



**CITY OF  
PORTLAND, OREGON**

**OFFICIAL  
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 17th DAY OF NOVEMBER, 1999 AT 9:30 A.M.

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

OFFICERS IN ATTENDANCE: Cay Kershner, Clerk of the Council; 1999, Deputy City Attorney; and Officer Chuck Bolliger, Sergeant at Arms.

Agenda No. 1593 was pulled from Consent. On a Y-4 roll call, the balance of the Consent Agenda was adopted as follows:

**CONSENT AGENDA - NO DISCUSSION**

**Mayor Vera Katz**

- \*1592** Create one Program Specialist position in the Bureau of Purchases, one Secretarial Clerk II (OSSII) position and one Technician II/Engineering position in the Bureau of Environmental Services in accordance with the Personnel Rules adopted by the City Council (Ordinance)

**Disposition:** Ordinance No. 173915. (Y-4)

- \*1594** Extend legal services agreement with Reeve Kearns PC (Ordinance; amend Agreement No. 32278)

**Disposition:** Ordinance No. 173916. (Y-4)

**Commissioner Jim Francesconi**

- \*1595** Lease for parking space at 811 SE Main Street (Ordinance)

**Disposition:** Ordinance No. 173917. (Y-4)

- \*1596** Authorize the purchase of Canon color copier and accessories by the Bureau of General Services for approximately \$50,208 (Ordinance)

**Disposition:** Ordinance No. 173918. (Y-4)

- 1597** Contract with Pepsi-Cola Company to receive revenue from soft drink sales at Portland Parks and Recreation sites (Second Reading Agenda 1569)

**Disposition:** Ordinance No. 173919. (Y-4)

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**Commissioner Charlie Hales**

- \*1598** Authorize the Purchasing Agent to prepare an annual supply contract with LMK Enterprises, Inc. for pipe lining repair materials in the estimated amount of \$250,000 annually for three years, without advertising for bids (Ordinance)

**Disposition:** Ordinance No. 173920. (Y-4)

- \*1599** 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 November 27, December 4 and 11, 1999 (Ordinance; waive City Code 14.24)

**Disposition:** Ordinance No. 173921. (Y-4)

**Commissioner Erik Sten**

- 1600** Accept contract for the construction of Marquam Hill pump station #2 piping improvements as complete for a total cost of \$114,028 and make final payment including release of retainage to Baseline Industrial Construction, Inc. (Report; Contract No. 31998)

**Disposition:** Accepted.

- \*1601** Authorize the Purchasing Agent to sign Purchase Orders as contracts with Hayward Baker, Inc. for compaction grouting services in Washington Park at the estimated amount of \$213,750 and Copenhagen Utility and Construction for drainage improvements and site restoration at an estimated fee of \$124,499 (Ordinance)

**Disposition:** Ordinance No. 173922. (Y-4)

- 1602** Authorize an agreement with ACE Consultants, Inc. for an amount not to exceed \$75,000 to provide engineering services for miscellaneous professional services in the area of design engineering and provide for payment (Ordinance)

**Disposition:** Passed to Second Reading November 24, 1999 at 9:30 a.m.

- 1603** Authorize an agreement with Economic and Engineering Services, Inc. for an amount not to exceed \$75,000 to provide engineering services for miscellaneous professional services in the area of water quality, treatment and regulatory compliance and provide for payment (Ordinance)

**Disposition:** Passed to Second Reading November 24, 1999 at 9:30 a.m.

- \*1604** Contract with Northeast Coalition of Neighborhoods for \$44,000 for the Mississippi Historic District target area and provide for payment (Ordinance)

**Disposition:** Ordinance No. 173923. (Y-4)

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- \*1593** Authorize contractual agreement with ODS Healthplans to provide medical claims administrative services to the City of Portland's self-insured benefit plan participants for plan year 1999-2004 (Ordinance)

**Disposition:** Continued to November 24, 1999 at 9:30 a.m.

- 1588** **TIME CERTAIN: 9:30 a.m.** – Accept the Johnson Creek flooded area update report dated November, 1999, prepared for the City of Portland by the U.S. Army Corps of Engineers, Portland District (Resolution introduced by Commissioner Saltzman)

**Discussion:** Commissioner Saltzman said the Bureau of Environmental Services (BES) hired the Army Corps of Engineers to redraw the flood plain maps in the Johnson Creek area. That work has now been completed and many property owners will now find that they are no longer in the flood plain. The map will now be submitted to the Federal Emergency Management Agency (FEMA) for final adoption.

Linda Dobson, BES, reported on the results of the remapping project, part of the Bureau's reevaluation of the 100-year flood plain.

Stephanie Reid, Project Manager, Johnson Creek Remapping Project, BES, reviewed the process used to map the flood plain and the findings. BES contracted with the Corps of Engineers to do the hydraulics modeling. They broke the watershed down into small segments so they could accurately model the contribution of those segments to Johnson Creek. She said they also took over 600 cross-sections throughout the Creek to assess the size and capacity at those locations and see where the water goes when it floods. She indicated where mapping changes had been made and said while they expected the flood plain area to have grown larger in some cases, it went down in size, primarily due to advances in technology that have allowed better assimilation of the flows. FEMA will review the methodology that was used to produce the maps and then prepare their own draft flood insurance maps. Public meetings will be held when that work is completed and that will be followed by an appeals process. They expect that process to be completed by September 2000 and, depending on the number of appeals, FEMA will then take up to 18 months to finalize the flood insurance maps. She said these maps have some limitations when used for development regulations as they may become outdated and do not take into account the effect of blockage from debris. She explained that FEMA will give the City credit for doing good flood plain management activities that lower the premiums for citizens. There is also a cooperative technical program to help communities do their own flood plain mapping. BES will return with recommendations as to whether the City should participate in those programs.

