



CITY OF
PORTLAND, OREGON

**OFFICIAL
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 23RD DAY OF OCTOBER, 1996 AT 9:30 A.M.

THOSE PRESENT WERE: Mayor Katz, Presiding; Commissioners, Hales, Kafoury and Lindberg, 4.

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

On a Y-4 roll call, the Consent Agenda was adopted as follows:

CONSENT AGENDA - NO DISCUSSION

1680 Accept bid of Pacific Safety Supply, Inc. for annual supply of barricades for \$26,955 annually for two years (Purchasing Report - Bid 32A)

Disposition: Accepted; prepare contract.

1681 Accept bid of S-2 Contractors, Inc. for Taggart Basin CSO sump project units 2 and 3 phase I for \$357,551 (Purchasing Report - Bid 38)

Disposition: Accepted; prepare contract.

1682 Accept bid of Moore Excavation, Inc. for N. Overlook Terrace sanitary sewer for \$59,942 (Purchasing Report - Bid 39)

Disposition: Accepted; prepare contract.

Mayor Vera Katz

***1683** Authorize Urban Renewal and Redevelopment Bonds (Oregon Convention Center) Series A (Ordinance)

Disposition: Ordinance No. 170643. (Y-4)

***1684** Authorize Urban Renewal and Redevelopment Bonds (Central Eastside) Series A (Ordinance)

Disposition: Ordinance No. 170644. (Y-4)

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- *1685** Establish one Recreation Leader position, one Electrician position and one High Climber position in Parks and Recreation; one MIS Support Technician in the Police Bureau and create classification and assign a pay grade for Environmental Services Supervisor in accordance with the Personnel Rules adopted by the City Council (Ordinance)

Disposition: Ordinance No. 170645. (Y-4)

Commissioner Charlie Hales

- *1686** Amend Contract with Leisure Concepts & Design, Inc. to extend date of completion for planning services to May 12, 1997 (Ordinance; amend Contract No. 29838)

Disposition: Ordinance No. 170646. (Y-4)

- *1687** Designate and assign certain City-owned Water Bureau property as public street right-of-way and as a permanent slope easement for construction of the NE Jarrett Street/NE 138th Avenue LID Project and provide for payment (Ordinance)

Disposition: Ordinance No. 170647. (Y-4)

- *1688** Authorize application to the US Soccer Federation Foundation for a grant in the amount of \$505,640 for construction of permanent stadium seating, entry plaza, a ticket booth and a restroom/concession building at East Delta Park to complete the master plan at the soccer field complex (Ordinance)

Disposition: Ordinance No. 170648. (Y-4)

Commissioner Gretchen Miller Kafoury

- *1689** Accept contract with Landis & Gyr for controls installation at the Southeast Community Policing Center as complete; authorize release of retainage and final payment (Report; Contract No. 30625)

Disposition: Accepted.

- *1690** Authorize application to the State of Oregon Hazard Mitigation Grant Program for funds to mitigate flood and landslide hazards (Ordinance)

Disposition: Ordinance No. 170649. (Y-4)

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- 1691** Contract with Trauma Intervention Programs, Inc., for crisis intervention training, for \$48,000 (Ordinance; waive City Code 5.68)
- Disposition:** Passed to Second Reading October 30, 1996 at 9:30 a.m.
- *1692** Amend contract with SERA Architects, PC, for architectural services for the City Hall renovation project to extend the contract termination date (Ordinance; amend Contract No. 29088)
- Disposition:** Ordinance No. 170650. (Y-4)
- *1693** Contract with the Portland State University School of Business for \$55,700 for mentoring services to small businesses in Outer Southeast and provide for payment (Ordinance)
- Disposition:** Ordinance No. 170651. (Y-4)
- *1694** Authorize an Agreement with Multnomah County to provide services for the homeless in the City's temporary facility (Ordinance)
- Disposition:** Ordinance No. 170652. (Y-4)
- 1695** Amend Pay and Park regulations (Second Reading Agenda 1648, amend Code Chapter 14.36)
- Disposition:** Ordinance No. 170653. (Y-4)

Commissioner Mike Lindberg

- *1696** Authorize application to the Oregon Economic Development Department Waste/Wastewater Program for a grant and loan package in the amount of \$1 million for Brookside wetland and stream enhancement project (Ordinance)
- Disposition:** Ordinance No. 170654. (Y-4)
- *1697** Intergovernmental Agreement with the Oregon Department of Environmental Quality to provide professional services in water quality analysis for the Willamette River CSO Predesign Project for a co-

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- *1698** Contract with Portland Cable Access to provide capital support for public, educational and government cable access television (Ordinance)
- Disposition:** Ordinance No. 170656. (Y-4)
- *1699** Contract with Northwest Film Center to provide capital support for public, educational and government cable access television (Ordinance)
- Disposition:** Ordinance No. 170657. (Y-4)
- *1700** Contract with Portland Community College to provide capital support for public, educational and government cable access television (Ordinance)
- Disposition:** Ordinance No. 170658. (Y-4)
- *1701** Authorize payments to Project Software Development, Inc. for technical support services and license upgrades (Ordinance)
- Disposition:** Ordinance No. 170659. (Y-4)
- *1702** Authorize a contract and provide for payment for the construction of hoist and crane systems at Carolina and Washington Park No. 2 water pump station (Ordinance)
- Disposition:** Ordinance No. 170660. (Y-4)

REGULAR AGENDA

- *1677** **TIME CERTAIN: 9:30 AM** - Accept a \$500,000 grant from the United States Department of Energy to implement the Rebuild America Program in Portland (Ordinance introduced by Commissioner Lindberg)
- Discussion:** Commissioner Lindberg said this grant will allow the City to increase energy savings by implementing the Rebuild America Program.
- Christine Evans, U.S. Department of Energy, said an important factor in Portland's selection as one of six cities to receive these grants is the successful energy savings it has already demonstrated.
- Susan Anderson, Director, Office of Energy, said this grant money will be leveraged through the formation of public/private partnerships to achieve energy efficiencies and conservation measures far beyond what the grant money itself will provide.

