



CITY OF
PORTLAND, OREGON

**OFFICIAL
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **13TH DAY OF MARCH, 2002** AT 9:30 A.M.

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

OFFICERS IN ATTENDANCE: Karla Moore-Love, Clerk of the Council; Ben Walters, Senior, Deputy City Attorney; and Officer Michael Frome, Sergeant at Arms.

On a Y-5 roll call, the Consent Agenda was adopted.

Commissioner Francesconi left at 10:45 a.m. and returned at 10:46 a.m.

<p>225 TIME CERTAIN: 9:30 AM – Accept the Office of Sustainable Development Beyond 60 Percent-Program Strategies for Achieving the 2005 Solid Waste Recycling Goal, and direct the Office to execute the Plan in its work to reach the 2005 recycling goal (Resolution introduced by Commissioner Saltzman)</p> <p>(Y-5)</p>	<p>Disposition:</p> <p>36059</p>
<p>226 TIME CERTAIN: 10:00 AM – Accept 162nd and SE Foster Rd. Intersection Improvement Project briefing (Report introduced by Commissioner Hales)</p> <p>Motion to accept the report: Moved by Commissioner Hales and seconded by Commissioner Francesconi.</p> <p>Motion to accept the report: Moved by Commissioner Hales and seconded by Commissioner Francesconi.</p> <p>(Y-5)</p>	<p>ACCEPTED</p>
<p>CONSENT AGENDA – NO DISCUSSION</p> <p>227 Accept proposal of Oregon Pacific Railroad Company and waive Performance Security to furnish SE Umatilla Street crossing for \$71,605 (Report; Purchasing; Contract No. 34108)</p> <p>(Y-5)</p>	<p>ACCEPTED</p>
<p>Mayor Vera Katz</p> <p>*228 Extend agreement with I-Corp. International, Inc. (Ordinance; amend Agreement No. 33960)</p> <p>(Y-5)</p>	<p>176303</p>

MARCH 13, 2002

<p>*229 Pay claim of Westech Construction (Ordinance) (Y-5)</p>	<p align="center">176304</p>
<p>*230 Pay claim of Leo G. Graham and A. Jane Graham (Ordinance) (Y-5)</p>	<p align="center">176305</p>
<p align="center">Commissioner Jim Francesconi</p>	
<p>*231 Amend contract with Ken Leahy Construction, Inc. for renovations to Redtail Golf Course, to a Guaranteed Maximum Price of \$4,640,165 (Ordinance; amend Contract No. 32251) (Y-5)</p>	<p align="center">176306</p>
<p align="center">Commissioner Charlie Hales</p>	
<p>*232 Grant revocable permit to Jake's Famous Crawfish, McCormick & Schmick, to close SW Stark between 12th and 13th Avenues on March 15 through March 18, 2002 (Ordinance) (Y-5)</p>	<p align="center">176307</p>
<p>*233 Authorize an Intergovernmental Agreement with the Oregon Department of Transportation to provide funding for engineering and construction of transportation improvements on SE Hawthorne Boulevard between SE 20th and SE 55th Avenue (Ordinance) (Y-5)</p>	<p align="center">176308</p>
<p>*234 Agreement with the Oregon Department of Transportation to provide services for the Willamette River Ross Island Bridge Replacement and Rehabilitation Project (Ordinance) (Y-5)</p>	<p align="center">176309</p>
<p>*235 Contract with Cole & Weber, Inc. to provide public relations, customer education and outreach services to introduce new multi-space pay station technology to the public and provide for payment not to exceed \$70,000 (Ordinance) (Y-5)</p>	<p align="center">176310</p>
<p align="center">Commissioner Dan Saltzman</p>	
<p>*236 Authorize the Director of Environmental Services to approve a contract with SOLV to provide services related to the Community Watershed Stewardship Program (Ordinance) (Y-5)</p>	<p align="center">176311</p>
<p align="center">Commissioner Erik Sten</p>	