Commissioner Saltzman said one benefit of the community ratings system is that there can be additional discounts of between five and 45 percent on the insurance premiums if the City participates.

Ms. Dobson said the City qualifies for a 15 percent discount, based on what it is currently doing.

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Mayor Katz asked if the City has any liability if flooding occurs on property now shown outside the flood plain area on the maps.

Ms. Dobson said if FEMA approves the work, she believes the City would not be liable.

Commissioner Sten thanked BES for keeping to the promised time line and for helping to lessen some of the contentiousness surrounding this issue . He said one promise BES made several years ago to Johnson Creek area residents was that if the City was going to impose stricter rules on Johnson Creek it would take another look at the maps. It appears that the citizens were right that certain areas did not belong in the flood plain.

Mayor Katz agreed that this was an area of strife and she appreciates the Bureau's willingness to move this project forward quickly.

**Disposition:** Resolution No. 35841. (Y-4)

- \*1589** Intergovernmental agreement between the City of Gresham and the City of Portland for Johnson Creek stream habitat surveys, Project No. 6220 (Ordinance introduced by Commissioner Saltzman)

**Disposition:** Ordinance No. 173924. (Y-4)

- 1605** Support Oregon's Death with Dignity Act and send message to U.S. Senate opposing any efforts to overturn the Act (Resolution introduced by Mayor Katz, Commissioners Hales, Saltzman and Sten)

**Discussion:** Mayor Katz said this is a statewide issue the City usually does not involve itself with but in this case the Oregon Congressional delegation asked if Council could provide some assistance in supporting it. She said after citizens approved it twice this has become an issue about the Oregon's initiative and referendum process. This is a nice way of telling Congress to stay out of it.

Dr. Richard Bauer, Death with Dignity, said the assisted suicide bill passed by Oregonians allows people to die at home surrounded by their loved ones. Both opponents and proponents agree that the act has contributed to major improvements in end-of-life care. He said the Hyde Pain Relief Promotion Act could result in having doctors face criminal prosecution for prescribing pain medications. He said many medical societies throughout the country support Oregon's act and oppose the Hyde bill.

Ann Jackson, Executive Director, Oregon Hospice Association, said they have grave concerns about the unintended consequences of the Hyde bill and believe it will compromise all the gains made in pain management. She said it is foolhardy to add regulatory scrutiny to a problem that is itself caused by regulatory scrutiny. Studies show that 50 percent of Americans die in pain, many in severe pain. The National Hospice Association and American Medical Association came out in support of the Hyde bill before speaking to their Oregon affiliates, which have strong reservations about the bill. Although the Oregon Hospice Association opposed the Death with Dignity act, they do not support this bill.

Mark Landauer, Office of Governmental Affairs, brought Council up to date on the current status of the bill.

Commissioner Hales said it is arrogant for Congress to inject itself into this matter.

Commissioner Sten said this is another area where the United States government was unable to acted proactively and is now acting retroactively.

**Disposition:** Resolution No. 35842. (Y-4)

**Mayor Vera Katz**

- \*1606** Authorize a contract with Adolfson Associates, Inc. for performing a Willamette River natural and recreation resource inventory for the Bureau of Planning (Ordinance)

**Discussion:** Commissioner Sten said this is what was budgeted to begin some of the technical work on the Willamette for the Endangered Species Act and does not involve greenway planning.

Mayor Katz said the City has not acted on the greenway process yet but she plans to bring it to Council as soon as possible. She said Portland is leading the way in fish recovery efforts and she hopes the research efforts will eventually provide information about how far back setbacks should be for development along the river.

**Disposition:** Ordinance No. 173925. (Y-4)

- 1607** Tentatively deny appeal of the Madison South Neighborhood Association against Hearings Officer's decision and approve a revised application by Park Forest LLC for a conditional use in order to construct an addition to the Park Forest Care Center located at 8643 NE Beech Street (Findings; 99-00218 CU)

**Disposition:** Findings Adopted. (Y-4)

**Commissioner Jim Francesconi**

- \*1608** Accept an \$11,000 grant from the Oregon State Police, Office of Emergency Management, for Portland Fire and Rescue (Ordinance)

**Disposition:** Ordinance No. 173926. (Y-4)

**Commissioner Charlie Hales**

- S-1609** Consolidate existing erosion control regulations into one regulation, enact erosion control regulations and revise flood management regulations (Second Reading Agenda 1559; amend City Code by adding Title 10 and amending Chapters 17.38, 24.50 and 24.70)

**Discussion:** Commissioner Saltzman said these erosion control regulations include not only permitted activities but any ground-disturbing activities that may result in erosion. In addition, the amendment he is proposing today in the form of a Substitute ordinance will require that permitted applicants display a sign indicating they have erosion control permits and list the City's hotline number.

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Mayor Katz asked if some of the other issues raised will be incorporated in the erosion control manual being prepared by the Office of Planning and Development Review (OPDR).

Dawn Hottenroth, Bureau of Environmental Services, said that is correct. The issue raised last week regarding in-stream work is also included in the amendment language Commissioner Saltzman has distributed. A number of other issues will be incorporated in the manual and an external member will be added to the inter-bureau technical advisory committee, as recommended by the Port of Portland.

Commissioner Saltzman moved the Substitute.

Commissioner Hales said he will vote nay as he thinks these changes go too far as there is no clear indication of the scope of the problem. Nor has there been any conversation with the community about what happens if this is extended to everyday activities like landscaping. He fears it will turn people unaware of the regulations into violators. He would prefer to stick with what the City knows it can regulate.