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Individuals testifying as to their positive expectations regarding their participation in this program included:

Patrick Wolfe, Portland Public Schools
Mike Porter, Portland General Corp.
Steve Sauter, Oregon Office of Energy

Commissioner Lindberg moved to amend Section 1, Line 6 of the ordinance to read that "no City match is required." Commissioner Kafoury seconded and, hearing no objections, the Mayor so ordered.

Disposition: Ordinance No. 170661 as amended. (Y-4)

1678 **TIME CERTAIN: 9:45 AM** - Renewal of solid waste, yard debris and recycling collection franchise agreements (Resolution introduced by Commissioner Lindberg)

Discussion: Commissioner Lindberg said this begins the renewal process for the residential solid waste and recycling franchise system, which began in 1992 and is now at mid-point review stage. Citizens can be very proud of the City's recycling efforts, which have received numerous awards and high customer satisfaction ratings. A five-year review was begun by Bureau of Environmental Services (BES) in April and the Auditor's Office has completed a performance audit. The Public Utilities Review Board (PURB) and the BES Solid Waste Advisory Committee have also reviewed the system. All recommend that the franchise system be renewed but a series of issues need to be resolved prior to the next contract negotiations with the haulers.

Ruth McFarland, Metro District No. 1 Councilor, said the partnership between Metro and BES for treatment of solid waste has been one of the most successful in the region. Recycling rates have gone up while the amount of composting materials in the cans has dropped. There has also been a dramatic drop in the number of complaints about service. She urged continuation of current efforts

Sue Keil, BES, Solid Waste Director, reviewed past and current waste and recycling programs. She noted that the City's unique system, with 48 haulers serving 128,000 customers, has achieved high recycling results, and a low customer complaint ratio. All haulers are meeting the performance standards.

Bruce Walker, Curbside Recycling Manager, BES, detailed the recycling program results. He said customers have responded well to the City's every-other-week yard debris collection program and the results correspond closely to other cities which collect yard debris on a weekly basis. He said more people have also realized they can go to a smaller-size can and save money.

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Ms. Keil said customer concerns about haulers have dropped dramatically and only 11 infractions were issued to haulers. In a recent survey, 77 percent of customers ranked the service as good or very good. She said the rates charged are at 100 percent of services with no subsidies. She noted variations in the market for recyclable materials and compared Portland's disposal rates with other cities. She said BES will address the issues identified in Attachment A of the resolution, the recommendations of the Auditor's Office, and the concerns raised by Council and citizens. BES will share its findings in December prior to the new agreement. However, staff recommends continuance of the franchise system.

Paulette Rossi, Solid Waste and Recycling Subcommittee member, Public Utilities Board of Review, said the subcommittee will study the Auditor's report from a rate service standpoint and offer recommendations for improvement during the franchise renewal process. Items for study include: 1) a reduction in hauler profit margins; 2) whether hauler profit should be allowed on pass-through tipping fees to Metro; 3) incentives to haulers to increase recycling efforts; 4) risk-sharing formulas for revenue from the sale of recyclables; and 5) creation of a rate stabilization fund to respond to the fluctuating recycling market. They will also review whether the City's recycling goal of 60 percent of all solid waste by 1997 should be changed. Ms. Rossi said a personal visit to the waste transfer sites convinces her that too many usable, recyclable items are still being dumped.

Sheila Driscoll, BES Solid Waste Committee, read a letter into the record from Chair Mike Hutchens which noted that the Committee unanimously supports renewal of the franchise system.

Barbara Clark, City Auditor, said her office finds the current franchise system to be effective and sees no reason to change it. However, they do believe costs are higher than they need to be. While there was high customer satisfaction (72 percent) with the service, only 31-37 percent rated the cost as good or very good while 29 percent rated the cost as bad or very bad. She realizes that concerted efforts to reduce costs have resulted in only pennies for the customer, but still recommends some fine tuning on the cost calculations.

Dick Tracy, Director of Audits, Audit Services, said this is a very successful program, with high rates of waste diversion and household participation in recycling along with the generation of fewer tons of waste. This comes, however, at the price of residential rates that are among the highest in the country, ranking in the top five in the 26 jurisdictions surveyed. One reason for this is the high quality of the recycling program which requires more people and equipment. Use of a single hauler might also achieve higher economies of scale, although there is no guarantee. Another effect on cost is the rate-setting system and here the Auditor's report believes some adjustments are needed. At this

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time most of the franchisees earn about 13 percent profit, compared to the standard operating margin of 9.5 percent. One reason for this is because the recycling market has been very good for the past few years, increasing profits. However, a strong look should be taken at three other features of the rate setting methodology. They are: 1) removal of the disposal fee from the computation of operating margin; 2) removal of the margin itself from the calculation; and 3) review of the current operating margin to see if it is fair to ratepayers. The final factor contributing to high rates is the \$75 per ton tipping fee. While nothing can be done about most of this cost, they believe Metro should review its excise tax on the garbage rates, which support its general operations, and also look at staffing levels throughout the region. He said the Metro Auditor has indicated that she will review both staffing and the excise tax. The Auditor recommends that the Council: 1) continue but modify the current rate-setting processes; 2) ask BES to submit more frequent reports on the performance of contractors and their profits and operating margins; 3) ask Metro to study their costs and the impact on rates; and 4) ask BES to return with revised recycling goals for the coming years. He said they believe a further look is needed to see if the assumption that 60 percent can be taken out of the waste stream is achievable, particularly as the City has just begun regulation of commercial recycling.

Commissioner Lindberg said the rate comparison with other cities in the region shows Portland in about the same range. Is something going on in the region that pushes rates higher?

Mr. Tracy said he would guess the biggest influence on the rates in the region is the \$75.00 per ton tipping rate. That is the second biggest influence on the City's rates.

Mayor Katz noted that the operating margins, which average out at 13.7 percent, are much higher here than other communities. She asked if the difference in the range, between the 1.2 and 23.3 percent, is due to the size of the hauler.

