



CITY OF
PORTLAND, OREGON

**OFFICIAL
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 1ST DAY OF SEPTEMBER, 1999 AT 9:30 A.M.

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

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

Agenda Nos. 1268 and 1269 were pulled from Consent. On a Y-4 roll call, the balance of the Consent Agenda was adopted as follows:

CONSENT AGENDA - NO DISCUSSION

- 1225** Accept bid of NW General, Inc. to furnish Columbia Boulevard Wastewater Treatment Plant outfall water line for \$59,940 (Purchasing Report - Bid 121)

Disposition: Accepted; prepare contract.

- 1226** Accept bid of Moore Excavation, Inc. to furnish NE 162nd Avenue pollution reduction facility for \$538,857 (Purchasing Report - Bid 99164)

Disposition: Accepted; prepare contract.

- 1227** Accept bid of Triad Mechanical, Inc. to furnish Columbia Slough consolidation conduit segment 6, I-5 ventilation facility for \$571,032 (Purchasing Report - Bid 99178)

Disposition: Accepted; prepare contract.

- 1228** Reject bids of Western Waterproofing Co., Inc. and Synder Roofing of Oregon, Inc. to furnish The Portland Building 2nd and 3rd floor loggia re-roofing (Purchasing Report - Bid 99252)

Disposition: Accepted

- 1229** Accept bid of Kasey Cooper Excavating, Inc. to furnish Washington Park drainage system improvements for \$49,871 (Purchasing Report - Bid 99260-SMP)

Disposition: Accepted; prepare contract.

- 1230** Reject bids of Pacific Mobile Structures, Inc. and Interwest Construction, Inc. to furnish temporary emergency operations facility (Purchasing Report - Bid 99270)

Disposition: Accepted.

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1231 Accept bid of Pro Landscape, Inc. to furnish Johnson Creek park improvements for \$117,820 (Purchasing Report - Bid 99320-SMP)

Disposition: Accepted; prepare contract.

Mayor Vera Katz

*1232 Extend legal services agreement with Reeve Kearns PC (Ordinance; amend Agreement No. 31950)

Disposition: Ordinance No. 173684. (Y-4)

1233 Amend City Code to allow for days and hours of work for seasonal or temporary/part-time employees of Portland Parks and Recreation (Ordinance; amend City Code 4.12.010 and 4.12.030)

Disposition: Passed to Second Reading September 8, 1998 at 2:00 p.m.

*1234 Authorize contractual agreement with Managed Healthcare Northwest to provide discounted medical provider services to participants of the City of Portland's self-insured health plans and participants of the Fire and Police Disability and Retirement Fund for 1999-2004 (Ordinance)

Disposition: Ordinance No. 173685. (Y-4)

Commissioner Jim Francesconi

1235 Accept contract with Columbia Cascade Construction, Inc. for Berkeley Park improvements as substantially complete, authorize final payment and release retainage (Report; Contract No. 31920)

Disposition: Accepted.

1236 Accept contract with Andersen Pacific Contractors, Inc. for Cathedral Park improvements as substantially complete, authorize final payment and release retainage (Report; Contract No. 32093)

Disposition: Accepted.

*1237 Accept contract with Platinum Construction for remodel of The Portland Building 12th floor for the Bureau of General Services project as complete, authorize final payment and release retainage (Report; Contract No. 32163)

Disposition: Accepted.

1238 Accept contract with PHI Construction, Inc. for storage facility at Eastmoreland Golf Course as complete, authorize final payment and release retainage (Report; Contract No. 32253)

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Disposition: Accepted.

- 1239** Accept contract with J.P. Contractors, Inc. for Marquam Nature Park improvements as substantially complete, authorize final payment and release retainage (Report; Contract No. 32267)

Disposition: Accepted.

- *1240** Contract with Alder Creek Lumber Company, Inc. for fire prevention and suppression services for FY 1999-2000 (Ordinance)

Disposition: Ordinance No. 173686. (Y-4)

- *1241** Contract with David F. Weich, Sr. for fire prevention and suppression services for FY 1999-2000 (Ordinance)

Disposition: Ordinance No. 173687. (Y-4)

- *1242** Amend agreement with Union Pacific Railroad Company to renew an agreement to maintain a cable along the Steel Bridge (Ordinance; amend Agreement No. 9618)

Disposition: Ordinance No. 173688. (Y-4)

- *1243** Contract with the lowest responsible bidder to install structured cabling on the 7th, 8th, 9th, 10th and 11th floors of The Portland Building and provide for payment (Ordinance)

Disposition: Ordinance No. 173689. (Y-4)

- *1244** Authorize a contract with Oregon Pacific Railroad Co. and provide for payment to construct a portion of the Springwater Corridor project in the estimated amount of \$56,650 without advertising for bids (Ordinance)

Disposition: Ordinance No. 173690. (Y-4)

Commissioner Charlie Hales

- *1245** Agreement with the Oregon Department of Transportation for implementing traffic safety improvements on MLK/Grand/McLoughlin from NE Columbia Blvd. to SE Harold Street (Ordinance)

Disposition: Ordinance No. 173691. (Y-4)

- *1246** Amend agreement with David Evans and Associates to extend the contract date to March 1, 2000, revise the scope of work and provide up to \$50,000 for the Goose Hollow and Civic Stadium transportation analysis (Ordinance; amend Contract No. 32313)

Disposition: Ordinance No. 173692. (Y-4)

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- *1247 Revocable permit to PSU Foundation/Kingston Saloon to close SW Morrison between 20th Place and 20th Avenue and SW 20th Place between Yamhill and Morrison on September 11, 16, October 2, 16 and November 6, 1999 (Ordinance)

Disposition: Ordinance No. 173693. (Y-4)

- *1248 Revocable permit to Art in the Pearl to close NW 8th between Glisan and Flanders; Park between Glisan and Davis; Davis, Everett and Flanders between 8th and 9th; on September 3 through 6, 1999 (Ordinance; waive Code Section 14.24.030)

Disposition: Ordinance No. 173694. (Y-4)

- *1249 Authorize Mayor to sign application for loan from the Oregon Transportation Infrastructure Bank to construct landslide repair project (Ordinance)

Disposition: Ordinance No. 173695. (Y-4)

Commissioner Dan Saltzman

- *1250 Authorize Purchasing Agent to acquire software and hardware to upgrade the current computerized sewer collection Maintenance Management System in an amount not to exceed \$375,000 (Ordinance)

Disposition: Ordinance No. 173696. (Y-4)

- 1251 Amend wholesale sewer service agreement with Clackamas County Service District #1 to include additional service areas annexed into the District (Ordinance; amend Contract No. 26663)

Disposition: Passed to Second Reading September 8, 1999 at 2:00 p.m.