Commissioner Saltzman said he wants all bureaus to work from same page but non-permitted activities are important too. What he is trying to do is emphasize education and stewardship. He noted that BES does get many calls from citizens with concerns about erosion resulting from non-permitted activities.

Commissioner Sten said the overall aim is to restore streams and one of the major contributing problems to stream degradation is erosion. He supports the standards on non-permitted activities as well as he believes they will work much like the noise control regulations, which are complaint driven. This tells people that if someone sees dirt leaving your yard and flowing into a stream, the City will check it out. He said it will be important to set standards so that a private person can judge whether they are being violated and he hopes this does not turn into a neighbor against neighbor thing. This gives citizens a set process and a phone number to call and seems to him a sensible approach though it will be hard to draw the line in some cases.

Mayor Katz said she will aye but is concerned about the City's ability to enforce this. This may become an issue if calls come in and there is not sufficient staff to take on the enforcement. She said this should be monitored and revisited if problems arise.

**Disposition:** Substitute passed to Second Reading November 24, 1999 at 9:30 a.m.

**1590 TIME CERTAIN: 10:20 AM** – Report on the revision to the City Home Page on the World Wide Web, prepared by the City Home Page Group (Report introduced by Auditor Blackmer)

**Discussion:** Celia Heron, City Home Page Group, said the Group believes the revisions to the City's Home page have made it easier for citizens to use

Jackie Phillips, OPDR, said one of the short-term goals was to create an official site to serve as a portal to bureau information. They also wanted to comply with ADA goals and make the site accessible to the blind, as well as those with slower computers.

Liisa Fagerlund, City Recorder, demonstrated how the home page will work and how to search for specific subjects. She said the Group seeks feedback about the site and suggestions for improvement.

**Disposition:** Accepted. (Y-4)

**Commissioner Dan Saltzman**

- 1610** Adopt a Waste Reduction Program and enter into a Waste Reduction Program with the Metropolitan Service District so the City can receive Metro Waste Reduction Challenge Funds (Second Reading Agenda 1580)

**Disposition:** Ordinance No. 173927. (Y-4)

**Commissioner Erik Sten**

- 1611** Express the City of Portland's support for the inclusion of provisions in global trade agreements that protect or enhance the ability of national, state and local governments to protect human rights, increase environmental protections and improve labor laws and standards (Resolution)

**Discussion:** Commissioner Sten said the World Trade Organization (WTO) will be meeting in Seattle the end of the month and alot of activism has centered around how to approach world trade and global agreements. He said he has tried to craft a resolution that addresses the concerns raised. He personally thinks it is a good idea to have more global trade as, if done correctly, it raises standards of living. Unfortunately, that will not happen if there are not enforceable standards and the fear is that non-elected bodies will have the authority to pass laws that do not respect the ability of local governments to make decisions about the environment and wages. He does not know what will happen at the WTO but anything that takes away those abilities is a mistake as he fears the outcome if there are not strong labor and environmental standards. He said a fair playing field is needed and he believes it is appropriate for Council to weigh in on an issue of this importance.

Joseph Schneider, Fair Trade Coalition, said they object to WTO provisions that strike at local sovereignty and oppose any multilateral agreement that includes provisions similar to the Multilateral Agreement on Investment (MAI)

Others testifying in support of the resolution included:

Alan Graf, 3407 SW Huber, 97217  
Chris Wold, law instructor, Lewis and Clark College  
Nancy Hawk, Jobs for Justice  
Joe Keating, Sierra Club and Oregon Wildlife Federation  
David Burdick, 4917 SE Aldercrest Rd., Milwaukie, OR 97222  
David Sweet, 2121 NE 9<sup>th</sup>, 97212  
Chris Frost, 2839 SE 25<sup>th</sup>, 97202  
Margaret Gribskar, 3444 NE 16<sup>th</sup>, 97212  
Jim Whittenburg, 4110 SE Hawthorne, 97212  
Mark Deith, 5244 NW Wahkeena Lane., 97229  
Per Gagereng, 4108 SE 16<sup>th</sup>, 97202

**This page has been inserted to record Item No. 1591.**

- 1590 TIME CERTAIN: 10:20 AM** – Report on the revision to the City Home Page on the World Wide Web, prepared by the City Home Page Group (Report introduced by Auditor Blackmer)

**Discussion:** Celia Heron, City Home Page Group, said the Group believes the revisions to the City's Home page have made it easier for citizens to use

Jackie Phillips, OPDR, said one of the short-term goals was to create an official site to serve as a portal to bureau information. They also wanted to comply with ADA goals and make the site accessible to the blind, as well as those with slower computers.

Liisa Fagerlund, City Recorder, demonstrated how the home page will work and how to search for specific subjects. She said the Group seeks feedback about the site and suggestions for improvement.

