



CITY OF  
**PORTLAND, OREGON**

**OFFICIAL  
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 19TH 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; Harry Auerbach, Deputy City Attorney; and Officer Chuck Bolliger, Sergeant at Arms.

Agenda Nos. 676 and 684 were pulled from Consent. On a Y-5 roll call, the balance of the Consent Agenda was adopted as follows:

**CONSENT AGENDA - NO DISCUSSION**

- 675** Accept proposal of Teldata, Inc. to furnish water demand monitoring equipment, software and installation for \$1,405,894 (Purchasing Report - Bid 99129)
- Disposition:** Accepted; prepare contract.
- 677** Accept bid of Fire Systems West, Inc. to furnish Archives Building fire protection system for \$75,880 (Purchasing Report - Bid 99167)
- Disposition:** Accepted; prepare contract.
- 678** Reject bid of Portland Excavating, Inc. to furnish NE MLK Jr. Blvd., Portland Blvd. to Dekum St., medians (Purchasing Report - Bid 99172-SMP)
- Disposition:** Accepted.
- 679** Accept bid of EIR Electric, Inc. to furnish NE MLK Jr. Blvd., Portland Blvd. to Dekum St., electrical (Contract 2) for \$66,487 (Purchasing Report - Bid 99173-SMP)
- Disposition:** Accepted; prepare contract.
- 680** Accept bid of Ruffin Enterprises, Inc. dba Ruffin Construction to furnish Fulton Park Community Center window replacement for \$67,500 (Purchasing Report - Bid 99181-SMP)
- Disposition:** Accepted; prepare contract.

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**Mayor Vera Katz**

- \*681** Authorize an amendment to the contract with Pinnell-Busch, Inc. to provide technical assistance services for state certified minority, women and emerging businesses (Ordinance; amend Contract No. 31398)

**Disposition:** Ordinance No. 173372. (Y-5)

- \*682** Extend legal services agreement with Reeve Kearns PC (Ordinance; amend Agreement No. 31950)

**Disposition:** Ordinance No. 173373. (Y-5)

**Commissioner Jim Francesconi**

- 683** Accept contract with Streimer Sheet Metal Works, Inc. for the installation of electrical and telephone closet ventilation at the Portland Building as complete, authorize final payment and release retainage (Report; Contract No. 32061)

**Disposition:** Accepted

- \*685** Authorize a contract and provide for payment for vehicle exhaust systems in three fire stations (Ordinance)

**Disposition:** Ordinance No. 173374. (Y-5)

- \*686** Resolve claim of D. Ross Enterprises LLP (Ordinance)

**Disposition:** Ordinance No. 163375. (Y-5)

**Commissioner Charlie Hales**

- 687** Declare the purpose and intention of the City of Portland to construct speed bumps in the SE 71st Avenue, Powell to Division, Local Improvement District (Resolution; C-9964)

**Disposition:** Resolution No. 35792. (Y-5)

- \*688** Approve an agreement with the Oregon Department of Transportation for installation of signs along State highways near the Rose Quarter area (Ordinance)

**Disposition:** Ordinance No. 173376. (Y-5)

- \*689** Contract and provide payment to construct the SE Stark/Washington safety corridor project (Ordinance)

**Disposition:** Ordinance No. 173377. (Y-5)

- \*690** Contract and provide for payment for construction of school safety projects for Clarendon, Woodlawn, Marysville and St. Thomas Moore Elementary Schools (Ordinance)

**Disposition:** Ordinance No. 173378. (Y-5)

- \*691** Amend agreement with Oregon Department of Transportation to provide funds for demolition and construction of the Lovejoy ramp removal and reconstruction project (Ordinance; amend Agreement No. 50920)

**Disposition:** Ordinance No. 173379. (Y-5)

- \*692** Authorize contract with EIR Electrical, Inc. for street lighting on NE Martin Luther King Jr. Blvd. and provide for payment (Ordinance)

**Disposition:** Ordinance No. 173380. (Y-5)

**Commissioner Dan Saltzman**

- \*693** Authorize a contract and provide for payment for the construction of Beech/Essex CSO outfall rehabilitation, Project No. 6522 (Ordinance)

**Disposition:** Ordinance No. 173381. (Y-5)

- \*694** Authorize Intergovernmental Agreement with Multnomah County in the amount of \$150,000 to provide for flood mitigation activities in the Johnson Creek watershed (Ordinance)

**Disposition:** Ordinance No. 173382. (Y-5)

- \*695** Authorize a contract for \$46,000 with Vavene L. Carver for the coordination of Johnson Creek Federal Emergency Management Agency "Project Impact" activities and programs (Ordinance)

**Disposition:** Ordinance No. 173383. (Y-5)

- \*696** Authorize contract with Pacific Rim Resources for \$40,000 to market pollution prevention practices in the automotive industry (Ordinance)