- *1252 Accept agreement between the City of Portland and the City of Gresham for environmental services to provide in-stream monitoring services in the Columbia Slough over a period of five years and receive total payment of \$48,957 from the City of Gresham (Ordinance)

Disposition: Ordinance No. 173697. (Y-4)

Commissioner Erik Sten

- *1253 Agreement with Open Meadow Learning Center for \$106,157 for the Corps Restoring the Urban Environment program and provide for payment (Ordinance)

Disposition: Ordinance No. 173698. (Y-4)

- *1254 Contract with Fair Housing Council of Oregon for \$21,816 for Fair Housing Enforcement and Fair Housing Testing Services and provide for payment (Ordinance)

Disposition: Ordinance No. 173699. (Y-4)

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- *1255 Contract with Central City Concern for \$299,752 for the CHIERS outreach program and provide for payment (Ordinance)

Disposition: Ordinance No. 173700. (Y-4)
- *1256 Contract with Transition Projects, Inc. for \$1,396,091 for the TPI shelter and homeless services and provide for payment (Ordinance)

Disposition: Ordinance No. 173701. (Y-4)
- *1257 Contract with Central City Concern for \$470,680 to provide homeless services, including alcohol and drug services, employment services and homeless facility maintenance and provide for payment (Ordinance)

Disposition: Ordinance No. 173702. (Y-4)
- *1258 Contract with Portland Housing Center for \$146,933 for the Portland Housing Center homebuyer and renter housing services and provide for payment (Ordinance)

Disposition: Ordinance No. 173703. (Y-4)
- *1259 Contract with JOIN for \$52,193 for the JOIN outreach to homeless campers and provide for payment (Ordinance)

Disposition: Ordinance No. 173704. (Y-4)
- *1260 Contract with worksystems, inc. for \$753,254 for the Comprehensive Youth Employment Program and provide for payment (Ordinance)

Disposition: Ordinance No. 173705. (Y-4)
- *1261 Contract with Housing Development Center for \$47,043 for the contractor support program and provide for payment (Ordinance)

Disposition: Ordinance No. 173706. (Y-4)
- *1262 Contract with REACH Community Development for \$140,374 to undertake neighborhood revitalization activities along SE Milwaukie Avenue and provide for payment (Ordinance)

Disposition: Ordinance No. 173707. (Y-4)
- *1263 Contract with Northwest Pilot project for \$209,955 for the Northwest Pilot Project housing assistance for seniors and provide for payment (Ordinance)

Disposition: Ordinance No. 173708. (Y-4)
- *1264 Contract with the Oregon Office of Energy for \$40,000 to implement portions of the Rebuild America Program (Ordinance)

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Disposition: Ordinance No. 173709. (Y-4)

- *1265 Authorize the Mayor to submit a \$50,000 proposal to the International Council for Local Environmental Initiatives to promote the US EPA voluntary Climate Wise program to local industries (Ordinance)

Disposition: Ordinance No. 173710. (Y-4)

- *1266 Amend contract with Cornforth Consultants, Inc. for professional services under Phases II and III of Dam No. 2 seepage control project (Ordinance; amend Contract No. 32058)

Disposition: Ordinance No. 173711. (Y-4)

- *1267 Amend contract with Trudy Cooper and Associates to continue professional services support through FY 1999-2001 for group development, strategic planning and competitiveness improvement work with the Water Bureau's Management Team, mid-managers, labor leadership and employees (Ordinance; amend Contract No. 30560)

Disposition: Ordinance No. 173712. (Y-4)

REGULAR AGENDA

City Auditor Gary Blackmer

- S - *1268 Grant a temporary, revocable permit to Level 3 Communications LLC and establish terms and conditions (Ordinance)

Discussion: Commissioner Sten moved the Substitute ordinance which corrects a technical mistake. Commissioner Saltzman seconded and, hearing no objections, the Mayor so ordered.

Disposition: Substitute Ordinance No. 173713 (Y-4)

- *1269 Assess system development charge contracts and Private Plumbing Loan Program contracts (Ordinance; Z0711, Z0712, K0010, K0011, T0028, P0045)

Discussion: Cay Kershner, Council Clerk, said there was a technical error in one of the numbers. Commissioner Hales moved to amend the ordinance, Commissioner Saltzman seconded and, hearing no objections, the Mayor so ordered.

Disposition: Ordinance No. 173714 as amended. (Y-4)

- 1221 **TIME CERTAIN: 9:30 AM** - Accept the Sustainable Portland Commission's Green Building Options Study and direct the City of Portland Energy Office to coordinate the development of an inter-bureau two-year Green Building Action Plan based on the Study's recommendation (Resolution introduced by Commissioner Saltzman)

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Discussion: Commissioner Saltzman said it is nice to see green buildings begin to get serious attention. He defined green buildings as structures and their surrounding landscapes designed, constructed and operated to minimize short and long-term negative impacts on the environment. They incorporate energy efficiency, water conservation, waste minimization, pollution prevention, resource-efficient materials and improved indoor air quality. He said in the future buildings should be much more connected to the environment and reflect that in their operations. This study is a framework for action, giving the Energy Office 90 days to come back with some focused sustainable policies. This will also help the City promote the environmental and renewal energy industries and develop local expertise that can be marketed worldwide. He also hopes to return in 90 days with a green building incentive program, eliminating some of the financial disincentives that prevent making significant green investments up front, especially if the owners do not enjoy operational savings.

Susan Anderson, Director, Portland Energy Office, said the study looked at how to make green buildings the standard for the City. More than 165 people attended at least one of the six work sessions the Energy Office conducted to develop meaningful strategies. Originally 60 options were considered and these were then honed down to six general ones. She said the team will be asked to come up with a specific work plan to put these into action. Cost effectiveness will be a key factor but education and technical help can also go a long way in effecting market transformation.

Ed McNamera, Buckman Heights developer, said lack of information is often a barrier to moving forward with new techniques as developers are not big risk takers. He noted that while tenants get the benefits of energy efficiency, builders get no payback for investing additional capital. He said both financial challenges and regulatory barriers stand in the way of promoting more green buildings. A rigid fee structure works against creativity and City Codes have not always kept up with changes in technology. This results in a fragmented approval process as plan inspectors are unable to look at systems as a whole. Mr. McNamera showed slides of the Buckman Heights mixed-use development and described some of the regulatory conflicts between bureaus that had arisen regarding the installation of water lines, the stormwater system and the air quality system. He said they had a very hard time getting the stormwater system approved because the outcome could not be proven. They also had to pay extra to provide kitchen ventilation even though they had provided continuous ventilation throughout. Mr. McNamera added that even though they diverted the water from two paved areas into the ground, they had to pay an \$1,800 Service Development Charge for stormwater runoff. He said developers face real financial disincentives for going through the kind of "brain damage" they suffered here in order to be energy efficient. He added that there is also a lack of certainty about whether some materials will work.