MARCH 13, 2002

<p>237 Declare satisfaction of Loan Agreement and Promissory Note with Mental Health Services West (Resolution) (Y-5)</p>	<p align="center">36058</p>
<p>*238 Contract with Conkling Fiskum & McCormick, Inc. for \$50,000 for work to develop the Oregon HOME Project, a governance model for the financing and delivery of affordable housing within the Portland metropolitan area and to provide for payment (Ordinance) (Y-5)</p>	<p align="center">176312</p>
<p>*239 Contract with Central City Concern for \$30,000 for the start-up of Central City Property Maintenance and provide for payment (Ordinance) (Y-5)</p>	<p align="center">176313</p>
<p>240 Amend contract with KPFF Consulting Engineers for professional services under Phase II of Bull Run Bridges Rehabilitation Project (Ordinance; amend Contract No. 29668)</p>	<p align="center">PASSED TO SECOND READING MARCH 20, 2002 AT 9:30 AM</p>
<p align="center">City Auditor Gary Blackmer</p>	
<p>*241 Accept contract with EFI Actuaries, Inc. for consulting services to analyze the implications and costs to install a Deferred Retirement Option Plan for Fire and Police Disability and Retirement Fund Members (Ordinance) (Y-5)</p>	<p align="center">176314</p>
<p align="center">REGULAR AGENDA</p>	
<p align="center">Mayor Vera Katz</p>	
<p>*242 Approve contract with Innovation Partnership for a six month eVolvment Pilot Project to test internet communication tools to solve community problems with the Portsmouth Neighborhood (Ordinance) (Y-5)</p>	<p align="center">176315</p>
<p align="center">Commissioner Charlie Hales</p>	
<p>243 Consider vacating a portion of NE 15th Avenue south of NE Lombard Place, at the request of Chirgwin and Company, LLC (Hearing; Report; C-9985) Motion to close the hearing accept the engineer's report and direct an Ordinance be prepared: Moved by Commissioner Hales and gaveled down by Mayor Katz. (Y-4)</p>	<p align="center">APPROVED; CITY ENGINEER PREPARE ORDINANCE</p>
<p>244 Assess benefited property for street improvement construction costs in the NW Naito Parkway from NW 9th Ave. to Steel Bridge Local Improvement District (Hearing; Ordinance)</p>	<p align="center">PASSED TO SECOND READING MARCH 20, 2002 AT 9:30 AM</p>

MARCH 13, 2002

<p style="text-align: center;">Commissioner Erik Sten</p> <p>*245 Authorize Intergovernmental Agreement with the Cities of Beaverton, Gresham, Tigard and Tualatin the Water Districts of Clackamas River Water, Powell Valley Road, Raleigh, Tualatin Valley, West Slope and the Clean Water Services, Sunrise Water Authority, Rockwood Water People’s Utility District and METRO to share cost funding for the implementation plan for formation of a Bull Run Regional Drinking Water Agency (Ordinance)</p> <p>(Y-5)</p>	<p style="text-align: center;">176316</p>
<p style="text-align: center;">City Auditor Gary Blackmer</p> <p>246 Amend City Code to include review of officer-involved shootings and deaths in police custody by the Independent Police Review Division (Second Reading Agenda 198; amend Code Chapter 3.21)</p> <p>(Y-5)</p>	<p style="text-align: center;">176317</p>

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

MARCH 13, 2002

WEDNESDAY, 2:00 PM, MARCH 13, 2002

**DUE TO LACK OF AN AGENDA
THERE WAS NO MEETING**

MARCH 14, 2002

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **14TH DAY OF MARCH, 2002** AT 2:00 P.M.

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

OFFICERS IN ATTENDANCE: Karla Moore-Love, Clerk of the Council; Frank Hudson, Deputy City Attorney; and Officer Peter Hurley, Sergeant at Arms.

Commissioner Francesconi arrived at 2:10 p.m.