**Disposition:** Ordinance No. 173384. (Y-5)

- 697** Authorize a contract with the lowest responsible bidder and provide for payment for the construction of the Inverness Trail, Project No. 5841 (Ordinance)

**Disposition:** Passed to Second Reading May 26, 1999 at 9:30 a.m.

**Commissioner Erik Sten**

- 698 Agreement with SPECTRUM Technology, Inc. for \$50,000 for a business flow/process review analysis for the Engineering Services Group within the Water Bureau (Ordinance)

**Disposition:** Passed to Second Reading May 26, 1999 at 9:30 a.m.

**REGULAR AGENDA**

- 676 Accept bid of Kasey Cooper Excavation, Inc. to furnish 8" and 6" water mains, SE 26th and Belmont, for \$89,921 (Purchasing Report - Bid 99158-SMP)

**Discussion:** Commissioner Sten said he would like to pull this until Council has had a chance to hold a work session on the sheltered marketplace program.

**Disposition:** Continued to May 26, 1999 at 9:30 a.m.

- 684 Recommend opposing passage of Senate Bill 858 and urging the Oregon House Transportation Committee to support local efforts in providing an equal access comprehensive system of transportation (Resolution)

**Discussion:** Commissioner Francesconi said taxis are part of the City's comprehensive transportation system, especially for the elderly and poor. The City took actions recently to increase competition in the taxi industry by relaxing the rules on town cars and by awarding another taxicab company permit. The strategy at that point was to leave the system alone, other than doing some enforcement with the Port at the Airport regarding town cars and taxis. Now the legislature has decided to completely deregulate the taxi industry even though 17 of 21 cities which have deregulated have gone back to regulating. Jim Wadsworth and John Hamilton in the License Bureau have taken the lead on fighting this at the legislature but this is another example of Salem telling local governments what they should be doing. This could have some devastating impacts for handicapped citizens and some businesses.

Jim Wadsworth, Director, Bureau of Licenses, said Senate Bill 858 deregulates the taxi industry throughout the State. This is very preemptive, taking away the City's ability to use the taxicab industry as a very important piece of its overall transportation plan. He said the License Bureau has been working very closely with Parking Enforcement and Transportation, as well as the Portland Oregon Visitors Association, the Port and hotels to try to manage the transportation industry in a way that provides every citizen an opportunity for affordable, convenient and reliable transportation alternatives. Deregulating takes that away. A number of cities that have deregulated in the past are now, with great difficulty, re-regulating their taxi industries. He said when entry into the industry is deregulated it allows just about anyone to operate a taxicab and takes away the City's ability to set affordable rates or ensure every neighborhood has equal access to that transportation.

Commissioner Saltzman asked what problems cities that deregulated encountered.

Mr. Wadsworth said parts of those cities were left without service and the disabled community was severely restricted in getting readily-available transportation. Medical

carriers were also affected. Having an open market with very little regulation places a heavy burden on cities to maintain safety regulations.

Commissioner Hales asked if this legislation would leave any health, safety or other regulatory authority with cities.

Mr. Wadsworth said it leaves the safety regulations in place but in a deregulated market, the Taxicab Supervisor is not going to be able to regulate this industry. From what they could tell, the bill primarily stemmed from ODOT's desire to encourage jitney service, something the City is already doing.

Commissioner Hales asked if there was a big parade of supporters from interest groups or industries.

Mr. Wadsworth said there was very little testimony in support. When this comes up later this week before the House Transportation Committee, they expect Portland's cab companies and the disabled community, which stands a lot to lose, to testify.

Mayor Katz said this is on the City's veto list.

John Hamilton, Taxicab Supervisor, said the most onerous part of this bill is that it would not just prevent cities from regulating but would also prevent Metro (of which Tri-Met is a part) and the Airport from establishing its own rules.

Commissioner Hales said the City needs to sort out with the State legislature what cities are responsible for and what the State is responsible for. He said the legislative leadership should do more screening and not go around masquerading as a City Council. This is a foolish piece of legislation which he hopes is defeated or vetoed.

Mayor Katz said this is an issue of preemption by the legislature of local authority and she has a list of similar instances where the legislature has gone far beyond their responsibilities.

**Disposition:** Resolution No. 35793 (Y-5)

673

**TIME CERTAIN: 9:30 AM** – Report by Dick Clark, Portland Rose Festival Association, on upcoming Festival events (Presentation introduced by Commissioner Francesconi)

**Discussion:** Dick Clark, Rose Festival Association, showed a video tape and described some of the many events planned for this year's Rose Festival. He noted that the Waterfront Festival is being completely remodeled over a two-year period and described the Association's success in promoting internationalism and furthering community outreach efforts, including youth involvement in volunteer projects.

Commissioner Francesconi said the Association's efforts to grapple with the safety issues have been quite impressive, especially as this has added to the Festival's costs. He noted the Festival's economic draw and its importance to tourism. He also complimented the Association for bringing in the Asian community and said the Festival could be one of the first events that really makes use of the River.