Dennis Wilde, Gerding Edhlen Development, said the development community knows this is the right thing to do in a world of finite resources. He said right now everyone is a novice about what the best practices are and is learning daily what it takes to achieve sustainability. He said green building tools should be flexible and urged the City to take three actions now: 1) adopt the vision statement; 2) enact supportive Codes and; 3) provide incentives such as reduced development charges and faster approvals.

Abe Farcas, Portland Development Commission (PDC), said it is critical to create the best possible inducements to "build green" through such measures as a faster approval process and tax incentives. The City also needs to show through its own actions that green buildings are feasible and conduct significant outreach to the development and construction industry.

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He said PDC is committed to the promotion of green buildings and hopes to see many projects come on line.

Rosemary Cordello, Executive Director, Sustainable Communities Northwest, said her organization worked with Rose Development on the Johnson Creek Common project. The group's aim was to build environmentally sound housing for low-income people. She said the City can play a unique role in providing affordable housing by helping remove barriers from the creation of sustainable housing. A large percentage of affordable housing is done by non-profits which are prepared to move forward with sustainability but need more education about how to do it. She added that green design is not necessarily more expensive.

John Echlin, Sienna Architects and a member of both the Sustainable Portland Commission and Oregon Natural Step, said the time is ripe for the City to provide leadership in this area as the building industry is in the process of transforming itself and adopting more sustainable practices.

David Kish, Director, Bureau of General Services, explained how his bureau incorporates green building approaches. He noted that recycling and waste management are required on all building sites and there are specific provisions for drainage, landscaping, energy efficient windows and doors as well as water efficiency measures. He said the Bureau is now evaluating what sustainable practices can be incorporated into fire station renovations. He said green building practices provide tremendous opportunities for operational and maintenance savings.

David Eisenberg, Development Center for Appropriate Technology in Tucson, Arizona, said enormous changes are needed in city codes to eliminate current barriers to sustainable development. He said there is a clear lack of leadership on the national level and Portland can help by sending a powerful message to the building industry that it needs to change its practices. He said it will be central, however, to get the necessary information out so everyone can learn how to make those changes.

Scott Detloff, Regional Practice Leader for Sustainable Development, CH2M Hill, shared information that has been compiled on sustainable building practices to date, including building cost per square foot, increased worker productivity, savings in water systems, waste management construction and demolition.

Commissioner Hales said if the City wants to implement this framework into day-to-day practices, it has a lot of work to do to mesh the codes of different bureaus. He said staff should concentrate first on trying to get rid of the conflicts among different bureaus before creating a fast track building permit process. He said the hope is that Blueprint 2000 will improve that track for everyone.

Commissioner Saltzman said the Energy Office will return in December with an action plan to address the specific recommendations contained in the study. While he agrees with Commissioner Hales about the need to mesh the Codes, he still believes that some financial incentives would be helpful. There is also a need for more "in house" education, so staff has the ability to make decisions about the efficacy of green building proposals.

Commissioner Sten said "green building" is the wave of future so the idea of revamping the affordable housing policies is something he has had in mind for some time. He is also looking at whether the sustainable building industry can be a targeted industry as he thinks it would be financially beneficial to the City if it could get out ahead of other cities on this new industry. He said the City is currently looking at proposed changes to its water and sewer rates because they are not designed to promote conservation. Such change is complicated and the City needs to step back and try to integrate the many environmental initiatives going on now.

Mayor Katz said every Council member has an interest in promoting this and is committed to providing collaborative leadership. She is excited about the marriage of environmental design and the use of new materials. She would like to see the City move forward on the Code changes but cautioned that this will become a budget issue as staff is limited in what it can do and this will require a lot of hard work and community outreach.

Disposition: Resolution No. 35817. (Y-4)

- 1222 TIME CERTAIN: 10:30 AM** – Accept progress report on status of the Central City Streetcar Phase I project (Report introduced by Commissioner Hales)

Discussion: Commissioner Hales said the streetcar construction team and contractor not only made good on their promise to finish work on schedule, but exceeded it. He said they have been receiving very positive feedback from those affected by the streetcar construction.

Vicky Diede, Portland Office of Transportation (PDOT), said today the team and contractor are here to give a progress report and request an amendment to the alignment in the Portland State area plus an amendment in the contract with Stacey and Witbeck to allow them to begin work on the maintenance facility.

Carter McNichol, 115 NW First Ave., Shiels Obeltz Johnson, said the project has gone extremely well on the construction side and no changes have been needed on the cost side. He said the project was designed to be low impact and quick and this has worked extremely well. Over 25 percent of the track has now been installed and in the next few months work will begin on the Burnside crossing and downtown. The remaining big challenge will come next spring when streetcar track is installed at the Max crossing. One reason things have gone so well is because their community relations efforts have been extremely effective. There have been some technical difficulties getting the performance bond and insurance from the Czech company providing the streetcars but those have now been worked out and the project is expected to be completed on schedule.

Commissioner Hales said one reason this is such a positive report is that the board has really been committed to staying within budget.

Mayor Katz said she was amazed at the speed of construction along NW 23rd.

Disposition: Accepted.

- 1223** Approve a change in the Central City Streetcar alignment at the south terminus at Portland State University (Resolution introduced by Commissioner Hales)

Discussion: Roger Shiels, 115 NW First Avenue, Shiels Obeltz Johnson, explained the south terminus revision. He said the previous design required the use of Portland Statue University property and the streetcar team was unable to reach agreement with them for numerous reasons and has redesigned the terminus to be in public rights-of-way, which is far more comfortable for both parties.

Disposition: Resolution No. 35818. (Y-4)

- *1224 Amend contract with Stacy and Witbeck, Inc. to carry out construction of the maintenance facility for the Central City Streetcar Phase I project (Ordinance introduced by Commissioner Hales; amend Contract No. 31987)

Discussion: Mr. McNichol said this amendment will allow Stacey Witbeck to construct a maintenance facility and rail storage yard. The proposal is well within the budget.

Disposition: Ordinance No. 173715. (Y-4)

Mayor Vera Katz

- 1270 Recommend that the Portland Development Commission prepare an Interstate Corridor Urban Renewal feasibility analysis (Resolution)

Discussion: John Southgate, Portland Development Commission (PDC), said there is general support for forming an Urban Renewal District for the Interstate Corridor although everyone recognizes that many major issues need to be addressed. The analysis will include projections for what can be accomplished by both a smaller and larger district. The current boundaries are temporary and unofficial at this time. After public outreach and tax increment financing, the third focus will be on site acquisition. He described the public participation strategy which will include community forums, a stakeholder congress and the appointment of a core committee. He said this effort will be a real challenge as it will involve between 30 and 40 groups but PDC hopes to return to Council in 2000 with a proposed district.

