

CHALLENGE DISTRICT ATTORNEY'S ORDER IN THE PETITION OF MARK BARTLETT

IF YOU WISH TO SPEAK TO CITY COUNCIL, **PRINT** YOUR NAME, ADDRESS, AND EMAIL.

| NAME (print) | ADDRESS AND ZIP CODE | Email |
|-------------------|---|-------|
| ✓ Joe Welch | 3917 N.E. Skidmore St. Portland, OR 97211 | |
| ✓ Nancy Newell | 3917 N.E. Skidmore St. Portland, OR 97211 | |
| ✓ Robert West | 632 NE Emerson Portland, OR 97211 | |
| ✓ David Kif Davis | | |
| ✓ Charles Johnson | | |
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88198
Parsons, Susan

From: mark <bartlett.m@comcast.net>
Sent: Wednesday, January 13, 2016 8:49 AM
To: Hales, Mayor
Cc: Commissioner Fritz; Commissioner Fish; Commissioner Saltzman; Novick, Steve; Scarlett, Paul; Hull Caballero, Mary; Miller, Fred; jim.rue@state.or.us; Rep.AlissaKenyGuyer@state.or.us; Council Clerk – Testimony; craig.gibbons@multco.us; adam.gibbs@mcda.us; Scott Fernandez; Jones, Floy; Jeffrey E. Boly; Kate & Chris; Stephanie Stewart; John Laursen; Ty K. Wyman; nancy tannler; elukens@oregonian.com; jimredde@portlandtribune.com; Slovic, Beth; Jason.Allen@oregon.gov; Dufay, Anne; deewhite1@mindspring.com; Burgoyne, Kelly; mark
Subject: Re: Agenda item 51-a / Comments on Washington Park demolition of Res 3 and 4 LUR

Mayor Hales,

I write to once again remind Council and staff that in my view, there are legal problems with the land use reviews for both Washington Park and at Mt Tabor.

Below I had provided an outline of them in an e mail to you for the record on 4-29-15.

My concerns about legitimacy seem affirmed by the level of concern expressed by City Attorney in challenging the DAs order to produce the requested opinions and letters on how bureaus must maintain segregated funds and cannot commingle capital assets such as real property. See FIN 6.11 and water funds 11-104 as described in the attached memo from Dan Coombs dated 2002.

I now see that the City plans to further its obfuscation of legal documents and material information that would support my position and once again obstruct the public from access to the documents that should have been required to be laid bare for all to see during the application process.

This agenda item was brought forward on very short notice contrary to standard Council procedure, so would preclude the public from knowing and understanding the issues and what the DA has ordered and why. They deserve proper notice and the opportunity to provide comments and testimony on this matter. Please reschedule to allow this.

Please note the summary of how we arrived at this point as it related to my efforts in providing the property records to the participants.

That BDS did not respond to my concerns or even consider them in spite of my delivery during that process and noting them for the record,

That I was denied the USE determination (IVR # 3563750) filed for on Jan 7 2015, due me in 51 days,

That BDS then denied me the opportunity to bring my concerns to the Landmarks members prior to their vote, contrary to assurances from staff at the time of application,

That BPS staff told me that the City Attorney directed them to not discuss the ongoing LURs with me,

That my hand delivery of property records and maps to OMF and our Auditors was ignored and no further questions were asked,

That meetings with Council members and hand delivery to their offices of deed and property records at various times in the past did not result in any action by them or their staff,

That PWB and PPR were aware of and acknowledged these records, yet ignored them,

That PWB staff handed these documents to me then acted as if they did not exist,

That our Ombudsmans office chose not to act on or respond to my concerns e mail of 4-23-15,

That TSCC when informed did not question the City over my concerns,

That BDS and PWB then denied me the records I requested through the DA s office in March to review staff and applicant discussions of USE in the parks, the critical first step in any land use application and determinant of what follows when applying code,

That BPS told me they were withholding that use determination paid for on Jan 7-15 until Council had voted on the LURs when title 33 code says that code in place at the time of the application is that under which it must be reviewed. Nothing Council decides 7 months later should have any impact on a genuine determination,

that once again in August PWB and PPR denied me the specific real property information I requested that was required to be kept and maintained with our auditor in perpetuity as defined in FIN 6.11,

That the City Attorney denied my request for the opinions listed in the 2002 memo on Park ownership and commingling of funds,

And finally here today, once again Council may vote to obstruct the public's access to material documents which would call into question the veracity of participants and the validity of the land use process for applications in both park.