**Disposition:** Accepted. (Y-5)

674

**TIME CERTAIN: 9:45 AM** – Authorize transfer of Paragon cable franchise to TCI Cablevision of Ohio, Inc. (Ordinance introduced by Commissioner Sten)

**Discussion:** Commissioner Sten said TCI is transferring the Paragon franchise and merging with AT&T and the City now recommends approval of this transfer, leaving the issue of open access on the Internet service open until a settlement is reached or there is a decision by the court. He said this has involved some very tricky issues and he is very excited about the services that eventually will be available once the hardware upgrades are in place.

David Olson, Office of Cable Communications, introduced members of the Mt. Hood Cable Regulatory Commission (MHCRC), on which he also serves.

Sue Dicile, MHCRC, said the transfer is being recommended after several months of negotiation and a public hearing. The MHCRC has added conditions to provide customer services assurances, a requirement for local, satisfactory performance guarantees and assurances that all commitments made by the former franchisee will be met. There is also a requirement for improved connectivity for local cable access programming and conditions for cable modem deployment. The latter was a thorny issue because of the ongoing litigation and was resolved through triggers which provide for the deployment of open access if the City prevails in its lawsuit or if it is offered on another large cable system on the West Coast.

Debbie Leupold, TCI, clarified that TCI has agreed to the condition regarding open access if they choose to roll out the @Home service. Whether that will happen will be determined by the outcome of the litigation.

Mayor Katz asked what will be different because of this transfer.

Ms. Dicile said TCI will uphold its commitment for a system upgrade of the former franchise and citizens will see a clearer picture. Eventually, they will see added services.

Ms. Leupold said they are committed to completing the upgrade on the eastside and the name will probably be changed from TCI to AT&T. When the upgrade is complete there will be a common channel line across the City, consistent pricing and a broad array of services over time.

Commissioner Sten said a decision on open access is expected within a month and then he will return with recommendations on how to proceed.

**Disposition:** Ordinance No. 173385. (Y-5)

**Mayor Vera Katz**

699

Authorize submission of the FY 1998-99 Spring Supplemental Budget to the Multnomah County Tax Supervising and Conservation Commission (Resolution)

**Discussion:** Larry Nelson, Bureau of Financial Planning, described the actions that are proposed. This Supplemental Budget totals \$57 million and affects 15 funds. The three major actions are: 1) creation of the Fire, Rescue and Emergency Services bond construction fund; 2) recognition of \$11.2 million in revenues in the Bancroft Interest and Sinking Fund due to more rapid repayments by property owners; and 3) recognition of \$10.2 million in the beginning fund balance of the Housing Investment Fund, which will be used to pay off the outstanding line of credit. The Portland Development Commission's budget request is for \$41 million, recognizing tax increment dollars for various projects already approved, as well as funds carried over for the Home Grant fund.

Commissioner Saltzman asked about carrying over \$10 million on the Housing Investment Fund.

Mr. Nelson said that is due to slower than expected payments on the Fund. The City is just paying off the line of credit on past projects that have been completed.

**Disposition:** Resolution No. 35794. (Y-5)

**Commissioner Jim Francesconi**

- 700 Amend Parks System Development Charge Code to clarify the use of the credit transfer mechanism within the Willamette Greenway (Second Reading Agenda 663; amend Code Section 17.13.020 and 17.13.070)

**Disposition:** Ordinance No. 173386. (Y-5)

- 701 Establish a stormwater advisory committee to define and monitor benchmarks for the successful implementation of stormwater policies (Resolution)

**Discussion:** Commissioner Saltzman said this establishes an advisory committee to look at some of the contentious issues that the original policy committee for the stormwater manual was unable to resolve. These include determining the pollution reduction that should be required and what is meant by significant development. He has asked the committee to report back to Council in six months.

**Disposition:** Resolution No. 35795. (Y-5)

**City Auditor Gary Blackmer**

- 702 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 667; C-9906)

**Discussion:** Mayor Katz noted that when this came to Council the last time, it requested that staff return with some alternatives for this project.

Matt Brown, Local Improvement District Administrator, Office of Transportation, said State law requires that the cost of such projects be apportioned based on the benefit assessed to each of the properties in the district. Staff considered four different assessment

methodologies beyond the square footage method originally selected. Those four are based on: 1) equivalent dwelling units; 2) amount of frontage footage; 3) increase in value of property before and after the improvement; and 4) development requirements. He said staff's recommendation is not to pursue any of these options at this time as Transportation has some money available to pick up the cost of the retaining walls, about \$8,100. He said there are some real problems changing the methodology at this late date. If one bases the apportionment on assessed value before and after the development, one ends up apportioning cost on the increased value throughout the district. In this case, they estimate the developer would pay a much higher assessment, about \$36,000, which would reduce the assessments to other property owners by as much as \$10,000. Another promising method is to look at the development requirements, backing out those costs and basing the assessment on two levels of benefit. First, the developer would be assessed for the cost of all development requirements needed to get permits. The second level of benefit is the completed street, which benefits everyone. In this case the developer's cost would be increased by about \$21,000, lowering the cost to the other property owners. These are great ideas but staff needs more time to study them.