**Disposition:** Accepted. (Y-4)

- 1591 TIME CERTAIN: 10:30 AM** – Appeal of Pipe Jacking Unlimited regarding Tanner Creek stream contract prequalification (Hearing on Appeal)

**Disposition:** Withdrawn.. No Further Action Taken.

**Comissioner Dan Saltzman**

- 1610** Adopt a Waste Reduction Program and enter into a Waste Reduction Program with the Metropolitan Service District so the City can receive Metro Waste Reduction Challenge Funds (Second Reading Agenda 1580)

**Disposition:** Ordinance No. 173927. (Y-4)



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Michael Callahan, 2347 NE 8<sup>th</sup>, 97218  
Chuck Fall, 2712 SE Salmon, 97214  
David Yunkin, Portland Chef's Cooperative  
Mike Toschi, high school teacher, 3268 SW Hawthorne, #205  
Jim Davis, 241 SE 55<sup>th</sup>, 97215  
Kevin Card, 4326 SE 73<sup>rd</sup>, 97206  
Bill Resnick, 1615 SE 35<sup>th</sup> Place, 97214  
Kate Lore, First Unitarian Church, 1011 SW 12<sup>th</sup> Ave., 97205  
Sierra Paul Seer, 7305 SE Madison, 97215  
Gregory Satir, 2426 SE Main, 972140  
Delores Hurtade, 1835 Palisades Terrace, Lake Oswego, 972034  
Peter Rockwell, 223 NE Graham, 97212  
Carol Mager, 303 NE 69<sup>th</sup>,  
Peter Parks, Local 1005, Machinists Union, 5728 N. Wilbur, 97217  
Erv Schleiffer, 5326 N. Driscoll Blvd., Spokane, WA  
Harry Auerbach, Deputy City Attorney, City of Portland  
Louise Weidlich, Neighborhoods Protective Association, PO Box 97224, 97224

Supporters of the resolution said letting a small, undemocratic and unrepresentative tribunal meet behind closed doors to make global trade decisions will undermine the ability of local governments to provide protections to their citizens if they are deemed barriers to trade. Many presented specific instances of how WTO performance standards and removal of trade barriers could affect human rights, environmental protection, child labor laws, minimum wage provisions and other public health and

Commissioner Hales said as the world becomes a global economy, the question is on what terms does it do so. There is a sense now that people have the power to make the world over again and finding the right balance between a central authority and democracy at the local level is what this is about..

Commissioner Saltzman said he will vote no as he believes this is a part of anti-WTO hype. He said the WTO consists of trade representatives who attempt to level the playing field and allow foreign intrusion into fiercely protected nations. He said all his research leads him to believe that MAI is not on the Seattle agenda and that this is a dead idea being used as rallying cry by WTO opponents who feed on isolationist sentiments. He said the risk of weakened environmental laws is far more likely to come from Washington D.C. than from the WTO.

Commissioner Sten said he respects Commissioner Saltzman's opinion but the fact that no one can articulate what the WTO is actually planning to do in Seattle speaks for itself. He believes that labor and environmental protections are important, not just a healthy economy and does not see how one can move forward on fair trade without minimum standards. His greatest hope is that all the fears about the WTO are unfounded.

Mayor Katz noted that the organizing effort that brought this to the City's attention has also attracted the attention of Congress and the President. She said the U.S. will propose creation of a WTO working group on trade and labor issues during the Seattle meeting and will also push for making it more accessible and open. She said the City will never support removal of local government decision making although she does support free trade. She is

not sure free and fair trade are mutually exclusive but supports this resolution as it flags a lot of issues that need to be addressed

**Disposition:** Resolution No. 35843. (Y-4; N-1, Saltzman)

- \*1612** Authorize a Private Lender Participation Agreement between ShoreBank Pacific, the Portland Development Commission and the City of Portland (Ordinance)

**Discussion:** Baruti Artharee, Director of Housing, Portland Development Commission (PDC), said this leverages private sector resources for home ownership rehabilitation.

Barbara Reigler, PDC, said this provides \$500,000 for home repair needs to City residents and PDC is involved in granting the loans. The loan program also promotes green building techniques and energy efficiency.

Louise Weidlich, Director, Neighborhoods Protective Association, PO Box 19224, 97224, said she opposes the existence of PDC as it loans money, which is against the urban renewal regulations and is communistic, doing away with the free enterprise system..

Commissioner Sten thanked ShoreBank for making this possible.

**Disposition:** Ordinance No. 173928. (Y-4)

- \*1613** Accept a \$45,000 grant from the International Council for Local Environmental Initiatives to promote the US EPA voluntary Climate Wise Program to local industries (Ordinance)

**Disposition:** Ordinance No. 173929. (Y-4)

- 1614** Grant a franchise to Level 3 Communications LLC for a period of ten years (Second Reading Agenda 1497)

**Disposition:** Ordinance No. 173930. (Y-4)

- \*1615** Contract with Global Action Plan for the Earth for \$50,000 to provide a sustainable lifestyle campaign for Portland residents (Previous Agenda 1577)

**Disposition:** Continued to November 24, 1999n at 9:30 a.m.

#### **City Auditor Gary Blackmer**

- \*1616** Create a local improvement district to construct ornamental street lighting Local Improvement District (Previous Agenda 1583; C-9973)

**Disposition:** Continued to November 24, 1999n at 9:30 a.m.

#### **Communications**

- 1617** Request of Thomas I. Buchholz to address Council about the Intergovernmental Agreement between the Police and Sheriff's office for Multnomah County Animal Control (Communication)

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**Disposition:** Continued to November 24, 1999 at 9:30 a.m.

- 1618 Request of John Hreha to address Council about a variety of concerns (Communication)

**Disposition:** Continued to December 8, 1999 at 9:30 a.m.

- 1619 Request of Stacy Cotler, Rita Jenson, Samantha Blaine Ashby and 13 others to address Council on the personal escort/modeling business ordinance (Communication)

**Discussion:** Mayor Katz asked Council to suspend the rules and allow those wishing to testify on this issue two minutes to speak. She said she is not opening this up to a hearing again as this is something that has already been passed. She noted that Sgt. Jim Brumfield is meeting with about 30 people who are in the escort service business to discuss the ordinance and delay implementation until everyone can be briefed on what is in it.