The irony of the City posturing for transparency while at the same time obstructing the public's access to the truth is not lost on we who have follow the process.

What does this City fear in making decisions based on all of the required information and not just that which they wish to share?

I would ask that you finally allow these issues to be brought forward for discussion by all who wish to participate and then to conduct a legitimate process based on all of the required information.

Please do not attempt to obstruct further access to that information to keep the public from knowing what should have been revealed and brought to the table during those LURs.

That all the above efforts were met with resistance and denials, lends credibility to an orchestrated attempt to prevent the public from knowing and considering the facts, so the legitimacy of the entire land use process.

Is this how the City demonstrates transparency and how they wish to be seen by taxpayers and voters?

Thank you,
Mark Bartlett

On 4/29/2015 3:44 PM, Mark Bartlett wrote:

- > Mayor Hales,
- > I write to provide Council member with information about the
- > Washington Park LUR currently under Council review.
- >

- > 1). I have for some time questioned the title and ownership issues
- > and what is allowed as far as what PWB is proposing
- > a) above are records of deeds and a County property control
- > list from 1974. That lists 44 individual parcels totaling 201.72 acres
- > with ownership divided between PPR and PWB respectively. I've sent
- > Karla other deed docs for the record.
- > b) also attached is a deed sample restricting use to park use
- > only, with the restriction that no building be erected. Deeds and
- > individual underlying parcels do not disappear if a tax consolidation
- > is made by the assessor.
- >
- > (ORS 92.017...When lawfully created lot or parcel remains discrete lot
- > or parcel. A lot or parcel lawfully created shall remain a discrete
- > lot or parcel, unless the lot or parcel lines are vacated or the lot
- > or parcel is further divided, as provided by law. [1985 c.717 §3; 1993
- > c.702 §2])
- > c) PWB has made application to demolish reservoirs 3 and 4
- > on approximately 3.5 of those acres, but on multiple parcels.
- > d) BDS has instructed PWB to consolidate parcels in the May
- > 8 2014 EA summary to meet title 21 requirements (not crossing
- > property lines, etc...) and title 33 land use requirements.
- >
- > In 33.675.030, assessor tax lots are not the legal maps required in a
- > type 3 or 4 LUR. Any consolidation cannot be completed between a
- > revenue bureau and non revenue bureau. That would be commingling funds
- > and a taking of public assets or general funds assets.
- >
- > See FIN 6.11 on Capital assets and Charter section 11-104 on water
- > funds. <http://www.portlandonline.com/auditor/index.cfm?c=28941>
- >
- > Of course PWB can condemn property to meet their mission, but
- > compensation must be paid. These points are supported by City attorney
- > opinions (81-44, 82-150,88-165, and memo from Attorney Rogers to Bud
- > Clark dated 3-9-90).
- > e) If there was a replat the county as legal keeper of such
- > recorded documents, would have a record that is dated and numbered
- > in sequence with the actual plat, who requested the
- > replat, and the surveyor's info as to who did the work. This then
- > would be the legal plat map for any application, however
- > consolidation of dissimilar bureaus capital assets is not allowed.
- >
- > ORS 205.130(1) (1981) (providing that county clerk shall have custody
- > of and safely keep and preserve "all maps, plats, contracts and powers
- > of attorney affecting the title to real property");
- >
- > ORS 209.070(2) (1981) (providing that county surveyor shall "[n]umber
- > progressively all surveys received and state by whom and for whom made.
- >
- > Portland title 33.675.030 addresses consolidation of lots:
- > The regulations ensure that lot consolidation does not circumvent
- > other requirements of this Title, and that lots and sites continue to
- > meet conditions of land use approvals. The lot consolidation process