Mr. Tracy said size did not appear to make much difference in how efficient they were. Their consultant found that the City's haulers, as a group, are very efficient. The issue is the number of haulers, not the size.

Mayor Katz asked if there was a higher operating margin depending on the size of the can.

Mr. Tracy said the audit recommends eventually phasing out the incentive for large and small cans. Currently, use of the large cans provides some additional profit to haulers.

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Commissioner Lindberg asked if they have concluded that the 13.5 percent profit margin ought to go down. He said initially the City wanted to provide some incentive to haulers to be more efficient.

Mr. Tracy said the rate-setting model was established so that haulers who operate very efficiently can earn more profit. What they found, however, is that most haulers earn higher than the standard, indicating either that the recycling market is driving up revenues or that the system needs to be adjusted to encourage lower costs to the system as a whole. The latter is what they are recommending.

Commissioner Lindberg noted that the rates have held constant for the past five years.

Mr. Tracy said adjusted for inflation, they are going down.

Commissioner Kafoury said the data also does not indicate whether the City has imposed other requirements on the system. It looks like the City does a better job than the other cities shown.

Mr. Tracy said the City does more kinds of recycling than any other organization. It is very difficult to compare cities.

Commissioner Kafoury said that is why she questions the value of saying that the City is in the top five in cost without considering other factors. She asked if rates in other places include subsidies from the local government or State.

Mr. Tracy said the report shows it when they could tell where the subsidy was. Just comparing rates is not a good way to do it and that is why they hired a consultant to do a model that tries to adjust the variables affecting cost. They have consistently found there are economics of scale when there are fewer haulers.

Commissioner Kafoury noted Council's decision to subsidize the smaller cans. Family size does influence the size of the can too.

Auditor Clark said what is an incentive to the family to generate less waste is a disincentive to the hauler.

Mayor Katz this came up in an earlier discussion about whether haulers should remind customers that they could probably move to a smaller can. This could be a problem if it is a disincentive for the haulers to do that.

Claude Ethan, 6305 SW 34th Avenue, complimented the exemplary service provided by his hauler and said he would hate to have a single carrier.

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Richard Jacobsen, 4154 SE 103rd, 97266, said the current, local system is should be retained as it is. A single hauler is the wrong way to go.

David White, Regional Representative, Oregon Refuse and Recycling Association and Chair, Tri-County Council, agreed with BES' response to the statement in the Auditor's report that a customer could save \$1.25 per month if one hauler provided the service. He said the question is what would customers get because of a lack of competition and the inability to enforce sanctions. He said the Auditor's statement that 30 percent of residents thought rates are high is questionable as he believes that even lowering them by \$1.25 would still result in 30 percent ranking the rates as too high. He said the Tri-County Council believes the City should continue with the great system it has although it does agree that the disincentive pricing should be discontinued.

Mayor Katz noted that the Auditor's Office never recommended a single hauler. Their report states that their consultant estimates that a single hauler could provide service for about \$1.25 less but the Auditor does not make that recommendation.

Jeanne Roy, Recycling Advocates, said while City graphs all show improvement, she believes there is some complacency about recycling. The recycling rates should not be compared to other cities but to the goal Portland set for itself. Throwing away 63 percent of the waste does not make for a sustainable community, something the City has committed itself to. She said waste generation rates have increased and the City's goal, of 60 percent of waste recycled by 1997, with a 10 percent reduction in waste generated, cannot be met because the Bureau never adopted a plan to achieve it, was late in implementing a commercial recycling program and selected a less effective every-other-week yard debris program. She said both Seattle and Gresham, with weekly yard debris pick-ups, capture higher amounts of yard debris than Portland. She said three issues should be added: 1) postpone recycling and waste reduction goals to 2000 and ask the Bureau to develop a plan to meet them; 2) study how the differentials between can sizes can be kept as incentives; and 3) consider ways to make yard debris collection more efficient.

Commissioner Lindberg said he has also committed to have Council discuss the policy of mixing recyclables. Even though it might be more efficient, it might have other adverse effects. Council also needs to discuss what programs will be needed to meet the recycling goals.

Ms. Roy said to reach the 60 percent goal, food waste will have to be composted, starting with businesses, and that would greatly cut down on what is left in the can. She said the Auditor's report is incorrect in stating that Seattle is considering revising its 60 percent recycling goal, although they probably will not meet it.

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Mayor Katz said if Portland revises its goal downwards it will be a step in the wrong direction. Instead, the City should figure out how to get there.

Steve Apotheker, 1905 NE Going Street, Resource Recycling Magazine, said Portland is in the top echelon of cities with strong recycling programs and is leading the way in developing a truly integrated solid waste recycling and composting program. He suggested possible formation by smaller haulers of a solid waste collection cooperative as a compromise between the franchise and single hauler systems. He said there also needs to be a way to make both parties whole each year so that if the average operating margin is above 9.5 percent, a rate stabilization mechanism reduces the rates. He noted that the Auditor's report also questioned whether the 9.5 rate might be too high.

Jerry Powell, 3345 NE 27th, said the City has a high quality garbage and recycling system but, even after considerable study, he cannot state whether or not the rates are fair. He said the franchise system should be continued with modifications in the rate setting and applauds the plan review suggested by the Auditor's Office. Broader public involvement is also needed prior to the decision in December.

Commissioner Lindberg said they will ask PURB to be involved in this, specifically the profitability issue.

Ms. Rossi said they are devising a modified process to allow more public testimony at their meetings.

Mayor Katz said getting the information out to the general public may be a little more difficult.

Lillian Goulard, Reed College Place, said the current system is a good one, better than Seattle's, and should be retained.

Tom Miller, 5150 SW Alger Ave., Beaverton, owner, Miller Sanitary System, said the haulers kept their promise to deliver an effective solid waste and recycling program in return for an opportunity to earn a good return. Today the City has an exemplary program which should be continued.

