



CITY OF
PORTLAND, OREGON

**OFFICIAL
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 29th DAY OF MARCH, 2000 AT 9:30 A.M.

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

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

Agenda No. 415 was pulled from Consent. On a Y-5 roll call, the balance of the Consent Agenda was adopted as follows:

CONSENT AGENDA - NO DISCUSSION

- 400** Accept bid of Russell Construction, Inc. to furnish Portland Building 6th floor remodel for \$384,983 (Purchasing Report - Bid No. 99755)

Disposition: Accepted.

- 401** Accept bid of Emery & Sons Construction, Inc. to furnish Whitwood reservoir construction for \$855,662 (Purchasing Report - Bid No. 99761)

Disposition: Accepted.

Mayor Vera Katz

- *402** Extend legal services agreement with Amburgey & Rubin, PC (Ordinance; amend Agreement No. 32463)

Disposition: Ordinance No. 174267. (Y-5)

- *403** Authorize a legal service agreement with Stoel, Rives LLP for outside counsel work on claims resulting from the Columbia Slough consolidation conduit project (Ordinance)

Disposition: Ordinance No. 174268. (Y-5)

- *404** Agreement between Volunteers of America and the City for use of Office of Justice Programs grant funds (Ordinance)

Disposition: Ordinance No. 174269. (Y-5)

- *405** Agreement between Raphael House of Portland, Inc. and the City for use of Office of Justice Programs grant funds (Ordinance)

Disposition: Ordinance No. 174270. (Y-5)

- *406** Temporarily waive City Code Section 4.14.060(B), 4.20.090, Article 25.1 of the PPA Labor Agreement and Article 17 of the PPCOA Labor Agreement (Ordinance)

Disposition: Ordinance No. 174271. (Y-5)

- *407** Authorize contract with construction on claims resulting from the Columbia Slough consolidation conduit project (Ordinance)

Disposition: Ordinance No. 174272. (Y-5)

Commissioner Jim Francesconi

- *408** Accept donation of a van to the Bureau of Fire, Rescue and Emergency Services (Ordinance)

Disposition: Ordinance No. 174273. (Y-5)

- *409** Contract with the lowest responsible bidder to construct The Portland Building Child Development Center and provide for payment (Ordinance)

Disposition: Ordinance No. 174274. (Y-5)

- *410** Authorize the three-year lease of a Kodak IS-120 copier by the Bureau of General Services for approximately \$214,475 (Ordinance)

Disposition: Ordinance No. 174275. (Y-5)

- *411** Contract with Western Waterproofing Company Inc. for The Portland Building east and west wall project for \$620,000 and provide for payment (Ordinance)

Disposition: Ordinance No. 174276. (Y-5)

- *412** Authorize the selection of parking attendant and revenue services contractor for the Smart Park garage system through a request for proposal process (Ordinance)

Disposition: Ordinance No. 174277. (Y-5)

- *413** Lease for temporary site at 8911 N Leonard for Station 22, Fire Bureau (Ordinance)

Disposition: Ordinance No. 174278. (Y-5)

- *414** Grant Specially Attended Transportation permit to Ahmed Gasim Ahmed, doing business as Salama (Ordinance)

Disposition: Ordinance No. 174279. (Y-5)

- *416** Amend contract with Kurahashi Associates, Inc. to include an expanded scope of services, provide additional compensation in the amount of \$28,586 and extend contract duration for improvements at University Park Community Center (Ordinance; amend Contract No. 30104)

Disposition: Ordinance No. 174280. (Y-5)

- *417** Authorize an agreement between Portland Parks and Recreation and Professional Roof Consultants for \$19,683 to provide design services for the Pittock Mansion roofing replacement and/or repair (Ordinance)

Disposition: Ordinance No. 174281. (Y-5)

- *418** Amend contract with MFIA Consulting Engineers to extend contract duration for improvements at University Park Community Center (Ordinance; amend Contract No. 30008)

Disposition: Ordinance No. 174282. (Y-5)

- *419** Amend contract with CSA Consulting Engineers to extend contract duration for improvements at University Park Community Center (Ordinance; amend Contract No. 30147)

Disposition: Ordinance No. 174283. (Y-5)

- *420** Amend contract with Carleton Hart, Architecture to include an expanded scope of services, provide additional compensation in the amount of \$35,000 and extend contract duration for design improvements at University Park Community Center (Ordinance; amend Contract No. 30774)

Disposition: Ordinance No. 174284. (Y-5)

Commissioner Charlie Hales

- 421** Accept contract with All Concrete Specialties, Inc. for street improvements on SE Stark and Washington Streets Safety Project 1999 as complete, release retainage and make final payment (Report; Contract No. 32368)

Disposition: Accepted.

- 422** Accept contract with McLean Landscaping Maintenance for street improvements on NE Martin Luther King Jr. Blvd - pavers as complete, release retainage and make final payment (Report; Contract No. 32612)

Disposition: Accepted.

- 423** Declare the purpose and intention of the City to construct street and storm sewer improvements in the SE Ivon Ct/125th Ave HCD Local Improvement District (Resolution; C-9962)

Disposition: Resolution No. 35873. (Y-5)

- *424** Apply to Tri-Met for a Community Transportation Grant in the amount of \$106,998 to install audible pedestrian signals and large-print directional signage at key intersections along major transit routes (Ordinance)

Disposition: Ordinance No. 174285. (Y-5)

- *425** Extend the City employee Trip Reduction Incentive Program and increase transit, carpool, walk and bike incentives (Ordinance)

Disposition: Ordinance No. 174286. (Y-5)

- *426** Authorize sole source annual supply contract and purchase from Broadband Networks, Inc. for fiber optic traffic signal equipment without advertising for bids (Ordinance)

Disposition: Ordinance No. 174287. (Y-5)

- *427** Replace Exhibit A, street vacation map, in order to accurately depict the area vacated (Ordinance; amend Ordinance No. 173298)

Disposition: Ordinance No. 174288. (Y-5)

- *428** Amend agreement with the Portland Development Commission regarding the Eastbank and Steel Bridge river access pedestrian and bicycle projects (Ordinance)

Disposition: Ordinance No. 174289. (Y-5)

- *429** Authorize agreement with the Portland Development Commission regarding the North Macadam District development strategy (Ordinance)

Disposition: Ordinance No. 174290. (Y-5)

- *430** Contract with the Oregon Department of Transportation for traffic safety improvements on NE Lombard Street and NE Sandy Boulevard (Ordinance)

Disposition: Ordinance No. 174291. (Y-5)

- *431** Amend agreement with HNTB Corporation to carry out additional design engineering services and construction engineering services (Ordinance; amend Agreement No. 30978)

Disposition: Ordinance No. 174292. (Y-5)

- *432** Amend contract with CH2M Hill for professional, technical and expert services as required to complete the lower Albina overcrossing project (Ordinance; amend Contract No. 30979)

Disposition: Ordinance No. 174293. (Y-5)

- *433** Agreement with Portland Development Commission to provide construction funding for transportation and streetscape improvements of NE Alberta Street between NE Martin Luther King Jr. Boulevard and NE 15th Avenue (Ordinance)

