



CITY OF
PORTLAND, OREGON

**OFFICIAL
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 12TH DAY OF JANUARY, 2000 AT 9:30 A.M.

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

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

Item No. 20 was pulled and, on a Y-5 roll call, the balance of the Consent Agenda was adopted as follows:

CONSENT AGENDA - NO DISCUSSION

- 19** Cash investment balances November 11 through December 8, 1999 (Report; Treasurer)

Disposition: Placed on File.

Mayor Vera Katz

- 21** Confirm appointment of John Warner, Wayne Lei and Susan Landauer to the Urban Forestry Commission (Report)

Disposition: Confirmed.

- 22** Approve the Seventh Amendment to the South Park Block Urban Renewal Plan and the acquisition of the Safeway site, including by condemnation, if necessary (Resolution)

Disposition: Resolution No. 35852. (Y-5)

- *23** Pay claim of Ronnie Gilbert (Ordinance)

Disposition: Ordinance No. 174054. (Y-5)

- *24** Pay claim of Lovena Nash (Ordinance)

Disposition: Ordinance No. 174055. (Y-5)

- *25** Agreement with Northwest Assessment Centers to provide assessment center services to the Police Bureau for an amount not to exceed \$56,250 (Ordinance)

Disposition: Ordinance No. 174056. (Y-5)

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- *26 Agreement with Daniel C. Smith and Associates for facility master plan services for an amount not to exceed \$80,000 (Ordinance)

Disposition: Ordinance No. 174057. (Y-5)

- *27 Permit an exception to City Code 4.24.010 (prohibiting other employment while on unpaid leave of absence) for Criminalist John F. Courtney to participate as a temporary federal employee in the National Disaster Medical System, Disaster Mortuary Response Team and receive compensation from the federal government (Ordinance)

Disposition: Ordinance No. 174058. (Y-5)

Commissioner Jim Francesconi

- 28 Accept contract with JVC Contractors, Inc. for remodel of the Portland Building 12th floor for the Office of Finance & Administration project as complete, authorize final payment and release retainage (Report; Contract No. 32358)

Disposition: Accepted.

- *29 Amend contract with W & H Pacific to provide telecommunications engineering and consulting services for the Bureau of General Services, Communications Division, to extend termination date (Ordinance; amend Contract No. 31566)

Disposition: Ordinance No. 174059. (Y-5)

- *30 Contract with City Center Parking to operate four Goose Hollow parking lots and one in Northwest Portland for \$47,858 and provide for payment (Ordinance)

Disposition: Ordinance No. 174060. (Y-5)

Commissioner Charlie Hales

- *31 Adopt an intergovernmental agreement between the Port of Portland and City of Portland for consultant services to analyze efficient truck movement through the St. Johns neighborhood between North and Northeast Portland industrial areas and US 30 (Ordinance)

Disposition: Ordinance No. 174061. (Y-5)

Commissioner Dan Saltzman

- *32 Declare surplus and authorize transfer of property located at SW 30th and Dolph Court (Ordinance)

Disposition: Ordinance No. 174062. (Y-5)

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- *33** Authorize contract with Mary Jaron Kelley, a City employee, for landscape design and instruction for the Naturescaping for Clean Rivers program (Ordinance; waive City Code Section 5.32.150)

Disposition: Ordinance No. 174063. (Y-5)

- *34** Authorize a contract with James W. Fowler Co. for the NE Mallory at Columbia Boulevard emergency sewer repair project, Project No. 6754 (EPO BES #244) for \$140,000 and provide for payment (Ordinance)

Disposition: Ordinance No. 174064. (Y-5)

- 35** Consent to transfer of Lehl Disposal, Inc. solid waste and recycling franchise to M.P. Lehl LLC (Second Reading Agenda 12)

Disposition: Ordinance No. 174065. (Y-5)

Commissioner Erik Sten

- 36** Appoint Nicholas Fish, Sharon Petri and reappoint Howard Shapiro to the Housing Authority of Portland (Resolution)

Disposition: Resolution No. 35853. (Y-5)

- *37** Accept a Youthbuild implementation grant under the Office of Economic Development of the US Department of Housing and Urban Development in the amount of \$650,000 (Ordinance)

Disposition: Ordinance No. 174066. (Y-5)