Commissioner Hales said the recommendation seems to be to not tinker with this project but to direct the City Engineer to use funds from the LID Subsidy Fund to cover the cost of the retaining walls.

Commissioner Francesconi said he did not understand before that the applicant had to redesign the project because Council changed some of the requirements. How much did that cost the developer?

Mr. Brown said originally PDOT did not require the street improvement as part of the development. That decision was appealed by the Woodstock Neighborhood Association to LUBA which said the whole street needed to be improved. That changed what the developer had planned on spending.

Lola Gayley, Bureau of Transportation Engineering, said the request for the LID came after the full-block street improvement was required. Originally, the request came through as a land-use action requiring the developer do a half-street improvement. After LUBA required the full block, the request for an LID came through and the rest of the neighborhood was pulled in at that point.

Mayor Katz asked Mr. Brown why he is reluctant to make any recommendation for a changed assessment method for this LID.

Mr. Brown said everyone acknowledges that the methodology and the process in this case was poor. But after a project has been built, based on certain assumptions, a change at this point would add another layer of inequity. He suggested using some available money to pay for the retaining walls, rather than righting one wrong with another one. Also, these methodologies need a lot more work before they are instituted to determine where the benefit really lies and provide a very strong basis for any recommendation.

Moshe Lenske, Woodstock Neighborhood Association, said the street and sidewalk improvements are a benefit to the residents, to school children and the community. Staff has offered several alternative ways to determine a fairer way to assess the costs. He said if one



compared the number of bedrooms between the new houses, which have five, and the existing ones, one would have a fairer method. Or, if the number of people were related to the number of cars they owned, that would provide a better measure of street usage. One property owner being assessed has no access on to 48<sup>th</sup> Avenue and no need for this improvement.

Joe Van Haverbeke, property developer, said in February, 1994 Council approved his application for a five-lot subdivision with a condition that access could be only from 48<sup>th</sup> Avenue with no more than three driveways servicing the five lots. Another condition called for the improvement of SE 48<sup>th</sup> from SE Mitchell to SE Raymond prior to the issuance of building permits. Because the improved roadways could benefit adjoining properties, Council recognized that the application might seek to form an LID. The project was redesigned twice and then the Neighborhood Association argued at LUBA, and LUBA agreed, that a 50-foot right-of-way was required with sidewalks on both sides. That reduced the number of lots to four but it was the Neighborhood Association that asked for this street.

Commissioner Sten said he had not realized that the Neighborhood Association forced the issue to get the street improved. He is concerned about the high cost to neighbors but is not comfortable changing the apportionment rules at this late date. He said Council was told that Mr. Haverbeke got 51 percent of the property owners to agree by offering to pay one neighbor's assessment. He said the City is willing to pay \$8,000 to help defray the costs and asked Mr. Haverbeke if he was willing to pick up anything more.

Mr. Haverbeke said because of the cost of the redesigns, the loss of one lot, and the increased cost of the road over the original proposal this has been an expensive development. He said he empathizes with the directly-affected residents because the people in the neighborhood who raised the fuss about the street improvements do not live within blocks of the development. He said he explained to the neighbors what would happen if they went through the LID process and noted this project has taken seven years to complete.

Commissioner Sten said Council has ability to reapportion costs if it wants and noted that it would cost Mr. Haverbeke money to fight a change that increased his apportionment. He asked if there was any middle ground there.

Mr. Haverbeke said he relies on the City to stick by its deals. He said he has done everything the City mandated.

Harold Kuenzi, 4800 SE Raymond, 97206, questioned why Mr. Haverbeke cannot pay for the street when he is selling \$1 million of housing. He said he wants his wall paid for too, at least the materials.

Commissioner Hales moved to assess the properties according to the specifications in the ordinance but to direct the City Engineer to reimburse property owners for costs of the retaining walls out of the LID subsidy fund.

Commissioner Francesconi seconded. He said he supports this based on Mr. Williams' testimony. He said two wrongs do not make a right and it is dangerous for Council to micro-manage this on a case-by-case basis. Staff has gotten the message that Council does

not like the way these projects are apportioned and wants to see some changes, but to change the rules now is not the right thing to do. He said the idea of the developer working a side deal with one of the property owner's did not sit well with Council and he hopes staff will come up with a rule so this does not happen again as it is patently unfair to pay for one person's assessment in order to get majority approval. He said the City also needs a strategy to approve substandard streets as some roads are in such poor condition now that no one will ever be able to afford to improve them.