Disposition: Ordinance No. 174294. (Y-5)

- *434** Authorize agreements with and approve payment to the Union Pacific Railroad Company to permit project facilities related to the Steel Bridge Pedestrian and Bicycle Crossing Project (Ordinance)

Disposition: Ordinance No. 174295. (Y-5)

- *435** Authorize the Purchasing Agent to sign a purchase order to serve as a contract for street light poles for an estimated amount of \$76,750 (Ordinance)

Disposition: Ordinance No. 174296. (Y-5)

Commissioner Dan Saltzman

- *436** Authorize contract with the lowest responsible bidder for the Columbia Boulevard Wastewater Treatment Plant chlorine system components project (Ordinance)

Disposition: Ordinance No. 174297. (Y-5)

- *437** Contract with Brown and Caldwell for professional engineering services for preliminary design of the Columbia Boulevard Wastewater Treatment Plant secondary treatment expansion, Project No. 6614 (Ordinance)

Disposition: Ordinance No. 174298. (Y-5)

- 438** Consent to the transfer of Wunsch Sanitary Service solid waste and recycling franchise to Heiberg Garbage & Recycling (Second Reading Agenda 390)

Disposition: Ordinance No. 174299. (Y-5)

Commissioner Erik Sten

- *439** Contract with Hacienda Community Development Corporation for \$25,000 to support its community development activities and provide for payment (Ordinance)

Disposition: Ordinance No. 174300. (Y-5)

- 440 Authorize a contract and provide payment for the maintenance and rehabilitation of ground water wells 2, 4, 9 and 15 (Second Reading Agenda 391)

Disposition: Ordinance No. 174301. (Y-5)

REGULAR AGENDA

- *415 Authorize an agreement with McKeever/Morris for \$675,000 for consulting services for the Heron Lakes Golf Course Clubhouse project (Ordinance)

Discussion: Commissioner Francesconi said he wanted this pulled because of the amount of money and because this is complicated due to the environmental issues around Heron Lakes.

Commissioner Sten asked if the funding is 100 percent from golf fees.

Gordon Wilson, Bureau of Parks and Recreation, said it was all from golf. In answer to Mayor Katz' question as to what McKeever/Morris will do for the money, they will work with the Natural Resources Management Plan and, as part of a team, prepare a conditional use master plan and provide the drawings for the clubhouse. There will be a network of trails around the course.

Disposition: Ordinance No. 174302. (Y-5)

- 398 **TIME CERTAIN: 9:30 AM** – Report from the Utility Undergrounding Citizens Advisory Committee on the policy and financing options for undergrounding overhead utility wires in selected parts of Portland (Report introduced by Commissioner Sten)

Discussion: Curt Nichols, Energy Office, said the Utility Undergrounding Citizens Advisory Committee (UUCAC) was comprised of 13 people with various backgrounds and from different parts of the City. The committee looked at what other communities were doing, the different costs for undergrounding and brainstormed funding sources. The report contains three recommendations: 1) reserve a portion of the utility franchise fees for undergrounding; 2) promote undergrounding options in urban renewal developments and other major infrastructure improvements; and 3) include undergrounding provision in future utility franchise agreements.

Carl Talton, Portland General Electric (PGE), said the committee looked around the state and country to figure out how other people have tackled this situation. The biggest part of the issue is the cost. Regarding the first recommendation, these franchise fees are related to those utilities which contribute to the overhead system – cable, electrical and telephone. The plan would be to use the money generated by fee increases, not its present base. The second recommendation ties into the first, but they could not find a silver bullet. They focused on areas with projects going on under the 2040 Plan, and to focus the franchise fee dollars in those areas such as urban renewal projects. Urban renewal represents a real key. In discussing the planning of urban renewal zones, if it is a redevelopment, typically undergrounding has not been part of that discussion. If a discussion occurs early on and if the committees which are looking at the investments agree, there will be an opportunity to tie some pieces together. Interstate Corridor urban renewal is a good example of this, as

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Portland Development Commission (PDC) is weighing undergrounding with all the other issues.

Mayor Katz asked, regarding Interstate, has PDC actually looked at what that would mean to cost and if it is a practical element.

Mr. Talton said this is where undergrounding gets complicated. The high of \$8 million for a three-mile portion can be reduced to \$5 million, after figuring out who pays for what -- utilities, water and sewer,

Mayor Katz asked if this is doable.

Mr. Talton said the \$5 million is the cost of undergrounding the current facility that is in the Interstate urban renewal. In the Lents area, part of the discussion is there the cost associated with the building or home owner for them to prepare their own property for undergrounding. Typically, it is about \$500 for a homeowner and could be in the tens of thousands for a business.

Mayor Katz asked, if broadband was coming in, could this be tied together.

Mr. Nicols said, for example, Keizer put in 11 conduits when at present there was need for only four of them. Later, whether broadband or not, the wire can just be pulled through.

Mr. Talton said he did not know what cable companies are doing, but in downtown PGE is putting in additional conduits for additional capacity.

Commissioner Sten said the conduits in the major lines, particularly in downtown, they will be underground. But, past the major lines, it would add millions more in neighborhoods.

Mr. Talton said whenever PGE has an open trench, they certainly put in additional conduits.

Rick Siefert, UUCAC, Hillsdale Business and Professional Association President, 2115 SW Tyrol, underscored that the majority endorsing this report is a super-majority, representing 12 of the 13 committee members. The dissenter raised the important question of priorities. The new money is projected to come from the expected explosive growth of the telecommunications system. It is worth asking why spend money to beautify the City and the answer is it rewards us by enhancing civic pride, educates youth about our values, sets a standard for succeeding generations and brings daily joy to citizens and visitors. The companies recently competing for franchises are called overbuilders -- each proposes to add to, not subtract from, the overhead clutter and spars and poles at ground level. Mr. Siefert recommended building funding mechanisms into new and renewed franchise agreements and one percent of construction costs for undergrounding levied on overhead cable construction.

Commissioner Sten said he was disappointed the committee concluded that Local Improvement Districts (LIDs) were unworkable. Realistically, the one percent would still be the General Fund funding this. What led to the conclusion there was no way to have property owners contribute?

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Mr. Siefert said, in Hillsdale, the boundaries were such that many people did not identify with the commercial centers.

Commissioner Sten noted that Hillsdale drew the boundary large enough for the cost, affecting people living at a distance, but would it help to look at a tighter LID before the city got involved.

Mr. Siefert said a big hitch is the amount it would cost business owners. If there is a one percent for undergrounding, some of the costs will be passed to the users of the new cables.

Mr. Talton said the committee tried to identify new and different approaches, although it asked the City Office of Finance and Administration (OFA) for assistance as they know of the current tools which could help with those approaches.

Commissioner Saltzman asked how the reliability of undergrounding factored into this report.

Mr. Talton said there is not as much reliability as might be thought, as they are tied to a central system which is what typically goes down. Smaller outages are generally a customer's drop, a tree over the line. PGE spends millions a year in tree trimming, which would be saved with an underground system. When there are underground outages, they are more difficult to find.