- *38** Contract with Portland Community Design for \$24,000 to provide technical assistance and development services for affordable housing and economic development projects and provide for payment (Ordinance)

Disposition: Ordinance No. 174067. (Y-5)

- *39** Amend contract with Interwest Construction, Inc. to provide additional construction services associated with construction of the Water Bureau Emergency Operations Facility (Ordinance; amend Contract No. 32638)

Disposition: Ordinance No. 174068. (Y-5)

- *40** Authorize a contract and provide payment for the conversion of a wash bay to a repair bay at the Interstate Maintenance Facility and for improvements for ADA compliance in the Operations Building (Ordinance)

Disposition: Ordinance No. 174069. (Y-5)

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- *41** Increase and extend contract with Stoner Associates, Inc. for hydraulic network analysis software and support (Ordinance; amend Contract No. 50428)
- Disposition:** Ordinance No. 174070. (Y-5)
- *42** Amend contract with Werbin West Contracting, Inc. in the amount of \$106,230 to provide emergency fire service installation (Ordinance; amend Contract No. 32549)
- Disposition:** Ordinance No. 174071. (Y-5)
- *43** Intergovernmental agreement with Portland State University to evaluate the effectiveness of the water conservation workshop program for low-income customers (Ordinance)
- Disposition:** Ordinance No. 174072. (Y-5)
- *44** Authorize a sole source contract with Sundeleaf & Associates, Inc. for \$30,000 to complete space planning, authorize transfer of funds and authorize payment (Ordinance)
- Disposition:** Ordinance No. 174073. (Y-5)
- *45** Agreement with Ace Consultants, Inc. for \$300,000 for Design and Technical Services for water system improvement projects and other design services as may be required (Ordinance)
- Disposition:** Ordinance No. 174074. (Y-5)

REGULAR AGENDA

- 20** Confirm reappointment of Marty Brantley and Carl Talton to the Portland Development Commission (Report)
- Discussion:** Marty Brantley and Carl Talton commented about their reappointments and noted some of the projects that the Portland Development Commission (PDC) has undertaken.
- Commissioner Hales said Oregon's great, unsung story is volunteer commissions.
- Mayor Katz said PDC has changed dramatically in the way it does business and is working differently with the community, with more focus on the neighborhoods.
- Disposition:** Confirmed. (Y-5)
- 18** **TIME CERTAIN: 9:30 AM** – Adopt the recommendations contained within the Lents Town Center Business District Transportation Plan (Resolution introduced by Commissioner Hales)
- Discussion:** Commissioner Hales said this is the first of several items on today's agenda, with a partnership underway. This one is between city, state and the Lents community. The

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big issue in the study is whether SE Foster and Woodstock should be decoupled to make two-way instead of one-way streets between 90th and 100th Avenues. Ultimately, it was decided not to decouple but to enhance the streetscape of the town center streets with the kind of ingredients added to other successful projects -- street trees, wider sidewalks, more on-street parking. The project cost is pretty significant and it will be a challenge.

David Nemo, Portland Development Commission (PDC), said they started on this before Lents had an Urban Renewal area, as the Community Plan recommended PDC to look at transportation issues. The importance of this Transportation Management Plan (TMP) to the business district cannot be overstated. As potential development projects were beginning to be talked about, they needed to have some of the transportation issues resolved. This plan became the cornerstone of what will emerge in the commercial development strategy. He described the citizen participation process.

Rich Newlands, Portland Department of Transportation (PDOT), said the Lents Town Center Business Transportation Plan has the support of the Lents Town Center Urban Renewal Advisory Committee, the Lents Neighborhood Association (LNA) and the Foster Area Business Association. The area centered around SE 92nd and Foster Road is designated in the Region 2040 Plan as a town center. Development of the transportation plan was funded by a grant from the Oregon Department of Transportation (ODOT). The proposed choice to not decouple but enhance in the TMP can be phased in over time, minimizing the impact for business and residents. He detailed the changes.

Mayor Katz said she understood there would be some Systems Development Charges (SDC) money available for some improvements and hopefully some Urban Renewal money. She asked if the Lents Urban Renewal Advisory Committee (LURAC) identified this as one of the projects they want to leverage the SDC funds with.