Mayor Katz said PDC will have to overcome some of the history and legitimate fears that were raised following formation of the North/Northeast urban renewal district.

Mr. Southgate said PDC realizes that and does not intend to impose this on the African-American community without its involvement.

Mayor Katz said Council needs to get a better idea about how much revenue might be generated from a broadened district before it makes any decisions about Capital Improvement Projects or transportation programs.

David Eatwell, 2601 N. Willis, 97217, said the neighborhood is confident the feasibility study will show that this district can stand on its own merits even if light rail does not come to North Portland. He said the area has a concentration of mixed uses that makes for good activity and also has a population in need of quality jobs in an area where school performance is low. He said he sees this as an opportunity to heal the wound left by construction of the Minnesota freeway and as a way to meet Albina Community Plan and Metro 2040 goals. It will be important, however, to maintain the historic character of the

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district and ensure that local residents have a voice in the project. He said to date he has been very impressed with PDC staff efforts.

Commissioner Hales said many bad feelings resulted from the insensitive treatment of the neighborhood as a result of the freeway construction and Emmanuel Hospital expansion and he is glad to see that some progress has been made in overcoming those. He commended PDC staff for its attempt to make Interstate a great street again.

Commissioner Sten said this is one of the things the City is doing that he is most excited about. He said it is very important to build light rail and, just for reasons of equity, extend it to this area. He said while property in the area has appreciated very rapidly many of those living here have not shared in any of the benefits.

Disposition: Resolution No. 35819. (Y-4)

- 1271** Amend City Code to regulate personal escort/modeling businesses (Ordinance; amend Chapter 14.44)

Disposition: Continued to September 23, 1999 at 2:00 p.m.

- 1272** Add City Code Section to regulate truancy in Title 14 of the Portland City Code (Ordinance; add Section 14.28.030)

Discussion: Mayor Katz said in its attempt to deal with the truancy issue, the Police found that a lot of truants do not go to school at all and are homeless. It also has become evident to the School district that it loses State money when kids drop out. She said it is very clear from a review of court decisions that the City has the ability to make some restrictions regarding curfews, etc. What is before Council today is a Code section that states that kids of certain ages cannot be in certain areas during school hours.

Lynnae Berg, Acting Police Chief, said the City has a compelling interest in addressing the truancy issue and this measure will have an impact on both crime and crime victimization rates. She emphasized that this not a criminal sanction, merely a status offense. The Police will partner closely with New Avenues for Youth to see that youth have a place to go and will also work closely with schools and police precincts to see that the training is complete.

Police Officer Tom Peavy reviewed the provisions of the ordinance as well as the results of a survey of other cities to see the effect of truancy ordinances on crime rate reduction. He said they found striking decreases in daytime crime rates.

Police Officer Derrick Foxworth, said young people without an education are unable to hold a job or make a positive contribution to society. They are also more liable to turn to crime, use drugs and join gangs and are destined to live with the consequences of not attending school. He explained that, under this ordinance, officers who come into contact with young people who are not in school will now be able to take them into custody and either return them to their schools or deliver them to a facility where they can be assessed. This procedure is intended to help, not punish, kids.

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Larry Finley, Precinct Commander, said the Police see this as a tool to enhance the City, not just a way to take a young person off the street but a way to help getting him plugged into services.

George Weatherbee, Police, said this will allow the Police to help youth Citywide, not just those in drug zones and help reduce their chances of being victimized.

Tom Potter, Executive Director, New Avenues for Youth, said ninety percent of homeless youth have not completed high school and therefore are at a disadvantage when they decide to leave the streets. He explained what happens after young people are brought to the New Avenues. He said first a criminal check is done and then, if no warrants are out, the counselors go through an intake list to see what issues need to be addressed. Counselors can bring parents in if there are problems in the family or find out if alcohol and drug problems are involved. Then the young people are either picked up by a parent or returned to school. This program is seen as an intervention method to prevent kids from becoming homeless.

Acting Chief Berg said children who are just skipping school will be taken back to school and the school can deal with them at that point.

Edward Mayer, Downtown Secure and Safe Plan, said his organization sees this as a valuable tool for early intervention, rather than waiting until major crimes are committed. He said Downtown Secure and Safe Officers have no authority to pick up anyone they suspect of truancy but may call the Police if they identify someone they believe should be in school.

Police Lieutenant, Dave Austin said the Police have been frustrated by their inability to deal with this issue because of the lack of any truancy law.

Sharon McCormack, Neighborhood Crime Prevention Specialist, said a lot of neighbors call about kids acting out at an early age and are frustrated by the City's inability to do any intervention. She pledged to educate neighbors about this tool and how it will be used.

Katherine Anderson, Crime Prevention Specialist, said she has worked on this issue for seven years and been frustrated about the lack of a clear and comprehensive regulation. She said this is not meant to be punitive but to serve the best interests of youth who are vulnerable and often have real problems at home. This is a tool that ties everything together.

Mayor Katz thanked Multnomah County for its assistance in putting together the reception center. She emphasized that emancipated, home schooled and certain other categories of young people will not be covered.

Disposition: Passed to Second Reading September 8 at 2:00 p.m.

Commissioner Jim Francesconi

- *1273** Contract with Northeast Fire Apparatus, Inc. for purchase of an aerial truck for Portland Fire and Rescue for \$70,000 and provide for payment (Ordinance)

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Discussion: Tom Fealy, Portland Fire and Rescue, said this used aerial truck replaces one of the trucks damaged during the Pearl District fire. The Bureau will absorb the cost within this year's budget

Ed Wilson, Fire Bureau Operations Chief, said this apparatus is crucial to a fully-functioning Bureau.

Disposition: Ordinance No. 173716. (Y-4)

Commissioner Dan Saltzman

- *1274 Authorize a contract with FEMA in the amount of \$15,000 for Johnson Creek Summit 99 event (Ordinance)

Disposition: Ordinance No. 173717. (Y-4)

Commissioner Erik Sten

- *1275 Authorize an intergovernmental agreement with the Multnomah County, Division of Community Programs and Partnerships, for \$137,000 to provide services for the Block-By-Block Weatherization Program (Ordinance)

Discussion: Dave Tooze, Energy Office, said this longstanding program is supported by federal funds. He said the agreement includes a job training piece and will give people who have been on welfare usable job skills after six to eight months training.

Disposition: Ordinance No. 173718. (Y-4)

- *1276 Accept a \$75,000 grant from the Urban Consortium Energy Task Force to develop community-based energy efficiency programs to respond to public goods funds solicitations (Ordinance)

Discussion: Susan Anderson, Energy Office, said this will help the City develop a plan to get its portion of some \$25,000,000 in funding that will become available.

