeter landscaping.

Mr. Janik said under the current Code, if they do not put in the landscaping to make the lot attractive, they would have to file a separate application for an adjustment. However, the University will file such a request if that is what Council wishes.

Commissioner Hales said he believes that if Council approves this it should adopt an alternative Condition J that requires perimeter landscaping and sidewalks. He said he has drafted some language to accomplish that if Council agrees.

Mayor Katz asked the City Attorney if this can be done without an adjustment.

Mr. Kasting said the issue is whether new notice about the adjustment is needed, allowing people to comment on whether it meets all the approval criteria..

Commissioner Hales said he thought Council could draft a condition and the applicant would still have to seek an adjustment.

Mr. Kasting said that could be done if it is clear they still need an adjustment. A condition cannot require that development occur in a way that requires an adjustment. The effect of that is they cannot proceed until they obtain the adjustment. If Council wants to indicate that the

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Council feels it would be appropriate to modify the landscaping requirement and state that it should be modified through the adjustment process that would be fine.

Mayor Katz asked if someone could show her case CU 383 where it states that specific references to providing off-campus parking facilities were made including satellite lots and a possible future lot west of Portsmouth once property was acquired. She also noted that on Block 33, the University is requesting six to 10 years before it must provide the housing and parking underneath.

Ms. White said the southern half of Block 29 will be built out within the first three years of the plan. The southern half of Block 28 will be built out within the first six years and Block 33 parking will come off line possibly by the end of the sixth year. Block 33 is planned as a recreational, open space quad. If additional housing is needed, that opportunity is available under the proposal. Parking will be built concurrently under Blocks 29, 28 and 32.

Mr. Janik clarified that if housing is built on Block 33 at some time in the future, there might be underground parking.

Regarding CU 383, Mr. Hardy said the Hearings Officer states under Condition 7 that the University shall submit, 24 months after the opening of the University Center, a review of any and all Center-related off-campus circulation and parking problems along with measures for ameliorating them.. That is followed by eight specific recommendations, the third of which calls for the use or promotion of off-campus parking lots with shuttle service to the Center. One possible future parking proposal noted in the Hearings Decision is to resurface the whole block across Portsmouth (Block 33) when the last three properties are acquired. This indicates that even in 1983, off-campus parking was foreseen.

Mayor Katz said in 1994, however, the Hearings Officer, basically said parking should be built inside campus.

Mr. Hardy said yes, but with the understanding that all parking be retained on campus. But it is clear from the 1983 report that was not the case. Not only were they considering parking on-campus but also off-campus locations, including west of Portsmouth.

Commissioner Hales moved to tentatively approve the revised Master Plan with a revised Condition J. He said it is painful for a university to expand into a neighborhood but all the City can do is make sure the campus is a good place. He has been concerned from the beginning that the City was pushing something undesirable through its parking policies and he does not think parking north of Portsmouth is a good idea. He is able to accept a temporary lot north of Portsmouth and staff did a good job of setting that out in Condition G. However, he does not like the idea of landscaping this as if it is going to be around forever and would like to modify current Condition J to state that sidewalks and street trees, designed to remain after the temporary parking lot is converted to another use, shall be installed around the perimeter of the temporary 82-space parking lot. That does not require the applicant to seek an adjustment but if it does, in order to avoid having to do interior landscaping, the fact that it has met a higher standard for perimeter landscaping could be considered.

Mayor Katz asked staff to work out the language.

Commissioner Francesconi seconded Commissioner Hales' motion.

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Commissioner Francesconi said the City needs to protect safe stimulating neighborhoods but it also needs a strong educational system. He said he does not view these revisions as simply a bone thrown to the neighborhood as the expansion area has been reduced to 6.8 acres and the University has withdrawn its request for outdoor lights, a scoreboard and the street vacations, and has specified dates for completing the expansion. He noted that at the last hearing there was a majority of support for on-campus housing from Council. Parking has been reduced to an 82-space lot which is temporary and there are hammers in place to ensure this will be enforced. He said the neighborhood and the school need each other.

Commissioner Hales said this is a significantly better plan but there is still work to do to make sure City procedures match its policies. That is one of his frustrations, although it is not the University's fault, as City procedures are still directed towards forcing people to build parking. He said he will work to change the current situation.

Commissioner Saltzman said this is a more responsive plan than the last one Council heard. He said he was most bothered last time about the Transportation Demand Management Plan and is pleased with the proposed transit subsidy and a better explanation of what the University is already doing to promote alternative transportation modes. He said he has some concern about the outreach efforts as it appears the University is picking and choosing the more receptive neighborhood associations. He commented on the irony of Council insisting that a parking lot be kept "butt" ugly.

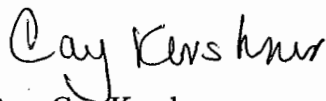
Commissioner Sten said this is a better proposal, although he also supported the last one. He said this represents a strong step forward for the neighborhood as a whole and the City on both the housing and transportation proposals. However, it will have dramatic adverse impacts on the people who live right next door. There is no unified theory that works equally well for all.

Mayor Katz said last time she objected strongly to 180 permanent parking spaces as she agreed with the Hearings Officer that it should be built on the main campus. That has now changed to reduce the parking to a much smaller number and make it temporary. However, she still does not think all the parking issues have been resolved. She thanked the University for responding to Council's concerns but urged it to consider a second row of trees to buffer the high rise dorms from the neighboring residents.

Disposition: Tentatively approve revised application with revised condition; prepare findings for June 2, 1999. (Y-5)

At 5:00 p.m., Council adjourned.

GARY BLACKMER
Auditor of the City of Portland


By Cay Kershner
Clerk of the Council