Mr. Nemo said as redevelopment of certain property has been discussed, they identified elements of the plan they could implement as part of the Urban Renewal project and will use SDC funds as they are able. The tactic will be as redevelopment occurs, the improvements will be made. This is a long term plan and some parts may never be implemented if a piece of property is never developed.

Commissioner Francesconi asked when residents will see something happen.

Mr. Nemo said probably this summer at the corner of SE 92nd and Foster, PDC will be putting in a plaza and improve the sidewalks and make everything look as it will throughout the district. Within the next year and one-half, some major things should be completed.

Ken Turner, 3858 SE 82nd Avenue, President, Foster Business Association and Urban Renewal Advisory Committee, said this is a well thought-out plan and well presented to the community.

Louis Martinez, Vice-Chair of the LNA, member of LURAC, transportation committee, complimented staff for the public outreach efforts. He said the option they chose has the spirit of cooperation and will work with individual owners.

Ray Hites, 8827 SE Holgate Blvd., 97266, said the 205 freeway and the one-way couplet devastated the business district in this area, especially in taking away the on-street parking.

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He is concerned about the traffic signals on SE 91st, they need them all to make this work well. Keeping the connectivity as much as possible is absolutely critical.

Mayor Katz asked how many parking spaces would be put back on the street.

Mr. Nemo said 80 spaces.

Commissioner Francesconi said it was a transportation project that divided the community and hurt it economically and it will be a transportation project to really help reverse this.

Commissioner Hales thanked the neighborhood activists who have been at this for a number of years. Until recently, the catalytic value of these kinds of street improvements has been underestimated. It sends a powerful message to people who might be investing and to people who might stop and shop.

Commissioner Saltzman said he was very impressed with the energy and talent and love of the area from the community.

Commissioner Sten said this much attention from all the departments in Lents marks a significant change in City policy.

Mayor Katz noted that former Mayor Goldschmidt warned that if we start taking parking off the streets, we will ruin neighborhoods, especially those on the edge. Pedestrians and businesses on the street must be emphasized.

Disposition: Resolution No. 35854. (Y-5)

Mayor Vera Katz

46 Adopt the Five-Year General Fund financial forecast upon which the FY 2000-02 Budget shall be based (Resolution)

Discussion: Mark Murray, Finance and Administration, reviewed ongoing resources available for an approximate total of \$5.4 million. The resolution incorporates the capital set-aside increasing at the level of \$1 million per year. This budget will be the second year of the \$936,000 off the top to pay the debt service for the grants the City gave to schools.

Commissioner Francesconi said this memorializes the two and one-half percent reduction target decision, to which he is opposed.

Mayor Katz said no one is happy about this. This is an opportunity to rethink the bureau budgets. If there are elements that cannot be cut, they will be built back up again. They will also approach the budget slightly differently in addition to this.

Mr. Murray said the bureaus were told they can submit to the 100 percent level, or over that level for those bureaus that had items on the \$2.6 million ongoing list and the year-end balance which had items totaling \$720,000.

Commissioner Francesconi said this was a healthy process, but he is voting no.

Disposition: Resolution No. 35855. (Y-4; N-1, Francesconi)

47 Hear appeal of Belinda D. Jackson to the Police Internal Investigations Auditing Committee (PIIAC), #99-21 (IAD #99-164), per City Code 3.21.085(4)(d) (Previous Agenda 1827)

Discussion: Dr. Michael Hess, PIIAC Examiner, introduced the people available.