Commissioner Hales said this project indicates everything that is wrong with the current LID process. He said staying with the original assessment method but paying the cost of the retaining wall because of the change in street elevation seems the best compromise to him. He hopes this is the last of the old LIDs.

Commissioner Saltzman said this underscores why the LID redesign is underway.

Commissioner Sten said this is better than it was before for the neighbors who have been stuck with these assessments. He said it is interesting that the developer was willing to build without the street and then the neighborhood forced him to build it. He personally thinks that is a clear-cut case where the developer is benefiting much more than the other property owners and it would have been reasonable for the City to come up with an apportionment method that charged him more. However, the City cannot go back retroactively and require that now.

Mayor Katz said if Council changes the apportionment method now this will probably end up in court again. She said it would be nice if the developer could match the \$8,000 the City is putting in to pay for the retaining walls. She asked Mr. Brown to bring the recommended options back to Council as soon as possible as the City needs to change its assessment method.

**Disposition:** Ordinance No. 173387 as amended. (Y-5)

### **Communications**

703

Request of Linda Bauer to address Council concerning Pleasant Valley neighborhood (Communication)

**Discussion:** Linda Bauer, no address stated, said Pleasant Valley is one of the last neighborhoods that has large developable lots and is experiencing problems with both current and proposed development. She asked Council to design local service streets as part of any developments so no street has excessive levels of traffic. She displayed a photograph of a sidewalk which was platted and approved as a street. However, she could find no record of approvals to change it from a street to a sidewalk. She also described several other developments that will all use the same local service street, which is currently five times over capacity according to traffic calming numbers. She asked Council to make all public safety issues relevant when making land-use decisions. She said BES has been doing a great job in coming up with excellent stormwater management plans.

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Commissioner Hales said he believes if the plat shows a street on it, the street should be built. For some reason that was not done but the City has every right to go back and require it to be constructed.

Ms. Bauer said while, realistically, there may be good reasons why the street should not be built, the developers did not follow the proper process.

Commissioner Sten said Metro plans to bring the Pleasant Valley reserves into the Urban Growth Boundary but he is not convinced they can be developed without substantial harm to Johnson Creek. Metro should either reconsider whether that area is appropriate for a lot of high density development or come up with some ground-breaking approaches. He said Council needs to know more about the outcome of developments within the City's own boundary and he would love to see a report on what has been done, right and wrong.

Commissioner Saltzman said this area is ground zero for where a lot of growth is targeted and he has been directly involved in making sure developers understand the importance of erosion and sediment control, especially as it affects Johnson Creek. He hopes to propose some regulations that will bring private utility trenches under the City's permitting requirements and give Planning and Development Review the ability to impose new conditions regarding such matters as how much surface can be uncovered at one time. He hopes to have these in place before the next rainy season.

Mayor Katz said she too believes it would be a good idea to go back and take a look at how certain developments have been managed and what problems arose.

**Disposition:** Placed on File.

At 11:15 a.m., Council recessed.

**MAY 19, 1999**

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND,  
OREGON WAS HELD THIS 19TH 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; Ruth Spetter, Senior  
Deputy City Attorney; and Officer Chuck Bolliger, Sergeant at Arms.

**Commissioner Jim Francesconi**

- 704** Increase Pay and Park parking fee surcharges and administrative fee (Ordinance; amend  
Code Chapter 14.36.045)

**Discussion:** Mike Sanderson, License Bureau, said this allows Pay and Park owners to  
increase surcharges in lieu of towing vehicles when people do not pay the parking fees.  
There has been no increase in the fees since 1991 and staff recommends that they be  
increased from \$12 to \$14 if paid within 30 days and from \$24 and \$28 if paid after that.  
“Look up” fees would increase to \$3.00 for cars registered in Oregon and Washington and  
to \$6.00 for cars registered in other states.

**Disposition:** Passed to Second Reading May 26, 1999 at 2:00 p.m.

**Commissioner Erik Sten**

- 705** 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  
(Second Reading Agenda 668)

**Disposition:** Ordinance No. 173388. (Y-5)

**Commissioner Dan Saltzman**

- 706** 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 (Second Reading  
Agenda ; amend Code Chapters 17.34, 17.35 and 17.36)

**Discussion:** Commissioner Saltzman said last week Council ended the hearing on this with  
the notion that reconsideration of earlier rate-making policies that encourage bureaus to  
recover the full cost of service. The rate schedule presented then for industrial pre-treatment  
customers was for full cost recovery to be phased in over three years. The Council also  
adopted language committing the Bureau of Environmental Services (BES) to get its cost  
accounting methodology in hand by January 1 so those affected will know the true cost. He  
is offering an amendment that reflects that and also removes the rate increases for the  
second and third years. That means the cost recovery next year will be 33 percent and when

this is revisited Council will have to discuss the principles of cost recovery and how these rates affect economic development strategies. The 33 percent cost recovery brings the City's fees more in line with other jurisdictions. Council also supported trying to keep rate increases within single digits. His amendment states that the Bureau will start working with the industry and will have a cost accounting methodology agreed to by the industry and in place by January 1.