<p>247 TIME CERTAIN: 2:00 PM – Amend Ordinance that repealed Title 34, Subdivision and Partitioning Regulations and amended Title 33, Planning and Zoning to add new Land Division regulations and clarified additional Zoning Code regulations related to land divisions to make minor amendments to the regulations (Previous agenda 189; Ordinance introduced by Mayor Katz; amend Ordinance No. 175965)</p> <p>Motion to allow sites larger than an acre to measure the trees on the site based on a canopy percentage rather than a total tree diameter percentage and to use the most recent aerial map of the site in order to make that calculation and sites smaller than an acre are required to use a total tree diameter count, sites larger than an acre use the total tree diameter: Gaveled down by Mayor Katz after no objections.</p> <p>Motion to amend the adopted regulations to allow limited right of way elements be placed in easements to allow an easement up to 50 feet long and no more than ten feet wide adjacent to the right of way in situations where a tree rock outcropping or other natural feature precludes construction of the sidewalk: Gaveled down by Mayor Katz after no objections.</p> <p>Motion to allow the delineation to be based on the presence of characteristics once the seep or spring is identified based on the definition of seeps or spring, and once its identified, the measurement of the boundary would be based on a variation on the wetland delineation process: Gaveled down by Mayor Katz after no objections.</p>	<p>Disposition:</p> <p>PASSED TO SECOND READING AS AMENDED MARCH 20, 2002 9:30 AM</p>
<p>*248 Amend Ordinance that repealed Title 34, Subdivision and Partitioning Regulations and amended Title 33, Planning and Zoning to add new Land Division regulations and clarified additional Zoning Code regulations related to land divisions to delay the effective date (Previous Agenda 190; Ordinance introduced by Mayor Katz; amend Ordinance No. 175965) (Y-5)</p>	<p>176318</p>

REGULAR AGENDA

MARCH 14, 2002

- 249** Tentatively deny appeals of Northwest Industrial Neighborhood Association, Northwest District Association and the Pearl District Neighborhood Association and uphold Hearings Officer's decision with a condition to approve a major land division with greenway review for the Riverscape 12-lot subdivision at 2100 WI/NW Front Avenue (Previous Agenda 159; Findings; LUR 01-00618 SU GW)

Motion to adopt the findings as revised: Moved by Commissioner Hales and seconded by Commissioner Saltzman.

(Y-3; N-2, Francesconi, Katz)

**FINDINGS
ADOPTED
AS REVISED**

At 2:57 p.m., Council adjourned.

GARY BLACKMER
Auditor of the City of Portland

By Karla Moore-Love
Clerk of the Council

For discussion of agenda items, please consult the following Closed Caption Transcript.

MARCH 13, 2002

Closed Caption Transcript of Portland City Council Meeting

This transcript was produced through the closed captioning process for the televised City Council broadcast.

Key: ***** means unidentified speaker.

MARCH 13, 2002 9:30 AM

Katz: Good morning, everybody. The council will come to order. Karla, please call the roll. Consent agenda. Any items to be removed? Anybody in the audience want to remove an item? If not, roll call on the consent agenda.

Francesconi: Aye. **Hales:** Aye. **Saltzman:** Aye. **Sten:** Aye.

Katz: Aye. Time Certain, item 225

Item 225.

Katz: Why doesn't everybody come up for a second, I will turn it over to commissioner Saltzman, since this is his item, but I just wanted to add that a congratulations, everybody, this is another one where we raised the bar. Commissioner Saltzman.