Denise Stone, PIIAC Citizen Advisor, summarized the incident which occurred June 8, 1999, when police responded to a call from the home of the appellant and her mother. The appellant's brother and his two children were on the scene at the time. The brother called for police intervention when the appellant was issued a restraining order which gave her 20 minutes to leave the premises. The officers arrived and authenticated the restraining order and interviewed those on the scene. At that point, the police placed Ms. Jackson in custody on a mental hold and she was transported to a health care facility. Eight complaints were made from this incident and Ms. Stone described six. 1) Officers violated Ms. Jackson's civil liberties by not allowing her the 20 minutes to leave the premises. After interviews with those on the scene, it was determined the appellant should be placed on a mental hold. 2) The officers searched her belongings without her permission. Initially, the officers were invited to search the bag the appellant was packing to leave. Upon taking her into custody, the officers were required to search her further. 3) The officers violated General Orders by entering her private residence. (The appellant's brother invited the officers into the residence.) 4) The officers considered evidence not to be found at the scene. The evidence, purportedly a pitchfork, was spoken of by the appellant's mother and brother, but not noted as evidence at the scene. 5) The officers failed to cite a specific law when making the arrest. In fact, the officers fully documented the entire incident. 6) The officers acted in retaliation to a previous complaint the appellant had with the Police Bureau. During the incident, the appellant asked the officers if they knew the officer involved in her previous complaint and one said yes, which does not constitute a retaliation. The Internal Affairs file was incredibly complete, the audio tapes were complete and the written summaries were exact. The PIIAC Citizen Advisors voted unanimously to accept the IAD decision to decline the complaint for a formal investigation.

Mayor Katz noted that Citizen Advisors work very long and hard on these cases.

Belinda Jackson, appellant, 2016 SE 122nd, Apt. 65, 97233, said the police arrived at her house on June 8th and abducted her. They were not invited into the house and listened to witnesses who were not credible. The police did not know who they were speaking to. She was put in handcuffs when she was completely cooperative. Five police officers, with guns, responded to a call from someone who said a person was calling her names. As she was intimidated, she moved slowly so there would be no "accidents." PIIAC did not interview the court reporter who dropped the mental hold, which is negligence. The character of the people, witnesses, in the incident was not known to the police. Ms. Jackson said she has been a whistle blower on federal law enforcement agencies and has been harassed and intimidated. She was denied counsel and held for three days while things were sorted out.

Mayor Katz said she does not understand the court investigator issue.

Dr. Hess said that was not brought up previously.

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Captain Brett Smith, Police Bureau, IAD, said a substantial amount of time was spent by the responding officers to sort through the information to make an appropriate decision. The officers determined there was a threat to Ms. Jackson's and the family's safety.

Commissioner Sten asked what the criteria were to put someone on a mental hold.

Captain Smith said it is in the General Orders, which he read out. A person on mental hold is taken to a crisis intervention center, where an evaluation is done by a doctor. The doctor would be the one to determine to place the person on a 72-hour hold.

Commissioner Francesconi moved to uphold the PIIAC findings and Commissioner Hales seconded.

Disposition: Affirmed decision of PIIAC advisors. (Y-5)

Commissioner Charlie Hales

- *48 Authorize contract with KnowledgeTech Solutions, Inc. for implementation of an automated work management system in the Office of Transportation in accordance with Section 5.68 of the City Code (Ordinance)

Discussion: Vic Rhodes, Director, Portland Office of Transportation (PDOT), said this will get them into the 21st Century in operations and maintenance.

Commissioner Francesconi had two concerns, which have been answered. One was to evaluate this along the way. The other was how the rest of the bureaus could benefit from this technology and expertise, particularly Parks Bureau and their facilities.

Disposition: Ordinance No. 174075. (Y-5)

- *49 Accept funds from the State Farm Insurance Company in the amount of \$100,000 to conduct traffic engineering analyses at five intersection locations: NE Halsey and 102nd; SE Division and 82nd; SE Foster and 82nd; SE Powell and 39th; and SE Powell and 82nd (Previous Agenda 1822)

Discussion: Rob Burchfield, Portland Office of Transportation (PDOT), System Management, said State Farm Insurance, the largest auto insurer in the U.S., has offered to provide funds for engineering studies for five high-crash locations. Traffic fatalities are the ninth leading cause of death in the U.S. today and there is a projection that by the year 2020, it will become the third. State Farm recognizes the issue and the impact it has on its customers and this is a proactive effort to reduce crashes. He said they hope this will become a model for similar partnerships with the insurance industry.

Vicky Marvin, Vice President of Operations, State Farm Insurance, said State Farm has taken a long-time interest in making roads and cars safer, such as encouraging seat belts, air bags, head restraints and designated drivers. Safety improvements are among the factors that help insurance companies control premiums. About one-third of all crashes take place at intersections and inexpensive improvements can reduce them by as much as 30 percent. These five intersections were identified from claim history. Ms. Marvin presented a \$99,740 check to Commissioner Hales on behalf of State Farm.