Disposition: Ordinance No. 173719. (Y-4)

- *1277 Accept a \$7,000 grant from the Consortium for Energy Efficiency to develop training presentation materials for a workshop titled "How to Buy Green and Energy Efficient Equipment" (Ordinance)

Discussion: Mr. Tooze said the Energy Office recognizes that while there are a lot of opportunities to buy "green" and energy efficient products, the City has not always taken advantage of them. This will help spread the word to more City employees about how to go about doing so.

Disposition: Ordinance No. 173720. (Y-4)

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- *1278 Accept a \$24,000 intergovernmental agreement with the Oregon Office of Energy to provide them with marketing and consultation services for the State Home Oil Weatherization program (Ordinance)

Discussion: Mr. Tooze said this is one piece of a larger program offered to landlords to help them weatherize their properties. Over the last 12 years, 19,000 apartments have been weatherized, representing an investment of about \$19 million.

Disposition: Ordinance No. 173721. (Y-4)

City Auditor Gary Blackmer

- 1279 Assess benefited properties for the cost of constructing street and storm sewer improvements in the Brentwood/Darlington #2 Local Improvement District (Second Reading Agenda 1217; C-9951)

Disposition: Ordinance No. 173722 as amended. (Y-4)

- 1280 Create a local improvement district to construct speed bumps in the NE 14th Avenue/Fremont Local Improvement District (Second Reading Agenda 1218; C-9967)

Discussion: Mayor Katz asked for a motion to hear the item filed on the Four-Fifths Agenda. Commissioner Hales so moved; Commissioner Sten seconded and, hearing no objections, the Mayor so ordered.

Disposition: Ordinance No. 173723. (Y-4)

FOUR-FIFTHS AGENDA

- *1280-1 Apply for a \$1,989,534 grant from U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance (Hearing; Ordinance)

Discussion: Lynnae Berg, Acting Police Chief, said this block grant is critical for the maintenance of many of the Bureau's programs, including crime mapping on the Internet, the firearms tracing program and staff support for the Internal Investigations Division. The grant also allows the Police to support other partner programs, such as the neighborhood district attorney program, the Northeast gang outreach program and the school police. It will also allow them to do an interface with the mobile interface computers they will purchase this fall.

Mayor Katz said this is a program where the County, the City, the District Attorney's office, schools, courts and service providers all get together to work out agreements about how to spend "City" money.

Rita Drake, Fiscal Services Manager, Police Bureau, said the City's portion of the match, \$172,000, will come from alarm fees.

Disposition: Ordinance No. 173724. (Y-4)

At 11:16 a.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 1ST DAY OF SEPTEMBER, 1999 AT 2:00 P.M.

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

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

1284 Adopt the Sunnyside Neighborhood Plan (Second Reading Agenda 1219)

Disposition: Ordinance No. 173725. (Y-4)

1285 Adopt the implementation Action Charts of the Sunnyside Neighborhood Plan (Previous Agenda 1220)

Disposition: Resolution No. 35820. (Y-4)

1281 Appeal of Eliot Neighborhood Association against Hearings Officer's decision to approve the application of Port City Development Center for a Conditional Use and Design Review for a community service facility and housing located at 2110-2124 N. Williams (Hearing; LUR 99-00322) **Withdrawn**

Disposition: Withdrawn.

Communications

1282 Request of Lee Perlman to address Council concerning the piecemeal displacement of permanent homes by social service facilities and transitional housing in the Eliot Neighborhood (Communication)

Discussion: Lee Perlman, 512 NE Brazee, 97212, said the Eliot Neighborhood Association decided to negotiate a good neighbor agreement rather than appealing the land-use application for the community service facility noted in the prior Agenda Number. However, the larger issue, the lot-by-lot takeover of the neighborhood by social service institutions, still needs to be addressed. Because this neighborhood had already lost a great deal of its residential housing, when the City adopted the Albina Community Plan, it thought it sufficiently important to prohibit rezoning any more residential land to commercial or industrial use. Unfortunately, that did not include institutional uses and the result has been a further loss of residential housing. This issue will not go away by itself even though the facility siting committee put this on the back burner. Mr. Perlman, in response to a request from the Mayor, gave specific instances where residential uses had been lost. He added that, even though the institutions have been good neighbors, all of them cannot be accommodated by just a few neighborhoods. He suggested that the City consider the way residential care worked in the 1970s when density criteria were used even though the fair housing act has made this more difficult.

Commissioner Saltzman said the saturation issue is a very difficult one to solve other than giving incentives to providers to locate elsewhere.

Mayor Katz noted that this is an issue that keeps coming up again and again.

Disposition: Placed on File.

Mayor Vera Katz

- *1283 Waive Title 33, Planning and Zoning, to allow expansion and continued use of the Powell Valley Road Water District operations center (Ordinance)

Discussion: Susan Hartnett, Office of Planning and Development Review, said this requests a waiver to allow the Powell Valley Road Water District to expand its operational facilities.

David Johns, Water Bureau, said this Water District provides service to a significant portion of Southeast Portland. The entire service area, which was annexed in the mid-1990s, now lies within the City of Portland with the exception of its office. Powell Valley provides water service pursuant to an intergovernmental agreement that will expire in 2005 and, if not extended, all the assets in the annexed areas would come to the City. Between now and 2005, however, significant growth is expected in the area and Powell Valley seeks to expand its facilities to meet that demand. He said the Water Bureau believes that when service responsibilities pass to the City at a later date, it will be able to make use of these service and storage facilities.

Ms. Harnett described the district's current operational headquarters on Lots 1 and 2 and the proposed expansion onto Lot 3. The surrounding zoning is primarily commercial along Powell and 122nd although the area to the south and east is primarily residential. She said one lot is within Multnomah County where this use is considered a conditional use. The portion of the facility within the City, Lot 2, is a legal non-conforming use within the City but at issue is the fact that non-conforming uses cannot expand beyond the property lines they occupied as of January 1, 1991. Expansion onto Lot 3 is prohibited under the zoning code in the R2 zone. To allow the expansion, a City Code waiver is needed. She showed slides to indicate the proposed site plan and new facilities, including vehicle storage. One of the things the ordinance requires is for the Water District to partition the land so that the south end can continue in residential use. It also requires dedication of a street right-of-way. She said this ordinance waives Title 33 provisions that apply to the R2 zone to allow a limited amount of office and warehouse and freight movement uses. It also provides for accessory parking and applies provisions of the CG zone development standards. It calls for a minor partition of Lots 2 and 3 to create a new lot to the south, including whatever dedication of right-of-way the Office of Transportation and the Bureau of Environmental Services requires. She noted that various sunset provisions are included that are tied to the development itself, requiring completion by a certain date, and to the intergovernmental agreement.