Paulette Rossi, Public Utilities Review Board member, said she was looking forward to "personal power" – fuel cells – which is coming over the horizon speedily. The Army is studying personal fuel cells for soldiers to use in the field. As technology is rapidly changing, undergrounding may not be the best approach, incurring debt for no reason.

Sam Sadler, 2047 SW Sunset Boulevard, 97201, Hillsdale, said, regarding people paying for undergrounding themselves, a Hillsdale vote turned out with 56 percent in favor. The distribution of those voting pro or con was spread around the neighborhood, not how close they were to Hillsdale. He has worked with energy policy for 25 years and noted the fuel cells are quite distant. This proposal will be incremental financing.

Helen Farrens, 3956 SW Condor, said undergrounding is not one of the major City responsibilities at this time. Franchise fees go into the general fund from a percent of the bill, as with electrical and others. The fee for undergrounding will be passed on to the consumers.

Mayor Katz said this is a report with a lot of work yet to be done.

Commissioner Francesconi said downtown and town centers would benefit by undergrounding, but they would also benefit from urban parks, clean sidewalks and flower gardens. He opposes setting aside a portion of franchise fees for undergrounding since there is already pressure on utility rates and franchise fees for environmental, sewer and water issues. Low income and senior rate relief is a higher priority than undergrounding. He would like to see people match with their money when they ask for public money.

Commissioner Hales said this report gives a push to better refining the undergrounding issue. He noted that as townships became part of Portland, their infrastructure (more often

lack of) became the City's expensive responsibility. This proposal will help to reach a balance in paying for the huge costs of development.

Commissioner Saltzman said this is a good vision and he hopes that finding the funding does not stop the potential for undergrounding.

Commissioner Sten said this issue is quite vexing and difficult for the committee. He cannot support the first proposal as he is pushing so hard for housing dollars. The Interstate urban renewal will make a good test case. It has been a most inclusive process and this needs to be on the list so the community can rank it with the other things competing for the money. He would like to see some sort of LID requirement and for the utilities to not pass the fee on to consumers and is committed to working on the issue.

Mayor Katz said she shares the same reservations expressed but would like recommendations two and three be part of the budget discussion. Council is the City's steward and responsible to direct growth with style and beauty. Council will look for a good pilot project, get a sense of the cost and move ahead with recommendations.

Disposition: Accepted. (Y-5)

399

TIME CERTAIN: 10:00 AM – Amend Parks System Development Charge Code to modify the way qualified public improvement credits are defined and administered (Ordinance introduced by Commissioner Francesconi; amend Code Section 17.13.020, 17.13.070 and 17.13.120)

Discussion: Commissioner Francesconi said two years ago Council passed a Parks System Development Charge (SDC) for the first time. It had incentives for the donation of parks and a mechanism to provide exemptions for non- and for-profit developers of affordable housing. For the first time, the City has a chance to buy land for parks before it is gone. Setting up a public process to scrutinize the credit applications is important. He has asked staff and the City Attorney to review and address the credit mechanism. The new transfer mechanism has developed a pot of \$2.5 million for low-income housing. It does open a potential loophole where a credit could be sold. How to handle these on future developments needs to be clarified.

Commissioner Sten said low-income housing should be exempt. The transfer was a short term approach to ensure the money and he tied the support of that approach to the extension of the fee to commercial development. Where are we on that? There are four major SDCs: Transportation and Water exempt affordable housing; Bureau of Environmental Services (BES) does not; and Parks has a short term approach. The long term approach should be a consistent waiver of the fees for affordable housing based on ability to pay and not transfer general funds into SDCs.

Commissioner Francesconi said the Parks transfer should be viewed as a temporary mechanism. The City Attorney has determined the mechanism of who is actually using the Parks so there is a legal basis to creating a commercial SDC does not have legally-sound methodology, but one should be developed. He has asked for an SDC aimed at urban parks, not neighborhood and community parks. This would be less expensive for the business community.

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Commissioner Saltzman said the League of Women Voters has challenged Parks Director Charles Jordan's determination on this rule for a particular piece of property. There is a perception that this item is somehow related to their appeal.

Peter Kasting, Senior Deputy City Attorney, said there is an appeal pending before the Code Hearings Officer concerning the Parks Director's decision on a particular application for Parks SDC credits. That appeal would not come before Council. The growing perception that the credit provisions in this current ordinance are more generous than anticipated or, perhaps, than Council intended. One of today's amendments will make the Parks SDC credit less generous, but still somewhat more generous than the statute requires.

Mary Ann Cassin, Bureau of Parks and Recreation, said to date over \$1.3 million has been raised which will go to the acquisition of new parks and already there is a new park in Parkrose with several more in the pipeline. Over \$3.2 million in cash assessments have been billed at present. The transfer program with Portland Development Commission (PDC) is long term, as the \$2,500,000 in the Credit Pool applies to both non-and for-profit developers so the program will last many years into the future. This ordinance has two components. It eliminates the provision of the development agreement so the Parks Director does not automatically have to accept it. It eliminates the transfer of credits. They still apply but without an IOU for future use which could be sold or traded.

Mr. Kasting said a third item is the change of some deadlines to process administrative reviews. There are three amendments which need to be circulated before adoption at a later time. One would further clarify the relationship between development agreements and Parks SDC credits to emphasize Council's expectation that as development agreements are negotiated the issue of eligibility for Parks SDC credits will be part of the *quid pro quo* that is negotiated in those agreements and that Parks facilities and conveyances of Parks property that are specified in development agreements would be exempt from the definition of qualified public improvements unless the development agreement specifically said no, Parks SDC credits have not been addressed and the developer can apply for it. The second is it is desirable to define the phrase "required as a condition of development approval." That is a phrase which comes out of the statute and reflected in the proposed amendment. It is currently not defined, but should be. The third is a housekeeping matter to add a sentence clarifying when an application is considered complete for purposes of vesting under the old rules. The latter is to avoid confusion concerning the status of applications that are filed in the next 30 days.

Mayor Katz noted this would not be voted on today and will come back for another hearing on those amendments.

Mike Houck, Audubon Society of Portland, said others have concerns about this and he supports the amendments and the League of Women Voters' position that additional work needs to be done. Regarding the commercial development fees, he has long supported going to that source for full revenues for Parks. There is ample nexus between the implementation of neighborhood, community parks, the greenway, in addition to urban parks which really do benefit local businesses. A Reed College professor recently released very useful data pinpointing the added value on property resale as a function of distance from particular park types, including golf courses and natural areas.