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Mr. Burchfield said these intersections do not rank the highest for collisions from City data, the difference probably being that the insurance data do not reflect unreported or lower-value claims. PDOT typically estimates that property-damage-only accidents are 50 percent under-reported.

Ms. Marvin said their data excluded on and off freeway ramps, only including actual intersections. Also, only 40 percent of their claims are reported to the police.

Mayor Katz said it does not make sense, when we can send people to the moon and machines to Mars, that we cannot build a car to prevent theft.

Ms. Marvin said the human factor is a large contributor to auto theft. People do not lock their cars and they leave their keys in them.

Commissioner Hales said this is an exciting partnership and is not the first time State Farm has shown an unusual level of commitment to the City. PDOT will also make a serious effort to correct the problems at these intersections.

Commissioner Sten said he was glad to see the focus on prevention.

Disposition: Ordinance No. 174076. (Y-5)

Communications

- 50** Request of Thomas Buchholz to address Council regarding the use of police search warrants (Previous Agenda 16)

Discussion: Cay Kershner, Council Clerk, said Mr. Buchholz asked her to withdraw his request.

Disposition: Placed on File.

- 51** Request of Virginia Symonds to address Council on an issue involving the Water Bureau (Communication)

Discussion: Ms. Kershner said Ms. Symonds asked that this be continued to February 2nd.

Disposition: Continued to February 2, 2000 at 9:30 a.m.

- 52** Request of Michael Roche, Southwest Neighborhoods, Inc., to express community-wide concerns about pending revisions to Title 34, Subdivisions (Communication)

Discussion: Michael Roche, 8920 SW 40th St., representing the coalition of Southwest neighborhoods and other associations throughout the city, said they request a delay of the discussion on Title 34, to refer the matter back to the new Planning Director and, if necessary, back to the Planning Commission for further work. This request is based on serious concern raised city-wide about these code changes. Recently, the City Club released a report critical of the direction of long-range planning by the City, coupled with a recent poll of the Homebuilders Association in which 57 percent stated they would move outside Portland if lot sizes were further reduced. Mr. Roche noted that a good number of

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Southwest activists believe that passage of these revisions as they now stand will effectively undermine the hard work that has gone into the Southwest Community Plan.

Mayor Katz said the Title 34 issues need to come to Council for people to identify what needs to be addressed.

Mr. Roche said it would be better to postpone the February 16th hearing date for this so the new Planning Director can have a chance to review it.

Cary Pinnard, Planning Bureau, said this has been a long process with a lot of public outreach over five years. There are contentious issues and disagreement on the best approach. Planning staff, with the new Director's knowledge, recommends going ahead with the hearing on February 16th in order to hear the issues, see if they are new and without Planning Commission recommendation, and to get a feel for the major concerns. Then Council can give the Planning staff and Director direction on which areas to focus on and what dialogues to have before it comes back. Ms. Pinnard said the meeting notice will emphasize that it will be for discussion only and no decisions will be made at that time.

Disposition: Placed on File.

At 11:05 a.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 12th DAY OF JANUARY, 2000 AT 2:00 P.M.

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

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

- 54 Tentatively overrule recommendation of Hearings Officer and grant a Comprehensive Plan amendment and Zone Change from R2cx to IG2cx as requested by Kevin Flanigan, Sea Maritime Group LLC, and Steve Purchase, Division of State Lands, for proposed boat building and repair facility (Findings; Previous Agenda 1613; LUR 99-00486 CP ZC EN)

Discussion: Commissioner Hales moved the findings with the addendum presented today. Commissioner Francesconi seconded.

Commissioner Francesconi said this advances the economic portions of the Comprehensive Plan and keeps a good, small business in the City.

Commissioner Hales said this case highlighted for him that the zoning code, good as it is, is not a perfect tool for the diversity of neighborhoods.

Mayor Katz said she asked the Office of Planning and Development Review (OPDR) if the only use for this property was the boat building and repair business with the IG2 designation. The applicant based the request for a zone change on the fact that this was really the only use. Council was told that the State and Federal regulatory agencies had the authority to limit the uses and OPDR claimed they do not.