Commissioner Sten moved that amendment. Commissioner Saltzman seconded and, hearing no objections, the Mayor so ordered.

Kathleen Dotten, Portland Wastewater Treatment Association (PWTa), said they compared the proposed rates with those of other jurisdictions and are proposing a 10 percent increase to remain competitive. She noted that the amendment talks about setting up a cost accounting system to track the money received through the fees. However, the purpose of the system is to look at the basis for establishing the costs rather than looking at how the money is spent. She encouraged Council to direct BES to establish a bureau-wide cost accounting system as it moves more and more to the adoption of fee structures.

Commissioner Saltzman said BES will do a bureau-wide analysis, although not between now and January. Regarding the merits of the fee increases, the 33 percent will collect about \$160,000 in the first year while Bureau out-of-pocket costs are \$145,000. For that reason, he would prefer to stay with the 33 percent for the first year. In the second year, they will consider several different approaches, perhaps full cost recovery or some level of subsidy.

Commissioner Francesconi said the amendment does say the Bureau will track the costs recovered through the fees and he thought the intent was to determine the fee.

Commissioner Saltzman said that is what is intended as the fee is to be based on the expense BES incurs.

Commissioner Francesconi moved to change the amendment to remove the word "track" and add the phrase "determine the fee, based upon the actual cost." Hearing no objections to this amendment, the Mayor so ordered.

Commissioner Francesconi said he is more comfortable with the 33 percent but would like to know if the Portland Development Commission (PDC) has any information on the economic impact.

Michael Hogan, PDC, said they have not had time to look into the specific economic impacts and is not sure they could come up with quantifiable impacts. As a group, these 180 businesses tend to be over-representative of industries the City has adopted as targets – food processing, metals, bio and health care and high technology. By shifting costs for these users, the City may be sending mixed messages to these companies and making it more expensive for them to operate here. Whether it is so expensive it becomes a deciding factor in whether to stay or locate in the City, he cannot tell. It would vary by company. The second policy question is when the City should fund programs and services and when should it charge special users special fees. Should users be charged irrespective of their demands on the system or should the City set fees based on individual demands? There

probably should be a consistent policy in this area. If the City chops things into little categories, it will be difficult for some users to afford to be part of the system.

Commissioner Sten asked if PDC has adopted any general principles as to when it makes sense to subsidize a particular subset of users.

Mr. Hogan said in most cases there are no specific guidelines other than the policies Council has adopted over time. Whether to subsidize is much more a philosophical or policy-based decision rather than one based on pure economics. If the City is going to adopt targeted industries one might expect that it would develop policies addressing the regulatory tax structure and the City's commitment to those industries.

Commissioner Francesconi asked if raising these fees to 100 percent cost recovery would not have an adverse impact on these businesses. Will the City lose jobs because of this and where does it rate on the list of things that might drive companies out?

Mr. Hogan said he cannot tell what the impact would be at this point. He said if PDC had more time they could query this small set of users individually but it is very difficult to do on a systemwide basis with a larger set of users.

Commissioner Saltzman said he hopes PDC will be able to give them a sense of the impact when this issue comes up next year.

Mayor Katz said Council is at a crossroads in terms of its own conflicting policies – cost-of-service recovery versus economic development strategies. When does the cost turn negative? The same issue was raised regarding planning and development fees and how far one could go in assessing the cost of services until the point was reached where no one was doing any development because of the high cost. She said this and the SDC discussion both deserve serious consideration at a Council informal.

Dave Gooley, BES, said the cost has to be recovered, either through user fees or through sewer rates. This creates some rate relief on the commercial side, lowering volume rates for 13,000 accounts while increasing fees paid by the affected industries. The Environmental Protection Agency believes these fees create a great incentive for both the regulator and customer to work out more specific ways to get costs down. BES believes that when this program is in place it will begin to see cost reductions because it will have better information about how to get the costs down.

Commissioner Hales noted that he had asked for cost comparison data. The PWTA information shows a dramatic contrast between fees in the region and what BES is proposing. He asked why other jurisdictions seem to be using a flat rate approach rather than a graduated approach.

Mr. Gooley said Portland has a considerably larger and more complex program than most other entities and the others may have elected to have a flat rate to simplify the administrative cost. The reason BES proposed a point system is because there are potentially different costs for different customers and those who demand more service would pay more under this approach. The number of points assigned would depend on such

factors as the number of sampling events, a company's enforcement history, the type of pollutant discharged, etc.

Commissioner Hales asked how, if he has a 130 point business, can he get down to 120 points and cut his fee in half?

Jerry Baumgarnter, Industrial Control Manager, said BES developed a matrix with about 11 criteria upon which to base the point system. Businesses can lower the fees by reducing or eliminating their discharges or by lowering water usage.