Beverly Wilson, League of Women Voters of Portland, 921 SW Morrison, Suite 410, 97205, said the League supports the Parks SDC and finds that it is a useful tool to provide funding for new parks and also supports correcting some of the flaws in it. They recommend an ordinance rewrite focusing on three points: 1) the relationship between the amount of the SDC charge and the amount of the SDC credit is out of balance, especially in the central city where residential density is high but the SDC charges are low compared to the value of the land. The League suggests that Council direct the Parks Bureau to revisit the methodology of the SDC credit program. It makes more sense to base the SDC credit on the amount of land donated, rather than basing the credit on the land's appraised value. A direct relationship between the number of people who reside in a housing development and the amount of park land needed to serve them should be established and a credit system should be designed to encourage land donations that are proportionate to the number of people who will occupy the new development. This approach would serve to balance the SDC charge with the SDC credit on an apples-to-apples basis and would prevent the problem of credits being so much greater in value than the charge itself. 2) Developers of development along the North Macadam Greenway can take advantage of the SDC credit program if they increase the width of the setback. The North Macadam Zoning Code amendments currently under discussion would allow for Floor Area Ratio (FAR) and height bonuses for the same increase in setback. The League does not believe property owners or developers should benefit twice for the same land donation. The North Macadam developers should receive credits or bonuses for the greenway setback, expected under the urban renewal plan. 3) A considerable number of development agreements will be negotiated in the North Macadam District and Council should direct the negotiating team to consider the value of the SDC credits when striking deals with developers. Mayor Katz said there is still more work to be done with the community, the lawyers and Commissioner Francesconi's staff.

Ms. Cassin said an early amendment took note of the double-dipping and stated that developers need to choose one or the other.

Disposition: Continued to April 12, 2000 at 2:00 p.m.

Mayor Vera Katz

- *441** Contract with Campbell Delong Resources, Inc. for an amount not to exceed \$44,795 to provide data collection and analysis services for a community survey on neighborhood livability and crime (Ordinance)

Discussion: Jane Braaten, Police Bureau, said this community survey is the fourth in a every-two-years series and it is a valuable piece of their strategic planning process.

Commissioner Sten said the Water Bureau does a similar survey and he wondered if the City Auditor's Office could do this work at a cheaper price.

Mayor Katz said, in going through the budget, she has identified a variety of issues occurring in different bureaus which could be consolidated or moved to the Auditor's Office if he wants it.

Commissioner Saltzman said he wants an answer as to why this cannot be done through the Auditor's Office and this would be his same question to the Water Bureau.

Ms. Braaten said the history of this was Police received a grant from the National Institute of Justice, which proposed they conduct an employee and community survey. Police looked at the issue of what they could add to the Auditor's survey. A difference in the surveys is that the Auditor's is a mail-in and Police does a telephone. The latter results ensure valid statistics, that oversampling can be done to measure each precinct's performance and can also oversample "contact and perception" of services. If the respondent's satisfaction rate is low, they are asked why, what was the issue and what was the problem with that. This information is nearly impossible to get from a mail-in.

Commissioner Sten said the Water Bureau could fund at a savings a full-time employee in the Auditor's Office, if it provided the same amount of information for a cheaper price.

Mayor Katz recommended deferring this another week so she could talk with Auditor Gary Blackmer. She said if it will be a mail-in, they should not contract with Campbell DeLong at all, but telephone surveys are more expensive, although the sample would not have to be quite so big. These are general funds.

Commissioner Saltzman noted, in addition to the Auditor's survey, that this year a poll by Davis and Hibbets was commissioned for the budget process. This is another phone poll. Unless this is a specific requirement of the grant, he cannot support this. The officers and precinct commanders should have a pretty good grasp of people's concerns – it is a cornerstone of community policing.

Ms. Braaten said this is not necessary to meet the grant obligation.

Disposition: Continued to April 5, 2000 at 9:30 am.

Commissioner Jim Francesconi

- *442 Authorize agreement with Portland Rose Festival Association to operate the Rose Garden Gift Shop in Washington Park (Ordinance; waive Code Section 5.32.070)

Discussion: Dick Clark, Executive Director, Rose Festival Association, said the store is a new construction on Rose Garden Way at an exit from the Rose Garden and will contain many rose related items. It will be a year around store and open seven days a week. This will be a way for tourism to help fund the Rose Garden.

Disposition: Ordinance No. 174303. (Y-5)

- *443 Adopt findings, approve an alternate contracting process, create an exemption to the competitive bidding requirements of ORS Chapter 279, contract with the highest scoring evaluated proposal and provide for payment for the Portland Communications Center Building addition and remodel (Ordinance)

Discussion: David Kish, Director, Bureau of General Services, said this was an alternative contracting method to the low bid process and allowed under State law. This is a very complicated project and the 9-1-1 center must be kept open during this expansion. It will be paid from the bond fund.

Disposition: Ordinance No. 174304. (Y-5)

- *444** Amend agreement with Aron Faegre & Associates for architectural services for the expansion and remodel of the Portland Communications Center Projects 9051 and 9052 and provide for payment (Ordinance; amend Agreement No. 32488)

Disposition: Ordinance No. 174305. (Y-5)

Commissioner Charlie Hales

- *445** Agreement with Portland Streetcar, Inc. for start-up services related to Central City Streetcar operations (Ordinance)

Discussion: Vicky Diede, Office of Transportation, Central City Streetcar project, said as they have gotten deeper into this the issue of scheduling trains and meet frequencies is very complicated and she thinks it is more of an art than a science.

Rick Gustafson, Shiels Oblatz Johnsen, representing Portland Streetcar, Inc., said there have been a series of negotiation sessions with the Amalgamated Transit Union (ATU) who contended that Tri-Met employees had the right to operate the streetcar. After much cooperation from ATU and Tri-Met, a working scenario, not a formal labor agreement, was established. This scenario will allow them to meet the projected service level and operations within the \$2.4 million budget. Twelve to 15 Tri-Met operators and two to four mechanics will be assigned the streetcar and will remain Tri-Met employees. They will be required to sign up for a minimum of a year after training. The cars should arrive in February, 2001.

Commissioner Francesconi asked why they would have to be Tri-Met employees.

Mr. Gustafson said the union has contended since two-thirds of the money is coming from Tri-Met funds, they should be Tri-Met employees. This is not altogether negative as Tri-Met can efficiently conduct the hiring and training programs.

Commissioner Hales said this presentation may make this sound easy, but it was delicate, difficult and full of devilish detail.

Disposition: Ordinance No. 174306. (Y-5)

City Auditor Gary Blackmer

- 446** Assess benefited property for the cost of constructing speed bumps in the NE 14th Ave/Fremont to Knott speed bump Local Improvement District (Hearing; Ordinance; C-9967)

Disposition: Passed to 2nd Reading April 5, 2000 at 9:30 am.

At 11:25 a.m., Council recessed.

MARCH 29, 2000

RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON
WAS HELD THIS 29th DAY OF MARCH, 2000 AT 2:00 P.M.

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

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

447 **TIME CERTAIN: 2:00 PM** – Adopt and implement the Hollywood and Sandy Plan (Previous Agenda 377; Ordinance introduced by Mayor Katz)

Discussion: Gil Kelley, Director, Planning Bureau, submitted material delineating issues which need clarification, Plan amendments and other issues for discussion. The latter are either more global in nature or essentially budgetary issues for implementation.

Commissioner Saltzman wanted some discussion on the budget issues, with respect to the role of Office of Neighborhood Involvement (ONI) in continuing this Plan.

Mr. Kelley said the street concept came up over and over during the testimony and is implicated in the action items.

Jean Harrison, Portland Office of Transportation (POT), clarified how the transportation concept works with this Plan. They tried to capture the land use components and reflect them with the transportation concept. That concept will not be implemented today, but will be part of a later development design process, involving the public. After that input, changes will probably be made to such things as curb extensions, on-street parking. PDOT recommends that the whole process be done at once, which has strong support at the regional level.