Saltzman: We aim high. Well, thank you, madam mayor, as I said, Portland continues to be a leader in recycling, and we were recently designated as one of the 30 largest cities in the country with the highest recycling rate, and very pleased here today to present our program strategies for achieving our 2005 recycling goal, and as always, we have ambitious recycling goals here in Portland. And these goals reflect consensus, not only of us, the city council, but also the city program and our businesses and citizens. I think we all take great pride in our ability to recycle. I think we understand more than anywhere else, perhaps, that to simply send waste away is not eliminating waste, simply moving it somewhere else, so we are working our best to remove waste out of the waste stream to reuse it and recycle it. So, through those efforts, we have reached the city council goal in 2000 of, well, we came real close. We achieved 54% recycling rate in the city. I think our goal was 55. Today we are presenting you with our plan to go through the 60% bar by 2005, and we are going to do that through a number of means, and you will hear what some of those are, but I would say the main elements of achieving that 60% progress will involve a food composting facility for commercial food waste, and, perhaps, residential food waste down the line increasing construction and demolition, recycling and recovery. And additional work to reduce paper generated by all of us. So, I want to thank the osd, office of sustainable development staff and the solid waste advisory committee for their efforts to develop this plan and we have much more to do, but today we are going to hear how we are going to blaze ahead of that next frontier and get the 80%, so let me now introduce robin holly, and judy crockett. Robin is a project coordinator with this report and judy is the program specialist on the food waste project, and I see that we have david here, as well, with hot lips pizza.

Robin Hawley, Office of Sustainable Development: Thank you, commissioner Saltzman. Good morning, mayor Katz, and commissioners. My name is robin hawley with the office of sustainable development. And I am happy to bring this report to you today. The solid waste and recycling division has worked really hard over the years to develop and implement successful programs, but we wouldn't be where we are today without the partnerships we have with our citizens, with businesses, community groups, haulers and other local governments. And as commissioner Saltzman mentioned, Portland achieved the 2000 recycling goal, and we have a slide here that, that shows how we got there. I would like to reiterate that this is a huge success for any sized city, but especially for a large metropolitan area, like ours. Since the early '90s, residential recycling has

MARCH 13, 2002

steadily increased, and as you can see in this slide, Portland saw a couple of significant increases, once after the franchise system and weekly recycling and the yellow bin program was implemented, and again after we switched to co-mingling. One of the strategies in the residential program is to work in areas of Portland with low participation rates. We recently began an outreach program to those communities, and we are partnering with them to boost participation that will allow us to direct -- allow us direct contact with residents, rather than just giving them written literature. The next slide shows how since implementing our Portland's mandatory recycling program in the commercial sector, our recycling rate has rapidly increased from 46% to 54%. And you can see that it means that we have done a shift and we are recycling more than we are throwing away. It's in the commercial sector where we are really going to find a significant impact on the recycling rate because this sector constitutes over 3/4s of the waste generated in the city. So, what are we throwing away? Our program goals focus on what is remaining in the waste stream that we can capture, and as you can see in this slide, paper waste, food waste, and wood, which also includes other organics, make up the largest portions going to the landfill. And for us to reach the next level of recycling, we need to target these materials. And as commissioner Saltzman indicated already, our priority strategies for the next three or four years are the site of food waste composting facility, reduce construction and demolition waste, reduce waste paper generated by businesses, and I have already mentioned that we are going to, in the residential sector, we are going to do some outreach to low participation areas. Food waste is the largest segment of our waste stream, without a recycling processing system. And I am not going to go into details on that because Judy Crockett will give you some more information on where we are with choosing a food waste processor. Construction and demolition projects generate over a quarter of the commercial waste in Portland. And tenant improvement contributes a vast majority of that waste. So we are focusing our efforts on this segment, and these efforts are a collaboration with the green building division of OSD, on a green tenant improvement guide which should be out later this spring. And as you saw in the previous slide, paper still makes up amazingly enough, makes up the largest amount of the waste stream, and during this calendar year, we are partnering with Metro on a waste prevention pilot project with a copier manufacturer to say promote an increase -- and increase duplexing and the use of recycled content paper. But beyond looking at the most prevalent materials in the waste stream, we also need to start looking at how our operations and how our policies can be more sustainable. Recycling programs traditionally have been measured based on material diverted from the landfill. We need to begin to place a greater focus on other factors that influence, or impact the environment, also the toxicity of materials or embodied energy of materials. And embodied energy simply refers to the energy that it takes to make and dispose of a product. An example of what I am talking about, if you look at picture tube and TVs and monitors, these contain very toxic materials in them, and are damaging in a landfill or to our environment, but if we looked at them only by weight, they wouldn't even come close to coming onto our radar screen so, we think that these are important areas we need to focus on. We feel that by focusing on both the weight and toxicity of the material, our recycling efforts will not only reduce the quantity of material going to the landfill, it will also improve the quality of the environment and further the sustainability goals of the city. So, that concludes my portion of the presentation. I want to thank Council for all the support that you have given our programs over the years, and after Judy Crockett speaks, we are going to have a couple of other people come up. David, with Hot Lips Pizza, June Boone, who is our chair of the Solid Waste Advisory Committee and Dave White with the Oregon Refuse Recycle Association.