Commissioner Saltzman said the area where it will make the most difference in cost is reducing the wastewater flow system.

Commissioner Hales noted that people have testified that they have reduced flows and consumption and are treating water on site, yet feel like they are not getting recognized for their investment and, even worse, are now being penalized.

Mr. Gooley said if the activity in the program goes down, the cost will go down accordingly. Part of the bureau's strategic plan is to question regulatory requirements where costs seem to exceed benefits. It may turn out that BES will report to the DEQ that the cost of the industrial waste program is too high and there is not sufficient benefit. Right now there is less motivation to look at that because there are no pricing signals.

Commissioner Hales asked if businesses that have tried to do more on-site treatment are bumping up against the minimum federal requirements and feel it does not make any difference.

Mr. Gooley said there are some minimum federal standards but he does not know yet what the minimum costs are. They may find there is less room for a customer to move before he hits the minimum requirements but there are also some additional costs that might be pulled out of the program. They also believe the fee system will motivate businesses to get their costs down, even those at the minimum standards.

Commissioner Sten asked what the minimum charge is with 100 percent cost recovery.

Mr. Gooley said \$420 annually. The top charge is \$9,000.

Commissioner Hales asked Ms. Dotten if the graduated fee structure will encourage businesses to make improvements that will cause them to move down the scale.

Ms. Dotten said she does not think so. One user was very offended last week to hear an assertion that a user would be motivated only by cost and not by also trying to be environmentally responsible. This particular industry, which is a large user of water and the system, is price sensitive and most companies have already done the things they can to bring costs down. Discharge levels to the Columbia River Treatment Facility, for instance, are down 75 percent. They are now at the point where there is very little they can do to further reduce flows.

Commissioner Sten said of the four really big users, one of them, Wacker Siltronics, would not find \$3,000 a year onerous and has not yet done everything it could do, nor have all the other companies. He said he also does not understand the argument that there is a disincentive to use less water.

Ms. Dotten said many users have cut consumption and discharges considerably but as a result of the rate increases they are not seeing any reduction in costs despite their investments.

Commissioner Sten said they are also paying substantially less than they would have if they had not reduced their consumption. It is not fair to say they are not getting any savings from using less.

Commissioner Saltzman said he believes the industrial users are doing a lot of good things.

Ms. Dotten said calling this a subsidy is incorrect. The pool of money the "subsidy" is taken out of is money the industrial customers have paid into, in significant amounts. They have paid their fair share.

Commissioner Francesconi said he will support the recommendation for 33 percent cost recovery, rather than 100 percent, given the importance of this industry to the City. He also supported the amendment to make sure the fees are based on the actual cost. Before the rate goes into effect in January he would like to have more data about the effect of this fee but finds it hard to believe that it will drive companies away. While he realizes that government is subsidizing this, there is still a cost shift to smaller industrial/commercial users and two-thirds of the cost is being paid by them.

Commissioner Hales said BES is right to raise the issue about whether industrial permit holders should pay more of the cost of that program and he gives the Bureau credit for admitting that they do not understand all the costs. It is also true that no fee, once set, is likely to go any lower. He said he is reluctant to go along with the one-third allocation because it is a only guesstimate and may compromise the City's strategy for targeting certain industries. The only way he will agree to it is if it has a one-year sunset clause. He is also concerned that there may be more opportunities for customers to affect the cost than this schedule shows. He noted that the Office of Planning and Development Review decided to give hospitals the flexibility to pretty much regulate themselves and he would like to see if that is appropriate in this case. He is having a hard time justifying having the City "wing" this at the expense of the customers.

Commissioner Saltzman said the Bureau did a cost of service study to look at ways to offset General Fund revenues through fee recovery. He said they cannot quantify the cost down to every nickel and at this point the overall program administration cost for the industrial customers retrieval program is about \$600,000 per year. Next year Council will make a choice as it will have the cost of service data for all the accounts. Some will probably pay more and some will pay less. These rates always sunset as new rates are adopted every year when the rate ordinance is revised.

Commissioner Sten said if the City looks at this as part of a targeted industry strategy, then he needs to know what percentage of the targeted industries are not among the 180



companies which would pay this fee and will be getting a slightly lower rate because of this action. He said the bigger issue is that all the rates are going up and the Council will need to think through when cost recovery is appropriate. He said the 33 percent cost recovery seems fair to him.

Mayor Katz said she is comfortable with 33 percent but approaches it from the cost to the Bureau. She would like to see how BES might reduce its costs, aside from what is charged by the DEQ, and whether it might be possible to reduce the charges to some of these industries.

Regarding the Service Development Charges (SDCs), Commissioner Saltzman said he is recommending that they not be included in the BES budget this year in order to keep rate increases in single digits. He said they believe the impact of the waivers, estimated at between \$500,000 and \$750,000, will push the rates over 10 percent. However, he is not discounting them permanently. He noted that BES has reduced costs, eliminating 16 positions, just to keep the residential rate at 9.4 percent.