Commissioner Hales asked what staff was trying to accomplish with the transportation dedication. Is the assumption that SE Rhone will never go through to 122nd and that is why a cul-de-sac is indicated?

Ms. Hartnett said yes. She said the existing dedication of the southwest quadrant for the cul-de-sac was accepted by Multnomah County prior to annexation. The shopping center

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building is immediately behind and occupies what could have been a street. The Office of Transportation is satisfied with dedication of a cul-de-sac at that location.

John Huffman, President, Powell Valley Road Water District, said this should be beneficial for both the District and the City as the expanded office space will also be available for community group meetings. It will open up land-locked lots for housing development and, when the City assumes ownership in 2005, it will receive a valuable asset.

Disposition: Ordinance No. 173726. (Y-4)

At 2:35 p.m., Council recessed.

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

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

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

1286 TIME CERTAIN: 2:00 PM – Amend City Code to add drug-free zones, reauthorize and expand current zones and add procedural protections and variances (Ordinance; amend Title 14.100)

Discussion: Mayor Katz said this is a tool that will help but not solve all drug problems. She said when neighbors view drug dealing day in and day out, they are frightened, intimidated and feel a loss of control over their own lives. She said what is being proposed today is an expansion of the current zones and creation of a new zone. The geographic zones have to be carefully defined, and it has to be clearly shown that there is a lot of drug activity in that area, or they are likely to be overturned by the courts on constitutional grounds. In some cases, citizens have requested establishment of a zone in areas where the numbers are not high enough to justify it. She said if there is probable cause for arrest, individuals are excluded from all drug free zones for 90 days and, if convicted, they are excluded for one year. Violators are arrested for trespassing. She said there are many safeguards, including the variance and appeals process and this ordinance proposes an expansion in some of the variances. She said the Police held many meetings with the community about this and that agreement is not unanimous.

Lynnae Berg, Acting Police Chief, explained the circumstances under which citizens may be excluded from the drug-free zones and the recourse they have to seek variances and due process. She said the drug-free zones are an effective and proven tool for reducing drug activity and improving livability.

Derrick Foxworth, Commander, Northeast Precinct, said the Police, many civic groups and residents support the establishment of drug-free zones. He noted that the first drug-free zones were created in 1992 in Old Town/Lower Burnside and Washington Park, areas saturated with street-level drug dealing. Often the Police found that those arrested for drug dealing were right back on the streets selling drugs again because of jail overcrowding. Establishing the drug-free zone there changed that and the zones have shown themselves to be effective in other areas that attract a greater concentration of drug dealing and a greater level of violence. In 1997, the Alberta/Beech Street drug-free zone was created and since then the Bureau has seen an improvement in the quality of life for residents there. Recently the Bureau began reviewing the feasibility of expanding the zone in certain areas of North/Northeast Portland in response to citizen concerns. Staff first determined there was a constitutional basis for expanding the zone and then met with the every affected neighborhood association and many other community organizations to determine whether there was support for the extension. With the exception of two neighborhood associations, Concordia and Irvington, every neighborhood association supports the new proposal.

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Commander Foxworth said some of the questions raised during this process include whether the expansion will dissipate enforcement efforts and how it might affect the deployment of officers and race relations. He noted that no one will be excluded unless there is probable cause to believe an excludable offense has occurred. Officers are deployed based on 9-1-1 calls and patrol districts are staffed based on those calls as well. Regarding race relations, extensive input from the community was sought on this issue and most groups and citizens believe the expanded zones will not negatively affect race or community relations with Police. He said if the Police did not have community support, they would not be here today. As to the demographics of those excluded, an analysis of the statistics indicates that more white persons have been excluded than those of color. To say that law enforcement practices are solely to blame when more persons of color or more men are excluded ignores many other socio-economic factors which must be considered. Commander Foxworth said the answer is no to the question of whether race correlates with certain drugs of choice and geographic areas. The size of the drug-free zones is determined by the number of arrests in those areas, not race or the type of drug being bought or sold. A final question is what is being done to address the fact that drug-free zones may be producing a disparate impact on minorities. He said the issue of overrepresentation of minorities in the criminal justice system is a problem everyone acknowledges but there is no evidence to support any claim that the drug-free zone ordinance precipitates or encourages racially-motivated policing or prosecution. Are tensions inadvertently being created among minority populations and exacerbating feelings of alienation, particularly among young people? Commander Foxworth said the greatest concentrations of African-Americans live in some of the neighborhoods that are most negatively affected by drug activity. Many organizations, such as the Black Men's Coalition, have stated their strong support for establishment of these zones and it is because of their endorsement that the Police are here today. He concluded by calling for Council to provide relief for the citizens who live in these areas.

Jim Hayden, neighborhood-based Multnomah County District Attorney for North/Northeast Portland, described the boundaries of the current Beech Street drug-free zone and its proposed expansion, the Alberta zone, where no changes are proposed, and the proposed new zone in Woodlawn. He noted that the boundaries for the west side drug zone will remain the same. He said since inception of the drug-free zones in North/Northeast Portland in 1997, the number of drug arrests have increased 12 percent citywide but have decreased 35 percent in the North/Northeast drug-free zones. He broke down the number of drug arrests per drug-free zone and noted that there has been no displacement into the surrounding neighborhoods. He said to be included in the zone an area must have a significantly higher number of drug arrests compared with other areas of a similar geographic size. He said arrest rates in the Beech Street zone were compared to ten other areas of the same size and the analysis shows that the Beech drug-free zone shows an arrest pattern that is five to six times larger than any other area of similar size. The Woodlawn, Alberta and west side areas also clearly qualify.

Mr. Hayden responded to questions and concerns raised about the drug-free zones. He said because the drug-free zone ordinance has been so successful in improving neighborhood livability, courts are excluding drug offenders from these areas as a condition of probation. The Police exclude only drug offenders based upon probable cause and this is categorized as a civil remedy. He said the drug statistics presented today demonstrate a need for expanding the Beech drug-free zone, creation of the Woodlawn zone and continuation of the west side and Alberta drug-free zones. Although the original proposed zones were larger, they were reduced in size to narrowly reflect the greatest concentrations of drug activity. They found

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there were fewer drug arrests in the excluded areas and the drug problem was associated more with drug activity in houses than on the streets. He said he is speaking specifically about the neighborhoods opposed to the drug-free zones. The reasons for leaving those areas out is consistent with the legal rationale for creating the zones in the first place, which call for narrowly tailoring the zones to meet a legitimate government objective and bear a rational relationship to that objective. He said the 35 percent decrease in drug arrests in the drug-free zones indicates the success of the ordinance as does the increasing number of criminal trespass arrests. Drug arrests plus criminal trespass arrests are 23 percent higher than drug-only arrests prior to implementation of the zones. In other words, drug arrests are going down while criminal trespass arrests are going up and this is exactly how the drug-free zones should work. The drug-free zone ordinance makes the work of district police officers more effective because they do not have to rely simply on traditional investigative police missions using undercover police officers who continually re-arrest the same offenders. He said the wholesale displacement of drug sales has not occurred but the City is committed to following street-level drug dealing wherever it goes.