Judy Crockett, Office of Sustainable Development: Good morning, Mayor, and members of the Council. I am Judy Crockett, with the Office of Sustainable Development, and I am the person who's more or less responsible for the food waste collection pilot so, when you think of dirty, stinking,

MARCH 13, 2002

smelly food waste, think of me. We have been before you on this issue, and I just wanted to give you a quick I couldn't be date --

Katz: No, no. It's the final product of the dirty, smelly that we need to think of you, the wonderful products that go back to the earth.

Crockett: And I have, in fact, brought a sample of guaranteed city of Portland food waste compost with me. I just wanted to give you a quick update of where we are because you are familiar with basically our goals, which are to find a processor and get them to locate so that they can take food waste from the city of Portland. We currently don't have any compost in the area who has permitted or capable of doing this. Secondly, to set up a collection process that's going to be efficient and easy for the businesses to participate in, and then finally to come up with an ordinance and come before you with that ordinance so that we will designate which food waste generating businesses are going to be required to recycle food waste and which other ones are going to be too small and not require it, although still able to participate. We are quite far along in our selection of a processor. Last year, we issued an rfp. We got 12 serious candidates responding. We have narrowed that down to one. And we have been to visit their facility in California where they are currently processing food waste from San Francisco and turning out a good product. And we are in the final stages of conducting legal and financial research before coming before you with the recommendation to do a contract with this company. And they would anticipate locating their facility in northern Marion County. They have looked at many sites and that is the currently most promising site, which is close and right off I-5. So, it would not be hard to get to. In the collection aspect, we have finished our second food waste collection pilot, and that went very, very well. We collected about 187 tons of material. It was sent up to Washington to be processed and this is a small portion of the result of that effort. We collected the second pilot from 26 businesses of a variety of sizes and types. And they were all quite enthusiastic about being in the pilot. They had a very clean stream of material that they got to us without very much noncompost material, would be one way to put it, without a lot of metals or glass or plastics, which we really don't want to see. So we were happy with the way that pilot turned out, and we were very happy that the businesses were quite disappointed when the pilot ended. I mean, we would like them not to be disappointed, but it's better than, than them saying, God, excuse me, we are very happy that this is over. So, and David was a participant in the pilot and is going to talk a little bit about how he feels about this procedure, moving forward to a full fledged program. And then finally, on the ordinance we are meeting with businesses that are likely to be affected. We are looking carefully to see who should and who shouldn't be covered by the ordinance, and we are about to initiate a much more intensive consultation process that will involve focus groups and one-on-one discussions with businesses that are likely to be covered by it. And so our plan is to have something up and running by the beginning of next year and to come before you probably on the processor in the next month or so asking for your approval for us to enter into a contract. And that's where we are.

Katz: Thank you. Let me ask you a question, it's the question I ask every time you are here. When are you going to and us to do that?

Crockett: As soon as we are having the commercial system up and running and running smoothly. As soon as we are confident that they can take the amount of material that we can give them and turn it into a product and then sell that product, then I would say probably two or three years after the commercial program is underway, we would look at going to residential. The education aspects are a little more complicated with residential, but the collection aspects are frankly somewhat simpler because you can put it in with the yard waste.