Debbie Bischoff, Bureau of Planning, said this current code amendment has the language dealing with high intensity commercial zone when it is across the street from the lower intensity commercial zone, covering the setback 100-foot height transition with the 45-foot limit for the first 15 feet and 55 for the next 85 feet. Already in the Plan was a setback provision dealing with a commercial use either adjacent or across the street from certain residential zones. Regarding the NE 12th, Sandy Boulevard and Burnside Street intersection, staff agrees for the study to occur in six to 10 years.

Commissioner Hales thought that intersection should come up sooner. Although they do not have the money right now, it should be flagged.

Ms. Harrison said this intersection really does need a study.

Ms. Bischoff said testimony about crossing NE Sandy and 37th. Sandy Boulevard improvements are a priority and several action items are recommended to be brought up into the next five years. Another amendment is to designate a small area in Hollywood as a required residential development area. More residences in Hollywood will enhance the vitality and serve the great transit. Parking ratios are more stringent because it is an area that has compact, urban form, great transit, is very walkable and becoming more so. Planning staff prepared three plan amendments: 1) amend the purpose statement to allow an

adjustment; 2) reflect the attempt to encourage structured as opposed to surface parking lots in Hollywood; and 3) amend purpose statement for general office uses to one space per 333 square feet of floor area.

Commissioner Hales thought the each case of amending the purpose statement allowed the possibility of an adjustment. The first approach is to stick with tough ratios but open the door to adjustments. The other two will open the door to adjustments, but make the underlying ratios easier. He favors leaving the ratios tough, with possible adjustments.

Ms. Harrison recommended, when devising the adjustment application, questioning the difference between the company's way of operating and other office uses. Things that might be atypical are a high-density employee base or a retail component of a business to draw more people.

Commissioner Hales said they were proposing different ratios than apply in city-wide formula for parking, but the city-wide parking ratio regulations, which is still being worked on, will give a break for structured parking anyway.

Ms. Bischoff said the city-wide being discussed now will exempt parking maximums from structured parking. They wholeheartedly do not want to see that in Hollywood so it will not become a big park-and-ride for MAX. There is an underground parking bonus in the plan. In answer to Mayor Katz' question, why not do this in context of Title 2, Ms. Bischoff said, since they are establishing a Hollywood Plan District, this would be the one place to have all the regulations for that district. Continuing the discussion of the amendments, she said staff recommends retaining the Laurelhurst Plan District as amended in the Recommended Plan, dealing with front setbacks. Regarding the property at NE 33rd and Peerless, discussed in the last meeting, staff recommends a rezoning to CN1, rather than residential, which does not require as much parking. Also, from the last discussion, people wanted the green space on the slope near NE Wisteria left, it is a small, isolated site with very few native species and not appropriate for e-(environmental) overlay.

Barry Manning, Planning Bureau, said most of the land on NE Wisteria is privately owned.

Gary Conklin, representing the Providence Health System (PHS), said the Providence Office Park, located in this district, is the headquarters for the PHS in Oregon. It has functionally outgrown its present building, after already moving two functions. Rather than adding accessory parking on this site, the neighborhood strongly suggested pursuing another approach. PHS is looking to acquire other property which means they can bring back those functions currently in leased, suburban buildings. They understood that if they met the 50 percent test, which they think is a reasonable test, the one to 294 ratio would apply to all the parking, not just that in a structured facility.

Commissioner Saltzman noted that the proposal allows for an adjustment.

Mr. Conklin said they are on the precipice of exercising their purchase agreement, a decision of important consequences.

David Knowles, 115 NW 1st Avenue, former Planning Bureau Director, said he was here to support friends who live in the street where PHS has proposed a parking structure abutting the backyards of one side of that street.

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Lisa Craig, 1352 NE 46th Avenue, 97213, said they obviously do not want a parking structure behind their homes and also know that PHS has a legitimate parking issue and have done a good job of keeping the cars off their street.

Chris Browne, 5905 NE Failing, 97213, said he has had to work in Beaverton and Hillsdale for 20 years because there is no parking or big office structures to support good-paying jobs in this area.

Brad Perkins, 1508 NE Schuyler, 97212, said a monetary incentive is needed to make the type of transit-oriented/pedestrian-oriented development to occur – a transit station. The timing to get a large enough property is now, with the Copeland Lumber site, and if PDC cannot help, they need to come up with other ideas.

Mr. Kelley recommends staying away from revising the number but amending the purpose statement to be explicit that in cases where a majority of parking is created in the form of structured parking, adjustments may be warranted. The purpose statement first mentions an “efficient use of land.”

Ms. Harrison said purpose statements, usually do not specifically mention adjustments or any other kind of land use action, as it ties the hands of staff.

Mayor Katz noted they were not voting today and that parking ratio Options 1 and 2 need to be further thought out.

Commissioner Sten questioned what seems to be the premise to limit structured parking because it is near a light rail line. That will not keep Hollywood vital.

Ms. Bischoff, addressing the funding/implementation/follow-up of the Plan, said a one-half Full Time Equivalent (FTE) in the Planning Bureau could administer that. The follow-up could also be a responsibility of the Central Northeast Neighborhood Association or the citizens group itself.

Commissioner Saltzman said as they transition into implementation, these citizens’ groups rightly belong as an auxiliary of the neighborhood coalition office.

Chris Mitchell said people from the neighborhood are needed, but it should not be political. The Planning Bureau is not political.

Commissioner Saltzman said the nature of a committee changes after a plan’s adoption. The citizens’ work group can transition from the highly active mode into an oversight mode.

Mayor Katz said Ms. Bischoff, although she’s moving into another assignment, can still be involved in some of the implementation process.

Ms. Mitchell is concerned about the funding and feels that Council will simply move onto another neighborhood. So, nothing will go on except great plans.

Mayor Katz said with the Albina Community Plan, a planning staff member was following it until the community took it over. After the plan is written, there will be better success if there is a broader set of citizens pushing Council for implementation.

Ms. Bischoff said improvements to Sandy Boulevard are a high priority at the state, regional and local levels. The consensus is that if the gas tax ballot measure does not go through, other funding alternatives would still come through. Regarding an urban park, Parks has agreed to identify the location of one over the next five years, but with no commitment to fund one in the next 20 years.

Commissioner Francesconi said there are new ways to fund a new urban park in the next five to ten years and it can become a priority for Parks.

Mayor Katz said maintenance is a key issue. While they want to create new parks, existing structures are falling apart.

Ms. Bischoff said there have been several meetings between the Planning Bureau, PDC and Tri-Met about a transit center redevelopment. There is a State Quick Response Program which might provide an architect for site planning, but they are still contacting adjacent property owners about their interest in this. As Tri-Met has indicated additional property would be necessary, they are referring it to the budget process. Regarding the land consolidation of parcels in the study area, not necessarily at the transit center area, it is an action item but there is no funding. Some community members would like to see this as an urban renewal district. Regarding business revitalization, staff recommends it being referred to the current budget process.

Mayor Katz said the issue of which takes priority, the transit center, the urban park, is a fair question for the community.