Individuals voicing concerns about the provisions of the ordinance and the effect on their businesses included:

Laura Schwatz, 14999 SW Royalty Parkway, Tigard, OR 97224  
Rita Jenson, 539 SE 39<sup>th</sup> Ave., 97214  
Stacy Cotler, 4825 NE 22<sup>nd</sup>, 97211  
Stella Golightly, 129 SW Broadway, 97205  
Lucy Doe, 539 SE 39<sup>th</sup> Ave., 97214  
Jordana Sardo, Radical Women, 1819 NW Everett, #201  
Debra Jean Danger, 539 SE 39<sup>th</sup> Ave., 97214  
Lyla Hamilton, 539 SE 39<sup>th</sup> Ave., 97214  
Racine Stevens, 539 SE 39<sup>th</sup> Ave., 97214  
Gina Velour, 539 SE 39<sup>th</sup> Ave., 97214  
Andrea Holmes, 539 SE 39<sup>th</sup> Ave., 97214

Those testifying said this ordinance discriminates against women and violates their right to use their bodies as they wish. They expressed concern about the effect of this measure on women's safety, as they believe requiring them to show personal identification to customers places them in compromising positions. They said by requiring women in this industry to register the City is taking a puritanical position about those who work in the field of sexual entertainment.

Mayor Katz asked every Council member to take another look at the ordinance. Sergeant Brumfield can respond to their concerns and they may also want to hear from the coalition that put this together.

**Disposition:** Placed on File.

At 1:05 p.m., Council recessed.

NOVEMBER 17, 1999

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 17TH DAY OF NOVEMBER, 1999 AT 6:00 P.M.

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

OFFICERS IN ATTENDANCE: Cay Kershner, Clerk of the Council and Officer Chuck Bolliger, Sergeant at Arms.

**1620 TIME CERTAIN: 6:00 PM** – Designate the Multnomah County/City of Portland Youth Advisory Board (Resolution introduced by Commissioner Saltzman)

**Discussion:** Commissioner Saltzman said this action is being taken in order to get more input from youth on City issues and he believes the Board can play the same role for the City as it does for Multnomah County. He said the members range from 14 to 19 years in age and all reside in Multnomah County.

Gabe Chost, Co-Chair, Youth Advisory Board, said the Board, which has been in existence for three years, strives to provide a voice for youth. The Board will consult monthly with a City Council member on an issue where youth input would be helpful.

Jessica White, Co-Chair, Youth Advisory Board, said they believe having a combined board for both the County and City is a great idea.

Members of the Board introduced themselves to Council.

Commissioner Sten welcomed them aboard as he said he is tired of being a Youth Advisory Board of one.

**Disposition:** Resolution No. 35944. (Y-4)

**1621 TIME CERTAIN: 6:15 PM** – Accept Clean River Plan report to restore the Willamette River and urban streams (Report introduced by Commissioner Saltzman)

**Discussion:** Commissioner Saltzman said tonight's hearing is the beginning of the discussion, not the end, about the proposed Clean River Plan. He said if the Plan is approved it will need approval from the State Environmental Quality Commission (EQC) but first Council wants to hear from interested stakeholders and parties. Most people are familiar with the Combined Sewer Overflow (CSO) issue and know that when it rains too hard water mixed with sewage enters the Willamette River and Columbia Slough. Since 1991, the City has reduced CSO overflows by 45 percent and by this time next year the City will reach the 53 percent mark for reducing CSOs in the River, at a cost of about \$300 million. Thirteen outfalls in the Columbia Slough will be controlled to meet the 99 percent CSO reduction target by the end of next year. Today he would like Council to consider whether the City should continue the pipes, pumps and treatment plan solution to address the remaining 42 outfalls on the Willamette River, at a cost of roughly \$500 million. Because of all the environmental issues facing the Willamette and urban streams, he had to ask whether it is wise to spend that much for concrete pipes and pumps in the manner previously agreed to. He listed some of the issues that need to be addressed, including other kinds of pollutants (not just bacteria) entering the River, water temperature, and the

threatened listing of the salmon pursuant to the Endangered Species Act (ESA). In addition, the Department of Environmental Quality is about to begin a process to establish Total Maximum Daily Loads (TDMLs) for the river. He said local streams and Slough are all in bad shape and will be lost unless firm action is taken. For these reasons, he does not believe it is appropriate to spend all the City's money and energy merely to reduce the bacteria from CSOs. That he why he is proposing a nine point Clean River Plan which addresses the other issues and is affordable. He said Council will also need to consider the recommendation of the Willamette Stakeholders Task Force to direct all City agencies to work together to implement all the Plan goals. He listed the nine Plan goals: 1) aggressively control the volume of CSO discharges to 99 percent for the Columbia Slough and 94 percent for the Willamette River; 2) plant trees and vegetation and create buffers along streams; 3) reduce pollutants reaching streams through the reduction of stormwater reaching streams; 4) reduce sewer back-ups, especially in southeast Portland; 5) control erosion from construction sites; 6) increase pollution prevention and source control; 7) promote education and stewardship; 8) restore floodplain restoration; and 9) conduct watershed assessment and monitoring. This 20-year commitment to aggressively deal with problems will cost \$660 million in today's dollars. Commissioner Saltzman said he believes the City can implement this and still keep sewer and water rate increases below 10 percent per year.

Dean Marriott, Director, BES, said Action Item 9 calls for sophisticated benchmarking to deal with restoration. He said as the plan is finalized BES plans to circulate a benchmarking plan with specific targets and activities to be measured. They expect to report regularly to the public on how those goals are being met.