Brian Engelson, General Manager, East Side Recycling, said the number one problem seems to be the operating margin and the perceived high profits. However, the current system is self-adjusting so that if the profit is too high one year, it automatically adjusts the next. And vice-versa. He said there is a wide variation in commodity markets for recyclables and haulers may profit one year and lose the next.

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David McMahon, Cloudburst Recycling, said the improved services and reduced rates the City has achieved over the last five years could not have been accomplished with any other system. One success is that many of the family garbage companies are still operating, some after four or five generations. The biggest unsolved problem is the fluctuation caused by unstable recycling markets, which last year resulted in a spike in profits. Rates have been adjusted every year to reflect that market but it is confusing to customers. Everyone would like a way to buffer the impact of recycling markets but it is a tough problem to solve. He said the Auditor's Office acknowledges that comparisons with other cities are not reliable and he believes most of the criticisms of rates and efficiencies will not stand up to close scrutiny.

Commissioner Lindberg asked Mr. McMahon his opinion of the Auditor's suggestion that the 13.5 profit rate was too high and what he thought of taking out the disposal cost aspect when calculating the rate of return, which could mean about \$900,000 a year out of the profits.

Mr. McMahon said the profit was mainly due to the recycling markets and partially due to increased efficiency on the part of the haulers. This year, when there is a down market in recyclables, profit margins will be reduced. He said the operating margins are consistent with other cities surveyed and Portland should strive to keep its companies healthy.

Galen Kiltow, 4810 NE 40th, a small hauler, said if haulers were not so constrained by time, they would have an opportunity to talk to customers about whether the container size they selected was appropriate.

Brian Nyberg, Nyberg Garbage and Recycling Services and a member of the BES Solid Waste Advisory Committee, said the issue of Metro passing along to its customers the savings resulting from decreased tipping fees needs to be addressed. Another major concern is the \$178,000 transferred to the Bureau of Buildings for illegal dumping.

Commissioner Kafoury said don't try to get one penny of that.

Mayor Katz said Council reviewed that before but there may still be some issues with Metro.

Gary Penning, 5330 N. Skyport Way, Division President, Waste Management of Oregon, said his company supports extension of the current franchise program.

Commissioner Lindberg asked for comment about Bureau of Buildings charges.

Ms. Keil said BES did get them reduced somewhat because they negotiated a percent of the franchise fee arrangement with the Bureau of Buildings. The

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City put about \$100,000 back into the solid waste program and reduced the franchise fee this year. She said currently Metro is very dependent on the excise tax on solid waste as a major source of revenue although they are building a stabilization fund so that when commercial recycling programs really kick in and the tonnage goes down, they will have some protection. She suggested giving them more time to address the issue of cost containment. To date, the savings have not come through to the customers and if Metro reduces the tipping fee, whether it is a nickel or a dime, the Bureau is committed to seeing that it is passed through. Any support Council can provide will be helpful.

Commissioner Hales said this is good policy and the program is ably administered. The City has a good relationship with haulers and citizens have again taken the opportunity to do the right thing, this time by recycling. He agreed with Ms. Rossi's suggestion about giving people better information about how to reuse household items.

Commissioner Kafoury said she thinks the bureau, the haulers and the general public have done a great job.

Disposition: Resolution No. 35556. (Y-4)

1679 Accept audit report #224 on Residential Solid Waste Program (Report introduced by Auditor Clark)

Discussion: Mayor Katz asked that all the Auditor's recommendations be reviewed as well as those suggested by citizens. It was the Auditor's job to raise all the big questions and they then recommended continuation of the current system even though it may be a little cheaper to have a single hauler system. She said BES should take a longer view of the rates, rather than the snapshot, to see if profit levels vary from year to year.

Disposition: Accepted. (Y-4)

1703 Declare opposition to Ballot Measure 47 (Resolution introduced by Mayor Katz and Commissioners Hales, Kafoury and Lindberg)

Discussion: Tim Grewe, Director, Office of Finance and Administration, said passage will make an already complex property tax system even more complex and severely impact local governments because of the rollback feature resulting in a 26 percent reduction for local jurisdictions and a subsequent three percent limit on annual increases. He highlighted the impacts on the Fire and Police Disability and Retirement Fund and on the treatment of tax increment funds.

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He noted many uncertainties about the role of the legislature in determining local jurisdiction allocations for public safety and education.

Disposition: Resolution No. 35557. (Y-4)

*1708 Designate eight Heritage Trees in the City of Portland (Ordinance)

Discussion: Commissioner Kafoury moved to amend the ordinance to change the number of trees from eight to 15. Commissioner Hales seconded and, hearing no objection, the Mayor so ordered.

Jane Glazer, Urban Forestry Commission, showed slides of the trees and described their value to the community.

Disposition: Ordinance No. 170662 as amended. (Y-4)

1704 Accept bid of 2KG Contractors for Emergency Communications Center addition for \$443,500 (Previous Agenda 1626; Bid 29)

Discussion: Commissioner Kafoury said demands for service at the 9-1-1 Center have been much heavier than anticipated.

David Kish, Director, Bureau of General Services, said the 9-1-1 Center is a victim of its own success because the number of subscribers has grown much faster than predicted. He noted that the 9-1-1- system was paid for out of the general fund while the Command Center was paid for by funds from the radio and phone system. He noted that in this case the low bid was not accepted because the contractor failed to fill out the proper MBE/FBE forms.

Commissioner Hales asked if the \$43,000 in capital costs were paid for by outside customers who use the center and not by bureaus.

Mr. Kish said everyone using it has to pay, such as the new police officers that have been added.

David Agazzi, Bureau of Financial Planning, said the project is 56 percent over budget and construction costs are up 32 percent. He asked for more time to confirm the higher constructions costs and see if it is possible to scale back the scope and stay within the budget.

Commissioner Kafoury said construction costs are higher and Purchasing felt required to accept the second lowest bid, even though it was \$40,000 higher than the lowest because of that bidder's failure to comply with good faith efforts.