Disposition: Findings Adopted. (Y-3; N-1, Mayor Katz; Abstain, Commissioner Sten)

- 53 **TIME CERTAIN: 2:00 PM** – Appeal of the Pleasant Valley Neighborhood Association against Hearings Officer's decision to approve the application of Mike W. Obrist for a major subdivision with adjustments, located at 6846 SE 152nd Avenue (Hearing; 98-01063 SU AD)

Discussion: Ruth Spetter, Senior Deputy City Attorney, said this hearing was "on the record," and testimony is limited to the information presented to the Hearings Officer. Council had no ex parte contacts or conflicts of interest.

Rodney Jennings, Office of Planning Development and Review (OPDR), described the proposal and the zoning designations for this property, which is located on a butte. The property is zoned R10, single family with a minimum lot size of 10,100 square feet. He noted the number of approved subdivisions adjacent to the site, including MacGregor Heights, Lexington Hills and Hawthorne Ridge North. The Hearings Officer approved the 33-lot subdivision, with 24 adjustments to reduce the lot size below 10,000 square feet and lot depth on four lots to below 100 feet. The adjustments allow the portion of the property that has environmental zoning to be preserved as an open space tract with a pedestrian easement across it. The Pleasant Valley Neighborhood Association (PVNA), applicant,

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statement in the appeal has the two arguments that the decision violates the Transportation Planning Rule (TPR) and natural stormwater is diverted from one subdistrict to a different subdistrict. The section of the Code the latter violated was not identified. The Hearings Officer, from the TPR, determined the requirement for pedestrian and bicycle facilities and transit improvements. A third criterion which is normally addressed, auto improvements, was not applicable to this decision as it only applies to commercial, industrial and office developments, not residential.

Commissioner Hales asked to see the vicinity map showing the connection of the street network in the surrounding subdivisions with the proposed network in this one. It looks like, with the exception of one cul-de-sac, the streets do connect to the surrounding ones.

Mr. Jennings said there is a shared street with MacGregor Heights. There was a street planned for connection with Lexington Hills, but it was determined it would be more beneficial to the area to retain it as open space as there is a real need for it.

Mr. Jennings, in answer to Commissioner Saltzman's question about SE 152nd, said it would only be an on-site improvement but will eventually be built out to connect to Barbara Welch Road.

Commissioner Hales pointed out, in some cases, individual subdivisions are being approved with the condition to provide open space which is environmentally zoned and which will not be developed. They are paying Parks System Development Charges (SDC), but there is not much in the way of neighborhood parks up there. The number of places left that is possible for active recreation is diminishing. Relatively small subdivisions are being approved based on the vested property rights of the owner. The Code does not require dedications now because of the SDC, which were not required of small subdivisions anyway. There is a nibbling effect on open space. This area is one of the few in the City that has land. Outside of this hearing, it might behoove the Park Bureau to look at this area.

Paul Grosjean, PVNA, said this and all development on this hill should be accompanied by a safe transportation system. When the Hawthorne Hills project was being evaluated, it became clear to planners that it created severe traffic problems. Most of the attention was focussed on SE 162nd and Foster and the Foster corridor. The Hawthorne developers were asked to pay about \$600,000 to improve the intersection before project approval. Now, after development approval, the improvements are years away because of federal Endangered Species protection which occurred after the project was approved. The one connecting street, Henderson Way, for the Hawthorne Hills sight is very inadequate because of curves and gradients. Counting the sites in the various developments, there is a total of 484 sites, so far, with a projected 4,500 daily auto trips focussed on one, narrow, winding, severely curved street. Improvement on SE 152nd has been declined by the property owners, so it will not be punched through to Barbara Welch Road. PVNA requests that this development not be approved unless and until an adequate entry and egress be provided, exclusive of Henderson Way and not include 162nd and Foster until the improvements are done in reality, not just planning.

Linda Bauer, President, PVNA, explained the plan to dump the stormwater on another subdivision. Neither the property owner next to the Obrist project nor another owner just down from it, who will be directly impacted by stormwater diversion, were notified of this land use case. The developer's property will no longer be able to absorb the same amount of

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water on the property as it did before. The staff report states that the developer provided a stormwater management plan acceptable to the Bureau of Environmental Services (BES) and OPDR. The plan was checked on whether it would work, not whether it were ethical. No one has taken the responsibility to make sure that property owners being impacted by such a development are consulted or given a chance to be involved.