Ms. Bischoff said there were a lot of comments at the public hearing regarding design review, the standards and guidelines. The two-track design review system was adopted by state law in 1997 and applies to all areas outside the central city. In the hearing, Type II and Type III processes were discussed. Consensus and the Design Commission said the process to allow more public input through the public hearing process is preferred.

Commissioner Hales said his preference is to have the clear and objective standards be very tough and still have the Design Commission route for creative solutions.

Mr. Kelley agreed with the Commissioner that this is a city-wide problem.

Commissioner Sten said all this is very expensive and he would like to see a cost analysis. He would like to see some pictures of buildings that did or did not go through the Design Commission. He thinks overly-stipulated design cuts out innovation.

Ms. Bischoff discussed the design overlay zone, the design review for NE 52nd and Sandy, and to redesignate NE 52nd and Sandy as a Node. The City needs tools to offer communities to help mitigate and potential impacts of increasing density. This plan had a very thoughtful concept that the tools were tied to additional height potential. Recommending 52nd and Sandy as a Node comes partly because of the transportation improvements. Pedestrian crossings all throughout the Sandy corridor are unsafe and lacking.

Mayor Katz said the work has been done and now staff will do the tinkering, tweaking. The technical amendments need to be adopted.

Disposition: Passed to 2nd Reading April 5, 2000 at 2:00 p.m.

- 448** Adopt and implement the Hollywood and Sandy Plan (Previous Agenda 378; Resolution introduced by Mayor Katz)

Disposition: Continued to April 5, 2000 at 2:00 p.m.

- 449** Amend City Code, Property Tax Exemption for New Transit Supportive Residential and Mixed Use Development (Previous Agenda 379; Ordinance introduced by Mayor Katz; amend Code Chapter 3.103)

Discussion: Ms. Bischoff said the map currently shows a quarter-mile radius around the Hollywood transit center. It makes sense in this plan, to encourage a variety of housing in Hollywood, to amend the boundary to be that of the Hollywood Plan District. This has been a typical adjustment, as in Gateway and Lents, as outcomes of the planning efforts. The area amount is about the same.

Bob Ueland, Hollywood Neighborhood Association, said an accomplishment from the last two and one-half years is the choice of Harold Kelly Plaza to redevelop. The money has been raised which will leverage the \$20,000 for more improvements.

Disposition: Passed to 2nd Reading April 5, 2000 at 2:00 p.m.

At 3:50 p.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 30th DAY OF MARCH, 2000 AT 2:00 P.M.

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

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

450 TIME CERTAIN: 2:00 PM – Appeal of the Corbett-Terwilliger-Lair Hill Neighborhood Association against Hearings Officer's decision to approve the application of School District No. 1 and the Portland French School for a conditional use for a new elementary school use in an existing school building at 6318-6338 SW Corbett Avenue (Hearing; 99-00582 CU)

Discussion: Kathryn Beaumont, Senior Deputy City Attorney, said this is an evidentiary hearing, meaning new evidence may be submitted to Council. She explained the procedure for testimony, the time allowed and the criteria which should be addressed.

Commissioner Francesconi noted his ex parte contacts: He was at a school board hearing when this issue came up; at a Children's Museum fundraiser a woman sitting next to him talked about it; and in coming into this meeting, he asked Peter Fry if there were a chance to settle this. He has received letters and emails which have been submitted to the Council Clerk.

Mayor Katz and the other Commissioners said they had submitted their email and letters to the Clerk.

Ellen Wax, Office of Planning and Development (OPDR), outlined the appeal issues. The institutional uses in residential zones approval criteria found in Code 33.815.105 apply to this review. The site is a full block, 3.3 acres, with frontage on SW Corbett and Virginia Avenues and Dakota and Carolina Streets. Corbett is a transit street and the site is one block west of Macadam, two blocks west of the Willamette River and at the north end of Willamette Park. It is zoned for single-dwelling residential with multi-dwelling residential zoning to the north and commercial zoning to the east. The Terwilliger school building has been at this location for 70 years, operating as such from 1928 to the early 1970s, with a capacity for 250 students. After that, it was used for school district offices, special classes, community meetings and a day care facility. As the school conditional use lapsed after three years of non-school use, the Portland French School (PFS) had to apply for a new conditional use approval. PFS operates in two existing school buildings, the main one and a portable. The proposal consists of 12 classrooms providing education for 150 students, K-5. In the future, there is a plan to add a 6th grade and have an enrollment of 250 students. The proposal includes continued use of the play areas in addition to adding a basketball court, a play court and garden area. Thirteen parking spaces will be provided and at least 12 to 36 special event parking spaces are available on site. The applicant proposes to build a hedge around the perimeter of the west yard area with pedestrian access to the yard and school at three points on each frontage. The Hearings Officer's decision approved an elementary school use with the following conditions: enrollment should not exceed 250 students; the school shall continue to evaluate the number of greeters needed to meet and drop off students, increasing the number if necessary; start time should be further staggered by an additional 15 minutes once enrollment reaches 200 students; the Transportation

Management Plan (TMP) shall be implemented as outlined in the application; and a solid hedge or fence located in the setback area shall be limited to and maintained at a height of not more than three and one-half feet, with pedestrian access maintained as shown on the site plan.

Ms. Wax said, regarding the appeal issues, the decision ignores the elimination of green space from community use, although the site is zoned residential, not open space. The Hearings Officer states neither the conditional use approval criteria nor any other portion of the zoning code addresses the issue of public access to property. The appeal states that the decision does not meet the conditional use purpose statement, referring to Code 33.815 and applying the purpose statement approval criteria. This application of a purpose statement is not correct. The third appeal issue is that the decision does not address concerns raised in the Letter of Understanding. Appeal issue four is the decision ignored the school district request to deny the fence. Appeal issue five is the decision did not impose enforcement provision, which is not normal practice to include this mechanism in decisions as there are other, established enforcement mechanisms in City Code. The last appeal issue, six, is that the proposed hedge creates a gated community concept, fencing out local residents. The Hearings Officer's decision states that fences and hedges in the surrounding neighborhood are not uncommon, but a high hedge or fence could present the effect of a blank wall along the property line. Thus, the limit of three and one-half feet.

Diane Linn, Multnomah County Commissioner, said her previous job was Director of the City Office of Neighborhood Associations and often worked on situations like this. An agreement can be reached that really will be acceptable to all involved. She was on the school facility utilization committee which grappled with difficult and complex issues about how school buildings, facilities and grounds were used in the context of communities and neighborhoods. Ms. Linn said this Council decision should promote the concept of retaining public school facilities to be as much of an asset to the communities as possible.