Mayor Katz said she has some concerns about extending the time line for completion of the CSO work on the Willamette. While she is very pleased that the plan does not call for a drop in cleanup efforts to 85 percent, she wants to know what these new actions will produce in the way of results. She said an annual checkpoint is needed to see if any of these goals are being reached, rather than waiting 20 years to justify the time extension. She said some people will probably testify tonight that the City needs to do both, build the pipes and take these other actions. She believes there will be considerable federal funds to deal with some of these problems and it may be possible to do both.

Mr. Marriott assured the Mayor that there would be annual reports and that BES would not wait four or 20 years to reveal its progress. He said if federal money is available they will certainly take advantage of it but expect that there will be a lot of competition for any available funds among the 900 cities with CSO problems. He said federal assistance would help the ratepayers and might enable the City to get to the finish line faster but this plan does not assume that the City will get that any help.

Mayor Katz asked what comes next, if Council accepts this tonight.

Commissioner Saltzman said he would like to have Council approve a resolution asking the EQC to consider it and would hope to have its answer by June or July of next year.

Those testifying in general support of this plan included:

Mike Houk, Audubon Society  
Peter Lavigne, Director, Watershed Management Professional Program, Portland  
State University

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Anne Mavor, 2712 SE Hume Court  
Betsy Damon, 2712 SE Hume Court  
Peter Tenneau, 2715 N. Terry, 97217  
Dr. John Gardiner, 2229 SE Market, 97216  
Ross Dalton, 1605 SE 3<sup>rd</sup>, 97214

Supporters of the plan said there are mechanisms available that will have far greater ecological and social benefits to citizens and the overall health of the Willamette than simply burying huge pipes underground, addressing only the CSO problem and adhering to an arbitrary deadline. They said pipes will not solve the long-range problems and the City needs to look ahead 200 years, not just 20 years, and implement more green solutions. Supporters said Commissioner Saltzman 's plan attacks pollution at its source and addresses the increasingly regulatory environment the City faces with regard to the ESA and other restrictions. They stressed that all bureaus must be held accountable, not just BES, and strongly supported the adoption of annual, measurable benchmarks.

Those testifying that the City needs to do both – the pipes and the “green” measures -- included:

Don Francis, Riverkeepers, 406 SE 2<sup>nd</sup> Ave., 97204  
Connie Holz, 100 SE Harney, #4  
Charles Schictinger, 100 SE Harney, #4, 97202  
Miriam Ostroff, 100 SE Harney, #11  
Amy Moyers, Willamette River houseboat resident  
Dick Ricks, Willamette River houseboat resident

Those testifying said the City should not delay dealing with the CSOs for another nine years. While they believe the new plan is great, they also believe the sewer overflows are a threat to public health, putting people at risk. They said dramatically decreasing the amount of raw sewage is essential and, while it is but one small aspect of watershed health, it is a really important and symbolic first step. Mr. Francis noted that the City spent a great deal of money fighting a law suit filed by environmentalists and against imposition of the Stipulated Final Order by the Environmental Quality Commission when it should have settled. He believes trying to convince the Commission to accept another delay will not succeed.

Commissioner Saltzman said pipes work really well although they may not be the end all in dealing with this problem. What he has proposed with the nine point plan tries to do a lot more than just solve the CSO problem. He said the 94 percent reduction in CSO overflows in the Willamette is not the end as the DEQ expects the City to go to 100 percent eventually so

Bill Hutchinson, 333 SW Taylor, former chair of the Task Force, said he does not think the Task Force punted or the questions of whether to take an either/or approach. He said the Task Force concluded the schedule should be extended only if justified based on the results of the interim strategies, a specified need for an integrated watershed plan which results in system design decisions and if appropriate benchmarks and goals are obtained. He said BES and everyone agrees that the nine-point plan is the right way to go beyond the Amended Stipulated Final Order (ASFO). He said he hopes Council would wait to go the EQC until

BES can return with information about the cost implications and other data before it downsizes the system. If 2011 is not a predictable and magic completion date, is 2020?

He said the City should develop its expanded lab approach so it will be able to talk objectively about what it is doing rather than ask regulators to trust that the results will be achieved. He said the City needs a sewer system that works and while it may have to pay a little extra for the "green" solutions, in the long run it needs to do both even though the savings produced by the adaptive management strategy are likely to be marginal. He said it would be better to form a partnership with the EQC and have them commit to do TDMLs which the whole River needs. He suggested that investments could be counted as benchmarks and that ratepayers need not be the sole source for funding the additional watershed restoration measures. If the true cost of other City activities is factored into the sewer system, he believes that some of the money could come from other sources than the ratepayer. The Task Force concluded it did not have the information to specify an exact year for full compliance.

Council members raised concerns that these two approaches may be fundamentally different and that at some point, which BES says is now, the City will have to choose one or the other. One proposal calls for downsizing the amount of pipe and building more green solutions but Council expressed fear that if the time is taken to see if those solutions work, then the 2011 deadline cannot be met. In addition, unless the City can promise that specific actions can be taken to justify a time extension, it is unlikely that the EQC will accept the new plan. They also questioned whether the City might be sued if it does not meet the conditions of the Amended Stipulated Final Order concerning the agreed-upon CSO reduction. They noted that there is some question as to whether the green solutions will produce the results needed as the details are, including the cost, is unknown. Furthermore, exactly what needs to be measured and how that will be done is not spelled out.

Roll was taken to accept the report.

Commissioner Hales said he understands the concerns about slowing this up and regards the proposed time lines as outside limits and not something he is inclined to let slip. The proposal before Council is to approach the regulator and see if a better solution can be found that also saves the ratepayers a substantial amount of money. He said he almost always wants to support an agency that proposes something innovative and saves money. Realistically, he is skeptical that the regulators will give the City the chance to make this work. He voted in support.