Commissioner Hales said Commissioner Saltzman is right to be sensitive to the rates but if one looks at program costs for Parks, Transportation, Water and BES, the question is whether the Bureaus' operating and capital plans are fully funded. The answer for BES and Water is yes, because they have a rate base while Parks and Transportation do not. He asked why the impoverished bureaus which are not properly funded should waive the fees while the bureaus that are fully funded do not.

Commissioner Saltzman agreed this is inconsistent. He noted a memo sent by the Office of Finance and Administration outlining different approaches and suggesting that Council may want to reconsider the whole SDC exemption for affordable housing.

Commissioner Francesconi said he does not think it is fair to ratepayers on fixed incomes to be charged for assisting developers to subsidize low-income housing they may not be able to afford to live in anyway. It is also fundamentally unfair when they are unable to achieve any savings under the present system by conserving water. He noted, however, that it is one thing to forego revenue, as the Parks Bureau does, and another thing to charge customers. Sewer ratepayers already pay a utility franchise fee that is used for other services. To now create a waiver is an additional unfairness. Council should consider dedicating some of the franchise fee that goes to the General Fund to SDCs.

Commissioner Sten said the vast majority of the money for waivers in BES and the Water Bureau will not come from low-income ratepayers. He said the problem with having a consistent policy is that Council is either inconsistent on its cost-of-service principles or on its SDC waiver policy. Property taxes are also waived on low-income housing. Since SDC waivers are also in place in the Water Bureau, BES is now the only place where the need to do that is not recognized. Overall, he believes all low-income people will benefit if the City gets the cost of low-income housing down across the board. He noted that low-income ratepayers pay 30 percent less for water and sewer than the rest of the City. He said the current service level for the Housing Investment Fund this year is \$9 million while the Council appropriation is \$2 million. He accepts that budget but does not think Council can make up that difference from the General Fund. If the waiver is not approved, he will ask for more money for the Housing Fund. If Council goes this way, someone needs to clarify

this policy and decide whether this is to be a one-year reprieve or an ongoing change. When Parks and Transportation passed these SDC waivers he volunteered to write a unified policy, which was adopted unanimously by Council. He was frustrated that OFA did not provide more analysis of this during the budget process as he is interested in looking at some of the options listed in the recent memo suggesting possible changes in the SDC fee structure.

Mayor Katz agreed with Commissioner Francesconi that this is not necessarily inconsistent. It means that some Transportation and Parks projects will not be funded. She still questions whether it is legal for the City to waive the fees for utilities and is concerned about granting subsidies using the rate structure. Her preference would be to use General Fund money. She said the budget was very tight this year and it was only when some on-time money became available that resources could be allotted to housing and the schools. She asked Commissioner Saltzman if BES could absorb the waiver cost for a year and his answer was no as the Bureau had already made other cuts. Right now, she does not support the SDC waivers but will look for opportunities to have the General Fund subsidize them. She has also asked for Commissioners Sten and Saltzman to give Council some idea about what rates will be, especially factoring in ESA and fish recovery. She does not want to see rates in double digits but thanked Commissioner Sten for working so hard to support a much lower rate structure for both Water and BES.

Commissioner Sten asked BES to see if there is any legal justification for charging a different SDC for modest types of housing, i.e. shelter housing.

Mayor Katz said she wants to see foregone revenue listed as a budget expenditure. She said the City is spending more money for housing because of these waivers but that does not show up on any side of the ledger and the City is not getting credit for the additional housing units.

Commissioner Sten said the policy is now more inconsistent as Water and BES are now split on the waiver issue and he would like someone to take responsibility for resolving that.

Mayor Katz said she would take on that responsibility.

**Disposition:** Passed to Second Reading as amended May 26, 1999 at 2:00 p.m.

- 707      Revise residential solid waste and recycling collection rates and charges effective July 1, 1999 (Second Reading Agenda 670; amend Code Chapter 17.102)

**Disposition:** Ordinance No. 173389. (Y-5)

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

**Discussion:** Commissioner Sten said he and Commissioner Saltzman are considering some major changes to the water and sewer rates structure. His two goals are to promote more efficiency in the use of water, which could result in considerable capital savings, and give individuals more control over their bills, enabling them to pay less if they use less. This could result in some major shifts in rates for different customer classes. This resolution

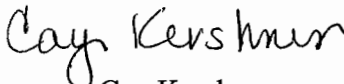
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lays out the time line and process for looking at these issues. He said the recommendations will made by October 15 to allow time for public comment before they are presented to Council.

**Disposition:** Resolution No. 35796. (Y-5)

At 3:35 p.m. Council adjourned.

GARY BLACKMER  
Auditor of the City of Portland

By   
Cay Kershner  
Clerk of the Council