Mr. Hayden said the procedural safeguards and administrative process built into the ordinance are also working well. The process is clearly spelled out in forms printed in English and Spanish. Some have suggested that the process would be fairer if exclusions were effective only if criminal charges are issued. However, the City has avoided double jeopardy issues by continuing to separate, as much as possible, the treatment of people accused of crime, from its interest in providing safe and livable public streets and sidewalks. Making exclusion dependent on criminal charges would alter the process approved in the court case, State vs. James, and potentially undermine what the City has worked so hard to achieve. To indicate the success of the administrative process, he noted that nearly half of the 23 exclusion appeals in the last two years were granted by the Code Hearings Officer. He said variances are always granted if the excluded person qualifies for them. Nevertheless, some have suggested that the variance process could be improved by allowing judges or probation officers to issue them. However, such a process fails to utilize the street level enforcement knowledge police officers have in crafting variances so that offenders steer clear of any hot spots within a drug-free zone. Altering this process could also potentially undermine separation of the civil exclusion from criminal prosecution. This ordinance also includes expanded variance opportunities, including variances for school, occasional employment, food, physical care and medical attention in addition to the current variances. A further refinement might be that probation officers facilitate and attend meetings between their clients and the police in order to make the variance process as simple and obtainable as possible. The District Attorney's office and criminal justice system recognize that many offenders need drug treatment and related services to cure their addictions. That is why most drug users cited for criminal trespass have the option of entering the community court program. The drug-free zones help remind those in treatment on a daily basis of the places they are restricted from going and the reasons for that. Mr. Hayden said everyone recognized that the ordinance would affect the civil liberties of excluded drug offenders but balanced against that are the rights of citizens in adversely drug-affected neighborhoods, who would like to use their streets and sidewalks without interference from drug dealers. He said the City Attorney's office carefully crafted an ordinance that has stood the test of time, one that provides due process and one that has become a national model.

Commissioner Sten said he did not support creation of the Northeast drug-free zones 2-1/2 years ago but has been pleasantly surprised by the way this has worked and the discussion

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that has taken place prior to today's presentation. He has no qualms about using the trespass ordinance since the resources to get at the problem through treatment and incarceration are not there. When 30 percent of the exclusions are for African-Americans, one has to ask questions but it looks like they have been asked and answered fairly. Two years ago he was concerned about the zone's constitutionality, as it seemed to propose punishment prior to conviction. He now understands the distinction between a civil and criminal punishment but still has several questions about the policies. He said while he is impressed with the decrease in drug arrests in Beech Street and Alberta it looks like trespass arrests are up and his hunch is that those arrested for trespassing are engaged in drug trade. So if the two are added together, is drug trade really down?

Mr. Hayden said if a person is arrested for criminal trespass and has drugs on him, that will be a drug arrest. They assumed initially that drug arrests would increase once criminal trespass sanctions were in place but, in fact, they went down.

Commissioner Hales asked if the principle difference between the criminal and civil offenses is the amount of time it takes to determine probable cause for selling drugs.

Mr. Hayden said if the Police see a person who has been excluded they can immediately arrest him rather than waiting to see if he engages in drug dealing.

Commissioner Sten asked what would be the downside of limiting this to people who have had past convictions. He has heard the most concern about innocent people being excluded from their own neighborhoods.

Mr. Hayden said State vs. James made it clear they must be extremely careful about mixing civil and criminal offenses. If they make exclusion dependent on a person's prior record, that starts to mix the two together and the courts may begin to look at it as more of a punitive measure than as a civil remedy for the neighborhoods. The intent is also to intervene and get people into drug treatment as soon as possible.

Commissioner Sten asked if many people are mistakenly excluded.

Commander Foxworth said he is aware of only one individual who has raised that issue.

Acting Chief Berg said they make it clear to those issued exclusions that they have seven days to appeal and have due process to talk about whether there was probable cause.

Commissioner Sten asked what the downside would be of allowing judges to grant variances. He also noted that some have complained that it is hard to reach officers who can grant them.

Mr. Hayden said police officers are the ones who are most familiar with how to route someone through the drug-free zones. Judges are less familiar with that and, also, if judges are given the authority to grant variances, one is now again mixing civil and criminal processes. The drug-free zones focus on the community. The criminal justice system focuses on the offender.

Commissioner Sten said sometimes people are perplexed because they believe a judge should be able to issue a variance in response to a police citation, much as is done with

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traffic violations. There is also a sense that a backlog in the court system is created if someone is being charged with trespass as many as 30 times.

Mr. Hayden said they have discussed having the community court judge issue variances and that needs to be pursued further. He explained when there are many trespass charges against someone, they are disposed of in one plea negotiation, saving the court system a great deal of time and expense.

Commissioner Sten asked if variances are hard to get because there are not enough people to issue them.

Commander Foxworth said people have seven days to go to the precinct to request a variance and he is not aware of any problems getting a variance as someone is always designated to grant them.

Citizens testifying in support of the expanded zones included:

Betsy Radigan, Piedmont Neighborhood Association
Bill Kline, Humboldt Neighborhood Association
Chris Brown, Boise Neighborhood Association
Tony Radmilovich, Past Chair, Woodlawn Neighborhood Association
Halin Rahsaan, Coalition of Black Men
Dan Mullin, Humboldt Neighborhood and business owner in Albina
Tom Kelly, Neil Kelly Co.
Lela Triplett Roberts, principal, Jefferson High School
Rev. David Maynard, parish minister and mediator, rehab counselor
Dr. Sam Kelly, Portland Office of Industry Council
Richard Brown, Hope and Hard Work
Helen Sherman, 3634 NE 13th Ave., 97212,
Sondar Crawford, 304 NE Buffalo, 97211
Rod Blethen, 304 NE Buffalo, 97211
Charles McGee, Oregon Outreach
Brad Ness, Humboldt Neighborhood Association
Danielle Johnson, no address stated
Dr. Mildred Olee, Portland Community College
Michael Byerly, 4115 NE 14th, 97211, former President, Albina Neighborhood
Association
Daniel Dale, 4115 NE 14th Ave., 97211
Hilton Levias, member of the Drug and Alcohol Recovery Club

Supporters said these zones are a help to businesses and residents. They also save some people's lives as implementation greatly improves neighborhood livability, reducing the number of gun shots and drive-by shootings. They stressed that drastic situations require drastic measures and noted that the community at one time had asked for National Guard intervention and for curfews. Drug activity violates the civil liberties of those not involved in drug trafficking, taking away their freedom. Supporters said they trust the police to do a good job with this and view it as a useful tool in getting addicts into treatment. Many described situations in which they had been harassed and intimidated by drug dealers or had to live next to drug houses where they observed increased incidents of criminal behavior, such as burglaries and gang activity. Several called for paying careful attention to any

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displacement of drug activity to other neighborhoods and called for more focus on demand than supply.