Commissioner Saltzman said he believes the opportunity this plan presents to make green investments a reality is a gamble he is willing to take.

Commissioner Sten said this discussion depresses him as the City faces a very arbitrary regulation from the federal government that is right in principle but is litigated in court, resulting in time lines decided by a judge that have no relation to the ESA or any requirement that the river be restored – only that the CSO issue be addressed. Also, he is saddened that all of the advocates cannot agree on a plan and believes this stands as another example of the State's tendency to politicize everything, regardless of the facts, with legislators already taking potshots at the City. On the positive side, the City will get 94 percent of the sewage out by 2011 but he fears that citizens will be very disappointed if the stream banks are not restored and the fish are still going extinct. He believes strongly that

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the City cannot take two different paths and say it wants to do both. He thinks the City has to move on the green solutions concurrent to doing the pipes even though that puts the City's ability to finish in 2011 in jeopardy. He thinks legislators should be challenged to look at the plan and compare it with how they want to do things. He hopes the City will take the green approach but acknowledges that a lot of pieces are not complete yet. The idea that one should not talk to the EQC, whose members are citizen representatives, about a plan that elected officials believe is better for the environment means this State is dead. The City ought to be able to talk this through and have a statewide public discussion. He thinks the green solutions should get underway now as he sees no other ways to solve the ESA issues. Ultimately, however, the City must conclude that it is not doing an 11-year plan to get 94 percent of the sewage out but a long-term plan to get the entire river back. Just getting 94 percent by 2011 with nothing else in place is not the right track to take.

Mayor Katz said she will support this although it needs a lot more work if the City is going to get the results it wants. If the City is serious about the green approach, it needs to have all the information that any regulator is going to require. She believes it will be utterly foolish not to have a budget analysis on the items listed in the report. She requested that OFA and URT review this to see if the estimates in the report are in the ballpark, whether the green solutions are cost effective and whether the City can start some of those approaches immediately to see if there are any results it can take to the EQC. While the City may not make its goal at 2011, 2020 scares people and makes it look like the City is turning its back on the river again. She also needs an analysis from the City Attorney and some specific, measurable benchmarks before this goes to the EQC..

**Disposition:** Accepted. (Y-4)

At 8:00 p.m., Council recessed.



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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 18TH DAY OF NOVEMBER, 1999 AT 2:00 P.M.

THOSE PRESENT WERE: Commissioner Hales, Presiding; Commissioners Saltzman and Sten, 3.

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

- \*1622 TIME CERTAIN: 2:00 PM** – Amend the Comprehensive Plan Map and change the zone of property near SE Flavel Street, SE Deardorf and SE 122<sup>nd</sup> Avenue from OS (Open Space) to R10 (Low Density Single Family Dwelling) and approve amendments to environmental zones as shown on Exhibit H-17 (Ordinance; LUR 99-00301 CP ZC)

**Discussion:** Commissioner Hales noted that, because Council will lose its quorum at 3:00 p.m., the Hearing will be continued to a future date.

Linda Meng, Chief Deputy City Attorney, outlined the procedures to be followed in today's hearing.

Stacey Wenger, Office of Planning and Development Review (OPDR), summarized the request and noted that it has been found that the Comprehensive Plan and zoning designations could have been changed from Open Space (OS) to R10 through a map error correction. The applicant also proposes changes to the overlay zoning which would remove the Environmental Protection (EP) zones in some portions of the site and expand the Environmental Conservation (EC) zone in other portions. She described the 20-acre, steeply-sloped and forested site, which includes three parcels south of Johnson Creek in the Pleasant Valley neighborhood and in the South Subdistrict of the Johnson Creek Plan District. She noted that it is between SE Flavel and Willamette National Cemetery on the northeast slope of Mt. Scott and its three drainages are tributaries of Johnson Creek. She said this undeveloped property is identified as Site 30 in the Boring Lava Domes Supplement to the Johnson Creek Basin Protection Plan Study

Ms. Wenger listed the various approval criteria and noted that it would meet the criteria for Comprehensive Plan and zoning map corrections since the property is in private ownership and is neither in open space use nor receiving any special tax consideration because of its open space status. She reviewed the existing zoning and noted that all but a small portion of the northwest parcel is within the environmental zone. The applicant requests amending the base zone from OS to R10 throughout the entire site and expanding the EC zone to the south from 1.5 to seven acres, replacing the EP zone. All environmental zoning would be removed from the northwest corner of the site with a 25-foot strip of EC zoning between the remaining EP zone to the south and the R10 to the northwest. A 50-foot strip of EP zone would be left along the south property line to provide a wildlife connection between two of the drainages. Staff recommended approval of the zone change from OS to R10 but denial of the applicant's proposed zone map amendment of the environmental overlay zones, approving instead its own recommendation for the overlay zones. Staff's recommended environmental zoning would keep steep forested slopes associated with the drainages within

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the EP zone on the east half of the site as required in the Lava Domes Plan. It would also replace the EP zone in the northwest corner of the site with EC zoning, also required by the Lava Dome Plans. It calls for a wider wildlife corridor at the south end. The Hearings Officer also approved the Comp Plan and zoning map amendments and denied the proposed environmental overlay zone amendments. The Hearings Officer's recommended environmental zoning largely reflected staff's recommendation except that it reduced the width of the corridor at the south end of the property to about 50 feet. The adoption criteria for environmental overlay zones on and around the Camp Fire site was based on the ESEE analysis that is part of the Lava Domes Plan adopted in 1997 which identified most of the resources on this site as A quality resources. On open space land, A quality resources receive full protection, or EP zoning. With the base zone change to R10, the City must look at the protection level for A quality protection on vacant lots where full protection is called for except when there is a risk of housing unit loss. Then limited protection, or EC zoning, applies to all potential building areas. These are the portions of the site that staff and the Hearings Officer recommend for placement within the EC overlay zone.