Martin Slapikas, President, Corbett/Terwilliger/Lair Hill Neighborhood Association (CTLH), 5211 SW Viewpoint Terrace, said their basic position is CTLH would support the approval of a Type III conditional use permit based on the original representations of PFS to their board on June 3, 1998, which stated that the traditional community use of the grounds would continue after school hours. As the school reneged on the declaration to the board after receiving their lease, CTLH requests the addition of certain conditions contained in the Letter of Understanding and, if PFS rejects the conditions, they ask Council to deny the application. After the June 3, 1998, the board unanimously voted to support PFS and sent a letter to the School District reflecting that. Within a month of PFS signing a long term lease on August 21, 1998, it revealed plans for a private, gated school community. In October, PFS posted the grounds against residents and animals. The east play yard was fenced in and locked by PFS. Mr. Slapikas said neighborhood volunteers worked with Portland Public Schools, CTLH and PFS to reach an agreement, which culminated in a Letter of Understanding, signed by the neighborhood and the school district. PFS has yet to sign it. In just the past week, the school has posted a 'neighbors welcome' sign, showing hours of public use. The neighborhood is growing from policies mandating increased density. The Bureau of Planning has designated the neighborhood as one of the several in Southwest to be parks deficient. Because of a lack of available green space, what is there needs protection. Students and staff do not live in the neighborhood. The school district, the landlord, essentially requested no hedge/no fence. In June 1998, PFS got CTLH endorsement for a lease based on representations to the board of continued, traditional use,

although PFS had plans for a fence and discussed them with the school district earlier that Spring.

Those speaking in support of the CTLH appeal were:

Angela Wright, 0370 SW Dakota Street 97201
Carl Simons, 0350 SW Dakota Street, 97201
Dale Meyers, 0333 SW Vermont, 97219
Francis Kendrick, 5045 SW Viewpoint Terrace, 97201
David Redlich, Southwest Neighbors, Inc., 3944 SW Condor, 97201
Jeffrey M. Schuh, 4331 SW Viewpoint Terrace, 97201
Jean Pierson, 6120 SW Corbett, 97201
Janet Kelly, 6414 SW Virginia Street, 97201
Anne Becker, 0244 SW Idaho Street, 97201
Jim Gardner, 2930 SW 2nd Avenue, 97201
Roger Strapland, 5918 SW Corbett

The above speakers refuted staff's position that access was not a condition of approval by citing the code: daycare, community service and non-profit uses are allowed by right at a school site and any exterior recreation areas, including playgrounds and fields, must be maintained and open to the public at times when the use is not occupying the areas. They noted that PFS' past behavior demonstrates the need for some means to enforce the conditions given them. There was recognition that PFS brought certain benefits to the neighborhood and there was support for the conditional use with conditions, such as no fence, no significant changes to the rear play area and to unlock the gates there. During negotiations leading to the Letter of Understanding, PFS said there was no functional need for the west yard as a playground for their students, at which point the neighborhood agreed to a modest, low-visibility hedge. The community has historically used the east yard for softball, soccer and other game activities but it was willing to relinquish that in exchange of the use of the west yard after normal school hours.

Long time residents, 40 years in one case, feel betrayed. If the neighborhood good faith efforts, negotiations and compromise had been taken seriously, there would be no reason for this hearing. Besides this school, there is no greenspace in this area beyond crossing four lanes of traffic to Willamette Park, a very busy park. The impermanent "neighborhood welcome" PFS signs' appearance in just the past week is an odd "coincidence." PFS has shown a disrespect for the community process. Other schools at this location have not needed fencing. The traffic impact will adversely affect the residential area as the students do not live in the neighborhood. When the 250 enrollment is reached, there will be 1,000 auto trips daily, without adding the projected 43 staff members' trips. Eight parking spaces are reserved for staff by the Hearings Officer. There is no accommodation for on-site loading. A school leased this site from 1993-1996, and that school worked with the neighborhood and did not change any of the grounds. When PFS first sought neighborhood approval for a lease, they unequivocally stated there would be no change in grounds use, while at that very time PFS had begun dealing with designers about fencing, which challenges their credibility.

Bruce Samson, East Portland School District General Counsel, said since the PFS board did not endorse the Letter of Understanding, that letter is not legally enforceable. The District proposes that the Hearing Officer's recommendation be modified to permit PFS to install a

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three-foot hedge on the condition that it refrain from installing any gates or fencing in connection with the hedge and that the condition remain for a period of 18 months. During that period, both parties can evaluate if the hedge satisfies both their concerns.

Mayor Katz said the Letter of Understanding contained language regarding the rest of the playground area, to have those gates open after school hours.

Mr. Samson said Code 33.281 implies that a school site is open for public use during the time it is not occupied by the students and should apply in this case. The District supports neighborhood access to the school grounds when PFS was not using them.

Commissioner Hales said the school district lease has a provision for use of fields by the Park Bureau's youth soccer program. Is that weekdays, weekends or both?

Gary Hampton, Portland Public Schools Property Manager, said the history has been mostly on Saturdays and occasionally after school hours on weekdays.

Commissioner Hales noted the land use application is in the name of Portland Public Schools (PPS), meaning it would be responsible to enforce conditions of approval. Therefore, if there is an enforcement issue, it will be between the City and the PPS #1, the latter being the property owner.

Mr. Samson said they were indeed the co-applicant. Regarding the enforcement, PFS would be a party to that.

Mayor Katz noted that in the school lease it says "tenant, at its discretion, allow the use of the fields located on the premises for the Portland Parks Bureau youth soccer program."

Mr. Hampton said PPS determined if the west yard is designated for neighborhood use, it would be appropriate to reserve the east yard for PFS use and it would be at their discretion to allow the soccer use. This was a compromise during negotiations.

Commissioner Francesconi asked why 18 months and to whom would this issue come back.

Mr. Samson said it is a reasonable amount of time to test a hedge through the seasons and he proposes that Council retain jurisdiction.

Commissioner Hales states that conditions do not have to have a time clock on them.

Mr. Samson said they and the neighborhood made a mistake to not include language about conditions of keeping the grounds open.

Commissioner Hales asked if there were any other PPS properties which were wholly fenced.

Mr. Hampton the majority have open front yards and fenced back yards. He cannot think of one which is completely fenced – there may be one.

Fred Smith, attorney representing PFS, 1437 SW Columbia Blvd., said he is also the parent of a PFS student. He said before PFS agreed to lease the property it discussed with PPS the

issue of fencing the west yard and PPS approved a four-foot fence. They also discussed and agreed to a play structure and a garden in the west yard before the lease was signed. The lease legally allows PFS to do everything they proposed. Regarding testimony about traditional use of this school property, in 1994 there was de facto approval from PPS to allow dogs on the grounds as, at that time, there were no children there. PFS has greeters to quickly get the kids from the cars to lessen traffic impact. After school, the children "explode" from the building, so the heavy Corbett traffic is a concern, even with adults present since kids' behavior is just that. Mr. Smith detailed the problem with dog feces in the west yard and stated a short hedge would help curtail the amount of that. The majority of the feces is about a leash length from the sidewalk, indicating the dogs are being walked. PFS objects to putting the hedge well inside the property line, because they will be telling the children to stay within it. Access is a non-issue – a letter dated December 23, 1998 was written to Mr. Slapikas stating that the neighborhood was welcome to use the property on off-hours and he is stating the same at this time. PFS is planning to put out park benches and tables for neighborhood use. PFS has stated that if the neighborhood takes responsibility to keep the dogs out, they will never put in gates and certainly never have locked gates. Mr. Smith named several public schools that do have fencing wholly around them.

Commissioner Saltzman asked if the Hearings Officer required a setback for the hedge.