Commissioner Hales said Ms. Bauer made a good argument and this case emphasizes the problem of nibbling at, rather than systemically planning, an area.

Mr. Grosjean said when he and the City Engineer, Brant Williams, drove the area, Mr. Williams noted that this hill was laid out with one corridor in and out which continues being added to. His opinion was that at least two more entry/egress streets were needed. More land on this hill is potentially developable.

Ms. Bauer pointed out a possible alternate entry/egress street might be possible via Duke to Barbara Welch.

Commissioner Francesconi said, while the PVNA concerns are valid, they are not approval criteria and no transportation rule was violated.

Ms. Bauer said the developer avoided the Planned Unit Development (PUD) process which would have used the proper criteria for this situation. He did need 34 (sic) adjustments while evading the proper process.

Commissioner Francesconi asked why the smaller development, rather than any of the large ones, was selected for appeal. Additionally, the developer has gone through the whole process and it would not be fair to change the rules at this point.

Mr. Grosjean said the City should recognize there is a big problem here. Whatever the size, they should not wait for one more development.

Gary Mengis, 15706 SE Henderson Way, 97230, said his home is on the choke point of Henderson Way and vehicles have come into his yard. The traffic in this area needs more access in and out. He suggested that City planners sit down with all the developers to find a solution.

Jeffrey Armstrong, representing the applicant, outlined some of the steps the developer went through to get this project reviewed and approved by a number of City agencies. He noted the staff report recommending approval was followed by the Hearings Officer's approval, based on satisfaction of all the approval criteria. He and Mr. Obrist understand the concern of the neighborhood association, but their fight is not with this developer but with the City. SE 152nd has private easements but if those properties had dedicated rights-of-way, streets would have been constructed by now. Most streets are built by private developers when properties are developed.

Commissioner Hales said this case is a crystallization for Council. A large area is being developed piecemeal without parks, a street plan or connections. All staff has done a fine job, but they do not know which property will develop and when. Property owners are right, too, as their property is zoned for development at a certain density. The neighborhood is doing its job in pointing out the problems the time line of development creates. This is an

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old problem of developing areas and there is one shot to either have it be a little slice of suburbia or a neighborhood. For the latter, a street plan must be adopted and there must be a Parks acquisition plan. This must be quick, otherwise there will be neither. A connecting street will never be put in without a street plan or, probably, condemnation, which is a hard prospect. This case is about those systemic weaknesses in dealing property-by-property without a street or parks plan.

Commissioner Francesconi noted that Foster Road is falling apart which will take millions to fix.

Commissioner Hales said that is an issue for the next five years. Once property is subdivided and streets are put in, that is hundreds of years.

Mayor Katz asked at what point, as traffic gurus, do they say hey, stop, the road cannot handle it.

Jamie Moorman, PDOT Systems Management, said the traffic study showed that with the improvements at 162nd and Foster, it will operate at a service level D, on a scale from A to F, which is considered acceptable.

Mayor Katz asked if D were almost the point at which you say enough and asked what the recommendation will be for the next developer coming in with 40-100 units.

Ms. Moorman said that was correct. Without the improvement of 152nd to Barbara Welch, no more traffic can be put into the 162nd and Foster intersection. Under PUDs there is approval criteria. Because of the environmental zoning, most of this area will fall in that category. When this developer came in to the pre-application conference, he had originally included another piece of property, which would have necessitated a PUD. Transportation staff told the developer it was not likely they could show that services were adequate. Then, the developer opted to come in for the straight subdivision.

Glen Pierce, PDOT Engineering and Development, said the rest of the property in this area has extensive environmental zoning and would be required to develop as a PUD.

Mayor Katz asked what would be the case if there were no environmental zones or PUDs -- just straight development.

Don Gardner, PDOT Development Services, said when the property is already properly zoned and meets the approval criteria, they basically have to say services are adequate. Commissioner Hales has an excellent point, as this is a microcosm of a problem everywhere. We need a street plan.

Mayor Katz asked if the Transportation Planning Rule would address this issue.

Mr. Pierce said the TPR really addresses adequate pedestrian and bicycle facilities and transit service.