Commissioner Hales asked for a review of how OS zoning came to be applied in the first place. He noted that it is unusual for private property to have an open space designation.

Mike Hayakawa, OPDR, said staff was unable to determine the exact date a legislative change to City OS zoning but the Multnomah County zoning recognized the fact that there was a camp ground there and the Community Service (CS) overlay zone applied there is much like a conditional use under City regulations. He does not believe the County has a comparable zone but that overlay gives the City the linkage between the zoning designations.

Commissioner Hales said it appears that at some point the City inferred that the combination of the County's CS overlay and the use was considered to be equivalent to OS zoning.

Steve Hill, attorney with Miller Nash representing the applicant, said they would like to request a continuance based on their expectation that there will be new information that was not part of the earlier hearing.

Laurie Wall, a planner with Miller Nash, said when the site was in Multnomah County the CS zone was applied because the site was a day camp. Based on the annexation rezoning chart and zoning code, the City must apply the most applicable zoning to CS. The closest zoning the City had to that was the OS zone. She asked Council to concur with the Hearings Officer's recommendation, which found that the proposal met all the applicable criteria and also found that it met the approval criteria for a mapping error correction because the site is not in public ownership, not in open space use and not receiving special tax consideration because of its open space status. She noted that any development on this site would need to come before the City again in the form of a subdivision land-use review application. All the site retains the environmental overlay zones except for one exception in the northwest corner of the site. She said staff and the Hearings Officer recommended approval for the environmental overlay rezone because their request includes rezoning the ridge tops, the areas near the existing roads and houses to the EC overlay zone. The proposal calls for retaining the EP overlay along the stream corridors associated with riparian corridors, ravines and forested hillsides. She said Metro's Title 3 map identifies only one drainage

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way but their proposal identifies three tributaries. Title 3 regulations require certain setbacks depending on the type of drainage way and their proposal offers setbacks at least twice the Title 3 requirements. In 1996 when Council considered the Outer Southeast Community Plan, Camp Fire asked that the portion of site not already zoned R10 be rezoned from OS to R10 through that legislative process. At that time Council asked Camp Fire to seek a quasi-judicial zone change for the portion not already in R10 and noted at the time that OS was not the appropriate zone for the site. Council also asked that the record reflect that it was not opposed to a future quasi-judicial zone change.

Kevin Halsey, Entranco Environmental Consultants, 8910 SW Gemini Dr. Beaverton, Or 97005, said his firm prepared a detailed site-specific natural resource evaluation of the site based on a review of existing documentation, including soil surveys, several specie data bases and USGS maps and photos. They then assembled a team of specialists to assess conditions on the site and concurred with the various site protection measures they recommended.

Commissioner Sten asked why this was considered a mapping error.

Ms. Wall said the Code sets out certain instances where zoning map errors can be corrected if three criteria are met. If those criteria are met, one is eligible for a map correction. The three criteria are that the site is not in public ownership, is not in open space use, as defined in the zoning code, or that it does not receive special tax consideration because of its open space status.

Commissioner Sten asked if Camp Fire pays property taxes. He asked if what Camp Fire is doing there meets the criteria for OS as listed in 33.100.010 which includes providing opportunities for outdoor recreation, contrast with the built environment and preservation of scenic qualities.

Ms. Wall said Camp Fire does not pay taxes as it is a non-profit organization. She said the definition of OS (in 33.855.070) goes on to say that OS designations should be applied to public open space, cemeteries and golf courses, not to privately-owned, vacant land.

Commissioner Hales said if map corrections are an administrative process, why is Camp Fire here today.

Ms. Wall said staff told them what they were doing in the way of map corrections for environmental overlay zones involved more than just tweaking and they needed to go through a Type III process. Knowing they could meet the criteria, they decided to go ahead.

Commissioner Sten asked her if she interprets the Open Space section in the Code to say that if it is not a park, cemetery or golf course then it is not open space. He said he sees those as merely examples of open space use.

Ms. Wall said if one examines the OS category and combines that with the mapping error approval criteria, one cannot come to any other conclusion but that OS is not appropriate for the site. She said it is not the City's policy to zone privately-owned, undeveloped vacant parcels as OS unless the property owner wants them zoned that way.

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Individuals speaking in opposition to the zone change included:

Susan Johnson , 13532 SE Foster Place  
Linda Bauer, Pleasant Valley Neighborhood Association  
Ivy Frances, Bureau of Environmental Services, Watershed Management  
Gale Gilliland, 6412 SE 135<sup>th</sup>, 97236  
Bob Roth, Johnson Creek Watershed Council

Opponents said this property is a valuable natural resource that needs to be protected and not sold for development. They expressed concern that development will harm the watershed, and contribute to increased stormwater runoffs, flooding, loss of wild life corridors and forest canopy. They also contended that the transportation system and fire response times are inadequate and that additional housing will contribute to increased congestion. Several criticized the Camp Fire organization for valuing profit over preservation, especially in an area that is park deficient.

**Disposition:** Continued to December 29, 1999 at 2:00 p.m.

At 3:00 p.m., Council adjourned.

GARY BLACKMER  
Auditor of the City of Portland

*Cay Kershner* / 60

By Cay Kershner  
Clerk of the Council