Mr. Smith said they were allowed to put the hedge on the perimeter.

Commissioner Francesconi asked if Mr. Smith would agree to a lease condition which grants just a solid hedge around the perimeter if the dog feces are cleaned up.

Mr. Smith said yes to the hedge, but they do not want dogs on the property at all.

Commissioner Francesconi said CTLH notified PPS that they support PFS' application for a lease, based on PFS' representation that there would be public access and they would permit traditional use of the property. The neighborhood now has reason for mistrust because of the fencing plans. After Mr. Smith stated that the PFS issue now is that CTLH wants the hedge in the middle of the property, Commissioner Francesconi asked if that was keeping them apart and if PFS would agree to come back with a request for gates if necessary.

Mr. Smith said they do not want to barricade the neighbors, just their four-legged friends.

Jeff Boly, PFS Board President, 2879 SW Champlain Dr., 97201, said PFS has an April 17, 1999 deadline with the Children's Services Division regarding their license. This does need to be resolved today. He said the reason the Letter of Understanding fell through was that if PFS had an inadequate barrier, they wanted that to be the liability of PPS. PPS never responded to that request. Therefore, PFS had to construct something adequate for child safety. Mr. Boly stressed that this school is very diverse and takes children as young as two and one-half. The school is very supportive of the public school system, especially since PFS only goes through grade five.

Those speaking against the CTLH appeal:

Elizabeth Dimmick, 7401 SW Corbett, 97219
Shari Jacobson, 7333 SW Macadam Ave., 97201

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Gilly Adkins, 5816 SW Hood Avenue, 97201
Henry Breithaupt, 3017 NE Tillamook Street, 97212, Off-Leash Task Force
Sandy Baruah, 5944 SW View Point Terrace
Kerry Chipman, 5250 SW Landing Drive, No. 206, 97201
Dr. Mark Crislip, 10345 SE 99th Avenue, 97266, a medical doctor
Pat Dooling, 0200 SW Dakota Street, 97201
Rod Brokenshire, 6142 SW Virginia Avenue
Barbee Williams, 0224 SW Flower Street
David Taylor, 4205 SE 124th Avenue, 97202, Land Use Chair, Brooklyn NA
Caryanne Conner, 5630 SW Riverside Lane, 97201
Paul Schuback, 3033 SE Milwaukie, 97202

Among the speakers was a woman who is a neighbor of and sends her child to PFS, who noted the area demographics are getting older so it is good to have it rejuvenated. Limiting some of the accessibility makes a safer environment especially for the children, which is more inviting. The hedge around the perimeter is safer, as the children would not be seen on the other side if it were further in. Teachers do not bring the very young children into the west yard due to safety, which is the main focus of the school. The school parents who live in the neighborhood have not had any neighbors directly say PFS is a problem. Many dog owners are irresponsible, but dog ownership is emotional. The property has been improved considerably since the PFS lease. CTLH does not speak for everyone. The nearby Willamette Park is a good park and Fulton Park is a short distance away. PFS supporters were silenced and harassed at neighborhood meetings. The doctor described the many and various diseases that can occur through dog urine and feces. A school neighbor said people would gather in the west yard and visit as their dogs ran on the property. A resident as well as a neighbor pointed out that PPS needed a good rental fee for their properties, which they were not getting. The PFS rental is at fair market value. A former CTLH president stated this was the most divisive issue she had ever seen and the CTLH Board decided on this appeal with no input from members. It was not a unanimous appeal by CTLH by any means. Mr. Taylor, as Brooklyn NA Chair, dealt with PFS in his neighborhood for nine years and they were excellent neighbors, making the parks safer, being involved in neighborhood activities, creating a garden from a derelict lot and were and are not an exclusive school. Originally, it was Children's Services who told PFS to put the fence up.

Ms. Angela Wright said the reason the Letter of Understanding placed the hedge on the setback is it would be sufficient to stop the children from running into Corbett Avenue, especially as the school did not have the children out front for recess or other times. CTLH wants the approval of the PFS application with written, enforceable conditions. They want written assurances from PFS as conditions of approval that they will not construct fences or gates without coming before Council again. Also, assurances that the back area will be ungated and unlocked for neighborhood use.

Mr. Slapikas said dogs were not an issue as the dog walkers and others did clean up even after strays. Since PFS has essentially excluded the neighborhood, the neighbors do not come by and clean up at all. PFS said to CTLH they had no planned activities for the west yard. He noted the video tape shown by Mr. Smith shows the children running in that yard, rather than the fenced area in back. He believes the dog issue is a red herring and he does not understand why all public schools would not be required to fence their property.

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Ms. Wright suggested that the City designate the west yard as a public park and that the PFS lease is monetarily adjusted. This will take revenue from PPS, but the lease has a provision that if PFS does not get their conditional use application, the district will have to refund all the rents paid to this point in time, about \$250,000.

Commissioner Francesconi asked Mr. Slapikas if CTLH would establish a neighborhood watch to ensure the dog feces is cleaned up if there is no fence or gates put up.

Mr. Slapikas said he would be happy to present that to the board.

Commissioner Francesconi, after suggestions from Council, proposed a modification of Condition F: A solid hedge may be located in the setback areas of the west yard perimeter, limited to and maintained at a height of not more than 42 inches. A fence or gate shall not be built. Pedestrian access to the site shall be maintained as shown on Exhibit C3.

Commissioner Hales moved to uphold the Hearings Officer's decision and deny the appeal with modification of conditions. Commissioner Francesconi seconded. (Y-5) He said there needs to be provision for use of the fields after school activities. This is public property managed by the school district.

Commissioner Francesconi acknowledged that PPS needs the money. There is an existing legal lease. As Parks Commissioner he wants kids to be able to play there after school and he would like to help PFS with that.

Commissioner Hales said a revised site plan should be drawn to show the hedge with three entrances and that it be signed by both PPS and PFS which would accompany the findings.

Ms. Beaumont said as the adoption of findings would return in approximately two weeks, so findings need to be filed with the City Attorney early next week for review.

Mr. Simons ascertained that they may need to file for gates in the future.

Susan McKinney, OPDR, said it should be part of the decision or a condition for PFS to come back to ask for a fence, as the zoning code does not require a conditional use review for an institution to put up a fence.

Mr. Kendrick asked that permanent signs allowing access be included.

Mr. Smith, in answer to the Mayor's question, said the only locks are on the parking gates.

Ms. Beaumont said Commissioner Francesconi's motion has been seconded as has the condition of a revised site plan.

Commissioner Francesconi said he was concerned that this had to come this far, rather than being worked out on a lower level and about some acrimonious testimony.

Commissioner Sten said he did not think that much was decided here and added that it is unrealistic to think there will not be dogs on the property.

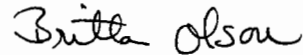
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Mayor Katz said her neighborhood park has syringes as well as poop. The City is struggling with major issues for the future, which this is not, but it is understandably important to the neighbors.

Disposition: Tentatively deny appeal with conditions: prepare findings for April 12, 2000 at 2:00 p.m.

At 5:10 p.m., Council adjourned.

GARY BLACKMER
Auditor of the City of Portland



By Britta Olson
Clerk of the Council