Katz: Thank you.

*******:** Thank you.

MARCH 13, 2002

David Yudkin, Co-owner, Hot Lips Pizza: Good morning. My name is david, I am co-owner of hot lips pizza. Thank for you having me here today. We were composting before the city came up with the pilot project, and once the, the project, the city project came on, we were able to compost a lot more, the volume that we were able to capture went way up, and then after the project ended, we tried to capture as much as we can, which it's, it's dropped dramatically down, but I think the big thing that I wanted to come here and say, and this is actually my employees actually asked me to come here and say this, is that they had an opportunity on a daily basis to have a win and be participating in a project that really -- the only way I could describe it, is a multiplier effect that, that they had some control in their jobs on a daily basis on something that they felt that they were doing, having a win for the earth and they are, they are -- we are really upset at the end of the project and are really looking forward and asking me regularly when this project will start again, and I have actually talked with other restaurateurs that have participated in the program, and I believe that they have similar experiences in their restaurants. So, that's really the -- my singular message, is it's a win, with a multiplier effect.

Katz: Thank you. Okay. Why don't you bring up the rest of your party.

June Boon, Chair, Solid Waste Advisory Committee: Good morning. Mayor, commissioners, my name is June Boone, and it is my privilege to be the chairman of the solid waste advisory committee. It's also been my privilege for the last 19 years to work pardon-time as office manager for Hawthorne Auto Clinic in Southeast Portland. Hawthorne Auto Clinic has a long history of recycling and it goes back to the days when my employers, Jim Hauser and Liz Daly, chaired a building with sunflower recycling. An example of their commitment would be the fact that they are the first certified ecological business in Portland. So it wasn't surprising when the city was looking for people for input to set up rules for a commercial recycling, that Hawthorne was contacted. They sent me. Later in that year, I was asked to serve on the solid waste advisory committee, and I have been there ever since. I grew up on a farm in Western New York with parents who lived through the Great Depression in World War II. We didn't waste things. We couldn't afford to. I was introduced to recycling, however, in 1971 as a student teacher in the Akron Central High School. My master teacher loved Earth Day. He taught me about recycling and I have been recycling ever since. I also would like to put forward that because I didn't know a great deal, I took the Oregon State Masters Recyclers program so that I would be better able to deal with solid waste issues on the committee. I believe that we all have a responsibility to take care of the earth. I always have, and I hope that my service on this has contributed to that. But beyond the 60% report does a good job of outlining the strategy and its goals that are most important in getting Portland to recycle 60% by 2005. So, they have been involved in the process to develop the actions that will get us there. We met with staff on a number of occasions to provide input and to give feedback. I like the involvement Swack has in the development of solid waste and recycling programs and the responsiveness to staff to concerns. You can be proud of your staff. They are dedicated, diligent, and knowledgeable and it's been a pleasure to work with them. I think that we can feel good about the direction solid waste and recycling is headed, and I am sure Portland will continue with successful programs that will increase recycling and reduce waste.

Katz: Thank you.

David White, Regional Representative, Oregon Refuge and Recycling Association/Chair, Tricounty Council: Good morning. Mayor and commissioner, my name is David White. I am the regional representative for the Oregon Refuge and Recycling Association and chair of the Tricounty Council, which is a local group of haulers representing the Tricounty area. We had members on the Portland Swack that helped to develop this report and this plan that's David McMan and Bruce Willis, who I think you probably know. I can tell you that the Portland haulers appreciate the spirit of cooperation and the open dialogue we have with the solid waste and recycling division. The