Frederick Hayes, Chair, Woodlawn Neighborhood Association, asked Council to consider an expansion of the boundary zone from 15th east to 22nd so that all Woodlawn would be included.

Jack Paulson, President, King Neighborhood Association, said they strongly support the existence of the zones but do not support the change in the originally proposed boundary, which now goes two blocks south of where they thought it would and does not include a known hot spot on Martin Luther King Jr. Blvd. between Rodney and Ainsworth.

Billy Anfield, Central City Concern, 2 NW 2nd, 97209, said Central City Concern supports this but believes the City should help get more people into treatment and recovery.

Frances O'Halloran Huney, opposed this as she believes gentrification of her neighborhood has increased the disrespect directed at African-Americans. She said the Sabin Neighborhood Association voted 33 to 21 in support, far from a unanimous vote, because of serious concerns about this ordinance's constitutionality. She said many innocent people are being harassed because of Police racial profiling practices, despite the Police Chief's stated opposition, and cited a specific incident where an innocent person was wrongfully excluded.

Mayor Katz asked her to call her office when she thinks there has been a violation or to raise that issue with the Internal Affairs Division.

Others speaking in opposition included:

Phil Mitchell, 333 SE 45th Ave
Kelly Skye, Metropolitan Public Defenders Office
Dan Handelman, Portland Copwatch
Robert Williams, Multnomah Public Defender Stop Program
Hannah Westpahl, N. Blandena Avenue, 97217
Chip Shields, Better People employment counseling program for parolees
Juan Mayoral, American Civil Liberties Union
Bom Buhler, Metro Public Defenders
King Joseph, Recovery Club member
Joe O'Leary, Attorney, Metro Public Defenders
Jada Mae Langloss, no address stated

Opponents said this is not working and questioned its constitutionality. They said this is open to abuse by police officers and disproportionately affects the civil rights of minorities, leading to harassment. Staff from the Metropolitan Public Defenders office expressed concern with the way this is administered. They said this may be workable and fair from the law enforcement standpoint but not from the point of view of the poor people affected by it. They said while only 23 appeals were filed, many more were not filed because people did not have the education to go about doing so and because the maps and the process are very confusing. They said the time when variances are issued is limited and people have to show photo identification to get them, even though not everyone has it. They called for allowing judges to issue variances as currently people who are excluded are prevented from doing

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many normal activities or from getting to alcohol and drug rehab houses. Some questioned whether people who are sincerely trying to change their lives will be returned to prison because of such technical violations. Mr. Williams called for making these crime-free zones, rather than focusing on drugs alone. Mr. Buhler questioned how this can be a success when someone is arrested 30 times for trespass. Many said the real solution is to first focus on the solution, expanded drug treatment programs, rather than the symptom, the drug-free zones.

Mayor Katz asked staff to respond to the issues raised about the granting of variances, the boundary issue, the maps and the inability for people to clearly understand what is expected in terms of an appeal.

Commissioner Hales asked if it would be possible to amend the boundaries in the Woodlawn district and along Martin Luther King, Jr. Blvd. (MLK).

Mr. Hayden said the original boundaries proposed were ultimately shrunk because of concerns about the constitutionality of the zones. When he visited the neighborhood associations he told them the boundaries could change. The bottom line is that the zones were drawn as they are to meet a legitimate government objective and the more loosely they are drawn around drug arrests, the more vulnerable they are to legal challenge.

Mayor Katz asked if the boundary is determined by an arterial issue or by an incident issue.

Mr. Hayden said it is an incident issue. The zones were broken up because they are tightly drawn around the area of greatest drug activity. When they went to the other neighborhoods, such as Irvington and Concordia, they did not have the same drug activity as the area where they ultimately drew the boundaries. They also talked more about drug houses than street-level activity and thought traditional methods of law enforcement would be more effective. He said staff agreed and for those reasons the boundaries were drawn so tightly. He believes the Council could extend the boundary to Ainsworth without jeopardizing the drug-free zones.

Mayor Katz asked him to take a look at that to make sure the balance is not jeopardized.

Commissioner Hales said from a manageability standpoint it seems to make sense to try to get to a collector or arterial street rather than stopping in the middle of a residential district. He would be interested in amending the boundary on MLK for that reason. He is not as clear on the difference between 15th and 22nd, the other neighborhood recommendation for a change. He would be open to minor adjustments based on common sense if they do not jeopardize the defensibility of the whole package.

Mr. Hayden said he thinks the change from 15th to 22nd in the Woodlawn area would do more damage to the constitutionality of the ordinance but does not think including two blocks further north on Martin Luther King would affect the constitutionality.

Mayor Katz asked him to review this and return with a recommendation. If the boundary is amended, Council will have to wait another week before final passage.

Commissioner Hales asked for comment on having judges issue variances.

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Mr. Hayden said he does not know what the court of appeals would decide about that. He said he will pursue a community court option but does not want to mingle a criminal case with a civil exclusion.

Acting Chief Berg said the Bureau can work internally to clarify the process for getting variances, making them more accessible and making sure the maps are not confusing. She said she will also track the number of calls they receive about the timing of variances.

Commissioner Sten said issuing variances two days a week from 8:00 to 11:00 a.m. does not seem like a generous amount of time to allow people to get them.

Officer Tammy Lee, Northeast Precinct Variance Officer, said she is there eight hours a day and issues variances at any time. When she is not there, others are designated to issue them. She added that the police do not ask for photo i.d., only that people certify that they live in a drug-free zone.

Commander Foxworth said he will make sure other officers are trained so someone will always be there.

Officer Tom Peavy said Central Precinct, which issues the bulk of the variances, granted six today and staff has never turned anyone away.

Mayor Katz said she would like staff to make a recommendation on the boundaries next week.

Disposition: Passed to Second Reading September 8, 1999 at 2:00 p.m.

At 5:17 p.m., Council adjourned.

GARY BLACKMER
Auditor of the City of Portland

Cay Kershner

By Cay Kershner
Clerk of the Council