Mr. Kish said the project was included in the capital budget and between

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\$30,000 and \$40,000 has already been spent in architectural and preparation costs. He said adding \$18,000 a year more to a \$7 million item does not seem significant.

Council discussed with Mr. Agazzi how much more time was needed and granted him an additional week.

Disposition: Continued to October 30, 1996 at 9:30 a.m.

1705 Accept bid of CEMS, Inc. for landslide repairs at Pittock Acres Park for \$105,240 (Previous Agenda 1627; Bid 1106-C)

Discussion: The Clerk noted that a revised report had been filed by the Purchasing Agent allowing the bidder to withdraw. Council accepted the revised report.

Disposition: Amended report accepted; bid withdrawn.

Mayor Vera Katz

***1706** Approve a memorandum of proposal between the City of Portland and the District Council of Trade Unions (DCTU) and authorize the Mayor and Auditor to execute the associated labor agreement, relating to terms and conditions of employment of represented personnel (Ordinance)

Discussion: David Shaff, Bureau of Personnel, said the DCTU is in the process of voting on this proposal.

Disposition: Ordinance No. 170663. (Y-4)

Commissioner Charlie Hales

1707 Declare the purpose and intention of the City of Portland to form the SE Water Avenue and Caruthers Street Local Improvement District (Resolution; C-9925).

Disposition: Resolution No. 35558. (Y-4)

Commissioner Gretchen Miller Kafoury

***1709** Accept a U.S. Department of Justice grant from the State Criminal Justice Services Division in the amount of \$187,928 (Ordinance)

Disposition: Ordinance No. 170664. (Y-4)

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***1710** Accept a Youthbuild implementation grant under the Office of Economic Development of the U.S. Department of Housing and Urban Development in the amount of \$700,000 (Ordinance)

Discussion: Julie Walters, Executive Director, Youthbuild, said this a pre-apprentice program to help young people learn general employment and leadership skills.

Mayor Katz asked her to let Council know if those who complete the program are able to get really good jobs.

Disposition: Ordinance No. 170665. (Y-4)

***1711** Accept bid of 2KG Contractors, Inc., authorize a contract, and provide payment for the Emergency Communication Center (Previous Agenda 1643)

Discussion: Council noted that this was a companion item to No. 1704 and should be continued as well.

Disposition: Continued to October 30, 1996 at 9:30 a.m.

City Auditor Barbara Clark

1712 Transmit Certificate of Completion for the SW 47th Avenue/SW Palatine Street LID (Report; C-9823)

Disposition: Accepted.

At 11:45 a.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 23RD DAY OF OCTOBER, 1996 AT 2:00 P.M.

THOSE PRESENT WERE: Mayor Katz, Presiding; Commissioners Hales, Kafoury and Lindberg, 4.

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

Commissioner Charlie Hales

1716 Amend the Comprehensive Plan Map and change the zone of property at 16501 SE Division Street from CG (Commercial) to R1 (Residential) for one portion of the site; and from R2a (Residential) to CG (Commercial) for another portion of the site (Previous Agenda 1604; LUR 96-00135 CP ZC)

Disposition: Continued to October 30, 1996 at 2:00 p.m.

1717 Tentatively grant appeal of Karen Kenny, applicant, against Hearing's Officer's decision to deny a 16-unit subdivision and PUD, and accept withdrawal of Crestwood Neighborhood Association of zone change from R10 to R7 at SW 53rd Avenue south of SW Alfred Street (Findings; Previous Agenda 1675; LUR 95-00285 PU SU ZC EN)

Discussion: Commissioner Hales moved adoption of the findings and Commissioner Kafoury seconded.

Disposition: Findings Adopted. (Y-4)

1713 **TIME CERTAIN: 2:00 PM** - Transmit report and recommendation on the Transit Oriented Tax Exemption Program from the Transit Oriented Development Work Group (Report introduced by Commissioner Hales)

Discussion: Mike Saba, Planning Bureau, said this is a modest incentive program to encourage the kind of development the City would like to see along the transit routes. He said the Work Group took a very conservative approach and applied the exemption only to very specific areas around light rail stations and along transit streets. Mr. Saba noted that, contrary to recent assertions by Southwest residents who are concerned about proposed rezoning, this exemption does not apply to the Southwest Plan area. Council would have to specifically amend today's ordinance to include any other areas.

Mayor Katz asked if Design Review will apply to exempted properties.

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Mr. Saba said most of the affected properties are already in Design Zones but the Portland Development Commission (PDC) has the right to require additional design work for any properties that may not be in such zones.

Randy Webster, Office of Finance and Administration, said this does represent a shift of taxes to other property tax payers and does result in a reduction of the levy capacity for the Fire and Police Disability and Retirement Fund. He said, with Measure 47, the City would see a direct property tax loss. However, huge amounts of money are not involved here. He noted that the five proposed projects are projected to result in \$32 million in improvements and will increase property taxes from \$.50 to \$1.00 for those paying between \$700 and \$800 in property taxes.

Commissioner Hales said the comparison assumes the projects would be built without the abatement and would be paying taxes.

Wendy Cherubini, PDC, said they had reservations about the affordable housing aspect and, after holding two additional meetings, have created a new approach regarding the public benefit segment.

Commissioner Lindberg asked how the amount of property taxes to be foregone was determined. He also asked how important the abatement is in getting these projects done.

Mr. Saba said during the 10 years MAX has been in existence, the City has seen no mixed-use developments adjacent to the light rail lines. Most of those that occurred were in the Central City, Lloyd Center and Gresham.

Wayne Rembold, Portland contractor, said tax abatements are essential to getting these projects built as otherwise they do not pencil out. The exemptions will also benefit tenants by providing affordable rentals.

Michael Roche, Multnomah Neighborhood Association Land-Use Chair, said the Association opposes any new tax abatements and believes citizens should not have to shoulder an increased tax burden. He questioned why a tax break should be given to developers and said 1000 Friends of Oregon is on record in opposition to tax abatements. He said it is not good policy to give money away.