Mayor Katz asked if he would recommend altering that.

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Mr. Gardner said the TPR is a State rule, it does what it is supposed to. There should be a way to look at these rapidly developing areas from a much broader approach. Lexington Hills has a one-acre park donation by the developer, a requirement. It is the only one. With a PUD, they can get the same number of lots, but they can shrink lot sizes, move the homes and maneuver to make it work.

Commissioner Hales said in PUD cases where there are dedications of open space, the City does not get parks. But, we have exacerbated the problem for good reasons -- by applying the environmental zone. Open space has the highest environmental value.

Mayor Katz asked if we call a moratorium when the infrastructure can no longer handle the traffic.

Mr. Gardner said there are certain places and areas where development, if it were in our legal power, should be stopped until infrastructure were taken care of.

Commissioner Hales said the whole focus on traffic engineering and level of service is simply damage control -- how bad a suburb should it be. Rather than a traffic plan, the City responds to individual applications. He recommended approval with conditions. Adopt findings to direct the City Engineer to use his authority under Title 17 before the next subdivision and propose a street plan for this district. Direct the Park Bureau to return to Council with an acquisition plan for a park in this neighborhood, or explain why they cannot. Forest Heights was another place like this, albeit with a single property owner. The owner was required to dedicate a park site and school site.

Mayor Katz said this discussion was needed.

Ms. Bauer, in rebuttal, said this project's drainage is designated to go onto private property, whose owner does not want it dumped there. His only notification was to see the outlet pointed at his property.

Joseph Botsky said he bought his property for future development and then the zoning was changed to add the environmental zones. The zoning should not keep changing. He is still paying for building up the road, water and sewer, but he cannot build on his land. The people in planning and zoning need to do their homework. He fears now that he will be required to give his land for a park because all the rest has been used up.

Steve Fancher, BES, said as stated this site is basically the top of the hill. This subdivision meets all BES requirements for protecting downhill properties. He explained how the stormwater will be treated and where it flows onto a drainage way on Mr. Botsky's drainage field which has a 30-foot drainage easement. There is a requirement that peak rates are held to what they are pre-development.

Commissioner Saltzman asked why the property owner did not get notification.

Mr. Fancher said there was a condition with the MacGregor Heights approval that the downstream property be notified prior to construction. He did not know if that happened. The impact on the property should be minimal.

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Commissioner Francesconi questioned tying Commissioner Hales' condition to this subdivision. He wants a chance to talk to Parks about this and the Foster improvement should be tied in, too, despite its cost factor.

Commissioner Hales said he has strong feelings for the need to deal with fundamental issues here. If the next project comes up soon, we should declare a moratorium in this area. Under State law, with a moratorium, the City has 120 days to come back with a plan. He does not want to declare a moratorium, but transportation must be addressed.

Mayor Katz asked how many more districts are there which need this kind of approach.

Mr. Gardner said this has been the big bear for them. It is the only major suburban project going on. He will get information about that to give to Council.

Commissioner Hales moved to uphold the Hearings Officer's decision and deny the appeal. Commissioner Francesconi seconded.

Commissioner Francesconi lauded Ms. Bauer on her work and the fact it brought this issue to a head with the Council.

Commissioner Hales said the difference between dealing subdivision-by-subdivision or by a planning basis is, with the latter, a few people will be very mad at us because of condemnation issues required to solve the problem. On the other hand, with the former, perhaps no one will be mad but the City does not get a good neighborhood.

Commissioner Saltzman voted no.

Commissioner Sten said he will support the motion as Council has a positive way to move forward. More work is needed to tighten up criteria regarding connections which look as if they will never occur. PDOT needs to look at this quickly. The SDC was created to have development pay for parks.

Mayor Katz said there is no legal way to not support the motion. We must do the right thing or call a moratorium. We are in the business of creating neighborhoods, not suburban subdivisions. A street plan must be put in place and other areas identified which may have this kind of situation to get ahead of it. Resources are a problem.

Disposition: Appeal Denied. (Y-4; N-1, Saltzman)

At 3:30 p.m., Council adjourned.

GARY BLACKMER
Auditor of the City of Portland

Britta Olson

By Cay Kershner
Clerk of the Council
(Prepared by Britta Olson)