- > described in this chapter is different from (and does not replace) the
- > process used by the county to consolidate lots under one tax account.
- > A tax consolidation does not affect the underlying platted lots. A lot
- > consolidation results in a new plat for the consolidation site.
- >
- > 33.675.050 When These Regulations Apply A lot consolidation may be
- > used to remove lot lines within a site. The applicant may also choose
- > to remove such lot lines through a land division. A lot consolidation
- > may be required by other provisions of this Title.
- >
- > Permitting Strategy Document
- > <http://friendsofreservoirs.org/resources/Final_Permitting_Strategy.pdf
- > f> from MWH dated July 2002 when PWB was researching a strategy to
- > overcome the code sections and rules on the demolition of listed
- > assets. Many of these obstacle remain and problems today. Any
- > illegitimate replat to meet title 33 LUR approvals on consolidation or
- > commingling of assets as described would render the approval of this
- > LUR invalid.
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Parsons, Susan

From: mark <bartlett.m@comcast.net>
Sent: Wednesday, January 13, 2016 9:07 AM
To: Parsons, Susan; mark
Subject: Re: agenda item 51-a

As always, than you for the help.

I was more concerned about the limiting of public notice, so denial of any opportunity to understand that order from the DA, then comment or testify on this matter.

I've sent an e mail I'd like attached to the record for this agenda item earlier this morning addressed to the Mayor and Council @ 8:48 am.

Mark

On 1/13/2016 8:38 AM, Parsons, Susan wrote:

> Hello Mark,

> I believe the reason the Mayor's Office felt the need to use Four-Fifths in this case is because of the court's filing deadline. Code provides for a late filing procedure, called a Four-Fifths Agenda. 3.02.040 Rules of the Council. D2.

Council Agenda:

> D. Council Agenda

> 1. Ordinances, resolutions and reports shall be introduced by the Council, a committee of the Council, a member of the Council or the City Auditor.

> 2. A matter placed on the Four-Fifths agenda shall be approved for placement on the agenda by at least four Council members each of whom will be present when the matter is considered.

> 3. Time certain items shall be placed on the agenda as provided by Section 3.02.037 and shall be considered as close to the designated time as possible.

> 4. Items on the regular agenda shall be considered in the numerical order listed except the order of the agenda may be changed by a majority vote of the Council.

> 5. All questions relating to the priority of business shall be decided without debate by a majority vote.

> 6. Postponement of Land Use Hearings. [etc.

<http://www.portlandonline.com/auditor/index.cfm?c=28201&a=230622>]

>

> The process for Council to follow is in the Council Document Manual:

> <https://www.portlandonline.com/auditor/index.cfm?c=34447&a=52340>

> 3. Four-Fifths Agenda

> The Four-Fifths Agenda is a supplemental Agenda for items that were

> not submitted by the filing deadline but have to be heard on the

> current week's agenda. To get an item on the Four-Fifths Agenda, you

> must obtain, on the document backing sheet, the initials of at least

> four City Council members who will be present at the meeting (initials

> of authorized Council staff are acceptable in place of Council

> initials). Once the initials are obtained, the document must be filed

> with the Council Clerk no later than Tuesday at 5:00 p.m. to be

> considered at either the Wednesday meetings or recessed Thursday

> session. The Four-Fifths Agenda is taken as the last item of business

> at its Wednesday or Thursday meeting.

>

> Sue

> Susan Parsons

> Assistant Council Clerk

> City of Portland
> susan.parsons@portlandoregon.gov
> 503.823.4085
> -----Original Message-----
> From: Mark Bartlett [mailto:bartlett.m@comcast.net]
> Sent: Tuesday, January 12, 2016 9:47 PM
> To: Parsons, Susan<Susan.Parsons@portlandoregon.gov>; Mark
> Bartlett<bartlett.m@comcast.net>; Moore-Love,
> Karla<Karla.Moore-Love@portlandoregon.gov>
> Subject: agenda item 51-a
>
> Hi Sue,
> Aren't items to be submitted by Friday for hearing on the next agenda?
> It would seem that if Council truly was transparent, they would allow the public time to read and understand what is at stake.
> Thanks,
> Mark
>
> please add this to the record for my agenda item