Will White, Housing Development Center, supported the proposal. He said this provides a stronger inducement to developers to build affordable housing yet in no way gives away the store.

Mayor Katz noted that after 10 years the extra value goes on the tax rolls.

Commissioner Kafoury said she would like to see these projects get started. If it

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turns out that there are too many, or that the City is being overly generous, the program can be halted.

Gordon Trapp, Southwest Portland resident, said the City's proposal for strip zoning R7 and R10 in Southwest Portland discriminates against seniors by forcing them to live with high-density development next door.

Mayor Katz said this does not impact Southwest at this point.

Jeff Merkley, Executive Director, Human Solutions, said substantial City subsidies are needed to assure housing availability for families at 60 percent of median income. He said the City may also need to rethink lifting the abatement after 10 years as this could result in a loss of mixed-income levels.

Liz Callison, 6039 SW Knightsbridge Dr., 97219, said this is a subsidy to developers and landlords and the only reason it is not opposed by the general public is because they are not aware of what is happening.

Mayor Katz said urban renewal subsidies provided incentives to get people to live downtown in the 1970s and those properties are now on the tax rolls.

Ms. Callison said the public needs to know how much these abatements cost.

Mayor Katz said she does not like tax exemptions but this benefits the entire community.

Commissioner Lindberg said the supposition is that these projects would be built without a subsidy.

Ms. Callison said during the current building boom there is no need for a subsidy. She said if what is built is schlock then at the end of 10 years it will be foreclosed and the taxpayers will end up holding the bag.

Mayor Katz said that is why design has been raised as an issue.

Andy Cotugno, Metro Planning Director, endorsed the proposal on behalf of Metro. He said they want to see higher density and a more compact region and this is one way to foster development to meet these goals.

Ralph Austin, Innovative Housing, Inc., said they support this because it deepens the market by increasing the number of eligible buyers. However, this is not the proper vehicle if the goal is to increase mixed-income ownership. That should be accomplished through mandatory inclusionary housing.

Zack Semke, Coalition for a Livable Future, said they support this based on its

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wiser use of limited land, reduced dependence on the automobile and creation of more affordable housing. They believe, however, that income levels are set too high and that the affordable housing requirements should be extended beyond 10 years. He suggested that the City consider region-wide mandatory inclusionary zoning to deal with affordability problems. In response to earlier testimony, he said 1000 Friends does not oppose this.

Commissioner Hales asked about parking and the one space per unit requirement in the CX zone, which covers most of the sites.

Mr. Saba said they avoided adding parking ratios as they did not want to apply a dual level of regulations.

Commissioner Hales said a proposal to eliminate minimum parking requirements is planned soon.

Mayor Katz asked if options to buy on the units being built were considered.

Mr. Saba said the Working Group had not discussed that in detail. He said there is a troublesome provision in the State statute that adds a penalty for the conversion of rentals to condominiums, even after ten years.

Mayor Katz said that issue should be flagged for attention at the next legislative session.

Dan Steffey, 808 SW 3rd, Suite 580, 97204, said he cannot go ahead with his project, 119 units of housing for the elderly, without the abatement. This is an opportunity to direct growth and use existing infrastructure and there are protections within the program to ensure that schlock will not be built.

Commissioner Lindberg asked if the affordability mix can be required beyond 10 years.

Mr. Steffey said it depends on the mix of revenue sources, which will dictate the length of the affordability provisions.

Commissioner Lindberg asked if the Central City units lost their affordability requirements after 10 years.

Mr. Saba said a different approach was taken there, on a project by project basis.

Bonnie Anderson, 2446 NE 7th, 97212, supported the abatement program because it will encourage growth where it is needed.

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Chris Pierce, no address stated, said while they cannot be certain this ordinance will increase housing in these transit corridors or that denser housing will result in higher use of alternative transportation modes, they do know what will happen if they do not attempt new strategies to prevent sprawl and reduce congestion.

Ed McNamara, Realty Trust Associates, Inc., suggested changes regarding the design criteria, affordability requirements and the application process. He said stronger site and building requirements should be added to develop to maximum feasible density. On-site parking should be limited and design elements, such as small setbacks to the street, porches and balconies, should be part of the approval process. He said this abatement should not be limited to buildings with eight or more units and should include renovations and possibly accessory rental units to single-family houses. He suggested that a number of additional public benefits be dropped, including public meeting spaces and public plazas. The gateway in the Lents area should also be dropped as it detracts from the focus on light rail. Stronger affordability requirements should be imposed.

Louise Weidlich, Director, Neighborhoods Protective Association, opposed this ordinance because of the negative impact of such development on livability in Southwest.

Mayor Katz asked for more details about the design element requirements, as identified by Mr. McNamara.

Mr. Saba said the Zoning Code and the Transportation Planning Rule deal with these issues. There is also Design Review, which is a separate process, and his goal was not to replicate what already exists elsewhere. Every time the City tries to do that, it develops conflicting rules and it is hard to tell which set governs.

Mayor Katz said there are design guidelines and those standards ought to be adopted here, especially when additional benefits are provided to developers. She said she chokes when she sees some developments with two garages taking the whole front of the house.

Commissioner Hales asked if Design Review has been placed on the station areas.

Mr. Saba said everything in the Gateway Plan District is covered by Design Review as are some portions of Lents and some station areas. Some portions of Hollywood, 60th and 82nd are not all covered.

Commissioner Hales said there is a gap but not a huge one.

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Mayor Katz said she wants to have design standards in place there, too.

Mr. Saba said this program is not a land-use decision. He said they did not want to impose land-use reviews here or duplicate existing requirements. He said limiting this program to projects of eight or more units was an arbitrary decision based on fiscal and administrative feasibility concerns. Applying this abatement to every duplex might not be realistic. The State statute also requires justification for demolition of any existing, habitable housing.

Commissioner Kafoury asked if it was accurate that the Work Group's main goal was to encourage density development along this corridor and affordability was a secondary issue as the Group believed there were other ways to get longer term affordability.

Mr. Saba said the monetary benefit of the abatement itself will not be sufficient to fund an affordable housing project in and of itself. Projects will need a variety of funding to make them permanently affordable.

Commissioner Kafoury noted that a number of people in the affordable housing community are worried about this.

Mr. Saba said affordability is an issue they wrestled with constantly. He said they adopted the existing City policy which states that the depth of affordability should be equivalent to the length of the benefit.

Commissioner Hales said he has three quibbles with this. He said instead of density, this is really about offering people housing choices, not just single-family houses on large lots or garden apartments. And garden apartments should be labelled for what they are, "barracks" apartments. Regarding affordability, a better way needs to be found to help people understand what such terms as 30 percent of median housing unit really mean and who would really live there -- not drug dealers, as many people fear. He said it is a myth to think the market will take care of development along transit corridors, noting the many vacant sites along the current MAX system. He said Southwest residents should visit some of the new developments going up along the edges of the Urban Growth Boundary and realize that many of those residents will be driving through Southwest Portland to get to their destinations. But more housing along light rail lines might result in fewer cars. He said this is not so much about tax abatement as it is about location and type, noting all the apartment buildings on the South Park Blocks which would not exist today without a similar tax abatement program.

Commissioner Lindberg said he supports this because it meets Metro 2040 goals to direct development in urban areas, thus eliminating sprawl and saving energy. It will also enable the City to get the type of housing it wants and tax

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abatement already has a good track record downtown.

Mayor Katz said the City wants people to live along transit lines so neighborhoods are not negatively affected by increased numbers of cars and speeders. She said she will support this although she hates tax abatements and wants the Design Commission to seriously consider more creative ways to provide options to increase home ownership.

Commissioner Kafoury said more talk is needed about the affordability issues.

Disposition: Accepted. (Y-4)

- *1714 Adopt a new Chapter 3.103 of the Portland City Code entitled "Property Tax Exemption for New Transit Supportive Residential or Mixed Use Development" and amend portions of Chapters 3.102 and 3.103 (Ordinance introduced by Commissioner Hales; amend Title 3)

Disposition: Ordinance No. 170667. (Y-4)

- 1715 **TIME CERTAIN: 3:00 PM** - Request the Department of Environmental Quality to amend its staff report on the East Multnomah County Ground Water Contamination site (Resolution introduced by Commissioner Lindberg)

Discussion: Commissioner Lindberg said after 10 years of discussion the City is now at a critical decision point regarding aquifer contamination at two of the City's wellfields in the Columbia Southshore area. Both Boeing and Cascade have been identified as the responsible parties for the contamination, which has resulted in a large plume that has prevented further safe development of more wellfield capacity and which could spread more widely due to normal pumping activity. He emphasized that the wells currently being used now to supplement the water supply are not contaminated. The Department of Environmental Quality (DEQ) has now issued a report on how and when the contamination should be cleaned up and has asked for comments by October 30. Today is the only opportunity the City has to make official comments as there is no process for appealing DEQ's final decision.

Jeff Golden, Commissioner Lindberg's assistant, said the important role of the wellfields in the City's water supply was demonstrated twice last winter when landslides broke two conduits from the Bull Run and during the February flood when rain caused an increase in turbidity and the City relied entirely on the wellfields for a few days. In addition, the wellfields are needed to enhance the water supply during high-use periods, and the Bureau expects them to play an even larger role in the regional water supply plan. They believe Portland will not need to develop a major new water supply until at least the last half of the next century if the resource is managed well. One basis for that assumption is

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that full use of the wellfields will be restored.

Jeff Layton, Water Bureau, described the location and characteristics of the contamination, with an overview of the nature of the subsurface. Three-quarters of the total well capacity comes from two aquifers, the Blue Lake Aquifer and the Sand and Gravel Aquifer. The subject of this record decision concerns one of the two aquifers nearest the surface, the Troutdale Sandstone Aquifer (TSA), and the concern is that if the City pumps within the Sand and Gravel Aquifer, which is below the contamination, there is the possibility of the contamination moving there as well. The standardized way for treating the kind of contaminants identified here is the "pump and treat" method, extracting the contamination from the water into the air and then discharging the water itself either into the Slough, back into the aquifer or making it available to a public water supplier. This method also keeps the contamination from moving any further than it already has.

Commissioner Hales left at 4:30 p.m.

Terry Thatcher, Deputy City Attorney, explained the goals reflected within these draft comments. They include the rapid return of the wellfields as a regular part of the water supply system, implementation of a remedial program to assure that the plume will not cause any future disruptions, rapid cleanup, and protection of the City and ratepayers from financial liability. Staff generally agrees with DEQ's proposed remedy giving Boeing and Boise Cascade some flexibility in meeting specific performance criteria, including cleanup and control of the plume within a specific amount of time. He said details concerning monitoring, measurement, deadlines and enforcement become all important when such flexibility is allowed and staff believes the draft decision is not detailed enough to ensure compliance and meet City goals. DEQ has also proposed an agreement that would limit the operation of the Sand and Gravel Aquifer but this remedy will not give the City availability of the wellfield immediately. He read the City's position but noted that the City might not be able to meet demand or its drinking water regulatory obligations and stay within the proposed limits. Staff and Commissioner Lindberg believe some flexibility should be retained to deal with unexpected events and this resolution recommends that any agreement with DEQ retain for the City Council the right to exceed DEQ limits if it determines that unacceptable harm to citizens or the environment might result from staying within those limits. If the City has to exceed the limits in order to meet the demand, the responsible parties, Boeing and Cascade, must deal with the contamination consequences as this is not the City's pollution.

Mayor Katz asked Mr. Golden to paint the worst case scenario.

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Mr. Golden said in 1992 the City purchased water from the Clackamas system and while they believe water would be available in a similar situation from somewhere in the region it could be costly.

Commissioner Lindberg said if there was a serious lack of water, the City would have to have mandatory curtailment. He noted the several million dollars in damage to the "green" industry in 1992 and said one could foresee the possibility of cutbacks in industrial production, causing businesses to lose money. In such cases, they wanted to give Council the ability to look at all the trade-offs.

Mr. Golden said City staff wants to be able to require Boeing and Cascade to make up any lost revenues. The City also wants to see an expeditious cleanup in a fewer number of years, 10 to 20 instead of 35. He said the Public Utilities Review Board will comment on cost recovery

Mr. Layton also noted a letter of concern from Metro. Commissioner Lindberg said it should be forwarded to DEQ.

Mr. Golden said the plan is to develop an emerging water supply now and make the responsible parties pay for the cleanup.

Chris Thomas, Chair, PURB Water Standing Committee, said they want to be sure the cost and rate impacts of remediation do not get lost. Ratepayers could be affected by the wellfield operation if the City is forced to acquire water elsewhere at a higher price or suffer a revenue loss. The PURB believes the ratepayers should not have to absorb costs for a problem that has been created by the responsible parties. The shorter the time frame to complete the work, the higher the cost to the responsible parties because of the higher capital equipment costs required for the cleanup work. If the period is extended, however, that increases the chances for the City to have a serious shortage. Requiring them to make the City whole for a negative financial impact increases their incentive to move more speedily. There is nothing now in the DEQ draft that speaks to the economic impacts of curtailment. Mr. Thomas noted two dissenting votes by PURB members, one who questioned the legality of requiring the responsible parties to bear the cleanup cost for activities which were not illegal at the time. The second related to a belief that the City's prior draw from the wellfield may have accelerated the movement of the plume and it was therefore partially at fault. He said the language in the proposed comments attached to the Resolution is the language the PURB has requested.

Ann Nickel, Columbia Corridor Association, urged support for allowing the responsible parties to use a flexible approach and said they believe the staff report eliminates too much flexibility.

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Scott Wells, 1613 NW Jolie Place, Professor of Civil Engineering, Portland State University, said he was hired under an EPA grant to help citizens of Blue and Fairview Lakes evaluate the impact of the groundwater contamination. Currently the plume is south of Fairview Lake and the City's wellfield is to the north. One of their concerns is that the Water Bureau clearly understands that its actions, such as unilateral pumping, can substantially affect the plume's movement and endanger the groundwater supply for Blue and Fairview Lakes. He said the resolution allows pumping under some emergency conditions without regard for movement of the plume and states that it is not the City's responsibility if it does move. This could lead to further contamination and eventually move it into the wellfield. A reasonable alternative might be to develop an emergency water supply now, have the responsible parties pay for it, and thus ensure that the plume does not move. He said there is a Memorandum of Understanding between the City and Interlocken which states that Portland does not anticipate that its wells will not adversely impact the existing water rights of the beneficiaries. If the City pumps the plume it could violate that Memorandum.

Jane Graybill, 21130 N Interlocken Lane, Troutdale, representing Friends of Blue and Fairview Lakes, said it appears that their wells are under the larger umbrella of the City's wellhead area currently being delineated. They believe their water supply will be affected by pumping decisions and asked that the three water cooperatives, West Interlocken, Interlocken and Blue Lake Water, be allowed to participate in the negotiations with DEQ and the responsible parties. She cited a Multnomah County ordinance that called for protection of this area because of its significant environmental importance.

Jean Ridings, Secretary-Treasurer, Blue Lake Coop, said when the Memorandum of Understanding was signed, no one anticipated any kind of contamination. She said the Coop asks to be included in the decisions about the wellfield because of its impact on them.

Lyn Mattei, 133 SW 2nd, Suite 302, 97204, Grant Administrator of an EPA Grant to the Friends of Blue and Fairview Lakes, said the DEQ draft is not final and has not had adequate public review. The technical grant advisory panel hired by the Friends identified a number of potential problems with the DEQ plan and she asked the City to request that DEQ grant a month's extension to allow more adequate review.

Mr. Thatcher said staff reviewed the complete report and believe they have incorporated the PSU comments to the extent they are relevant to the City's interests. The technical portions have been analyzed.

Commissioner Lindberg said the City also has to be a good neighbor, especially if what it does affects the drinking water of someone else.

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Mr. Thatcher said nothing in this resolution would entail the City "wiping out the Interlochen water supply." To give Council the right to balance interests in an extreme situation is not to say the City will run roughshod over the interests of the Interlochen group. The City will live within the DEQ limits but recognizes there may be circumstances that could lead to worse environmental consequences. The City is only asking DEQ to take that into account.

Leonard Kirshner, Foster Powell Neighborhood Association and PURB watchdog, said the City should offer the hand of friendship to Boeing and Cascade Corp and not act like the IRS as these companies did not know they were violating anything.

Commissioner Lindberg said he believes the DEQ proposal would meet the City's needs the vast majority of time, maybe forever. The question is whether, in a crisis, the City Council should retain the last resort option of pumping beyond that amount.

Mr. Thatcher said the concern of the Interlocken neighbors is specifically addressed in the performance criteria being recommended for DEQ adoption.

Mr. Layton read the pertinent portions regarding a contingency plan to keep the plume from moving northward.

Mayor Katz asked how much the plume moved earlier this year.

Mr. Layton said about 20 feet, or less than the natural movement of ground water over a year's time.

Mr. Thatcher said the City has suffered substantially in order not to move this plume and in 1996 the Council made a tough decision stating that moving the plume ten feet is less important than providing safe drinking water. The City's proposal to DEQ rests on the presumption that the responsible parties are controlling the plume in all but the most extraordinary circumstances. The City should be able to pump for many years without a chance of moving the plume if this remedy is working. Only if the limit is passed, a highly unlikely event, would the issue of moving the plume arise. The responsible parties can also be asked to help in such circumstances.

Disposition: Resolution No. 35559. (Y-3)

At 5:30 p.m., Council adjourned.

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BARBARA CLARK
Auditor of the City of Portland

Cay Kershner

By Cay Kershner
Clerk of the Council