MARCH 13, 2002

division is always open to our comments, our members, we believe, have valuable insights. And while the city doesn't always agree with what we have to say, you are certainly willing to listen, and that's about all we can ask. We are proud of our role in helping the city reach its goal for the year 2000 and we are committed to continuing to work with you to reach this new plateau. Interestingly enough last week, we had a tri-city meeting, and we were discussing this topic. What we can do to help the city move forward and one of our members mentioned the city had a plan so, apparently, the word isn't quite out yet, and I am dedicate and had I am sure that staff is, to getting the word out, that not only do you have a plan but it's a really good one, and we have participated in helping develop t a couple of other items that came up when we discussed this, was what can we do to move residential forward, and they are in your plan. One is to potentially move to role cards for yard debris and move to weekly collection. I know there is the potential to have mandatory collection. On the commercial side you identified the three areas that we all agree. You need to look at, including organics, cnd, and commercial. So, we are definitely moving in the right direction. It's not going to be easy. The next level is going to be more difficult than how we have gotten to where we are now, but with continued participation and partnership, I am sure we will get there.

Saltzman: You will be sure to take copies of this plan back?

White: I think I should. I think I should carry a couple. [laughter]

Francesconi: Just one question, can you say a little more about, I don't know who it is to. I don't think it is to you. But the office -- the paper products and the approach that you are going to approach the commercial sector in terms of recycled paper, can you say a little bit more about the strategy and how you are going to do it?

Hawley: I didn't hear all of that, did you? Are you referring to the project that we are going to work on to reduce paper?

Francesconi: Right. Can you elaborate on it in.

Katz: Identify yourself for the record.

Hawley: I am robin hawley with office of sustainable development. This is a project that we are just starting to develop and our idea is to work with copier manufacturers to, when they go out to a customer, they will take this knowledge with them. They are the experts and they are the ones who have direct contact with their customers, and the businesses we want to have contact with, they will go out and set up their copiers to default duplex so, double-sided copies, which reduces about half the paper. Also, they will be able to take with them some literature that talks about recycled content paper and the places that people -- businesses can buy it because I think that's one of the areas that is lacking, is that businesses just don't know where to buy it and they think that it's going to cost more than virgin paper. So, it's to give that information and trying to do it in a different way than we have done before, to go through copier manufacturers or service people that are out there talking to businesses on a day-to-day basis. And also, have kind of a measuring aspect to this, and see if businesses are actually changing their behavior by using this approach. That's why it is a pilot project, and we hope that it is successful so we can implement it on a larger scale and deq is interested in partnering with us after we get through the pilot project portion.

Katz: Thank you. Further questions? Thank you. Karla?

Katz: Anybody else after jeannie? All right. Jeannie always has presents for us. [laughter]

Jeanne Roy: I am jeanne roy, speaking in favor of the resolution. As robin showed you in the slides, almost 40% of what's currently going to the landfill is paper and food. And potentially most of that could be recycled if proper systems were set up. Personally, I don't think that the plan proposes an adequate system for capturing the paper but I do think it's on target with food. The first step is to get a processing site permitted as judy said. The second step is to collect food from grocery stores, restaurants, and institutional cafeterias, and the third step is to collect foods from households. Six years ago when I was here and received the spirit of a Portland award from you, I

MARCH 13, 2002

was excited because I had just returned from observing a pilot project up in king county, Washington, where they were collecting food from residents. And that system, the household kept their food scraps in these cellophane-lined paper bags in the home, and then every week on yard collection day, they would fold up the top of the bag and take it out and put it in the top of their yard debris can. And so that the yard debris and the food got composted together. Today, I am excited because a similar program is now working in san francisco. They are phasing this in so that all households in the city will have yard debris and food collection together. The residents there have three colors of containers, the blue container for recycling, black cans for trash and then green cans for yard debris, food, and soiled paper. Now, in san francisco, instead of using the paper bag system, they have distributed these perform ails, so people can use their own paper bag and is perhaps is in the newspaper, whatever, so it is not plastic and dump it in their larger can when the yard debris is picked up. Cedar rapids, iowa, use as different system. It gives each household a wheeled cart with holes in it. And because the cart is aerated, the food and the yard debris can start composting as soon as they are there and mixed together. So that means that, that the food can be there on days before it's actually collected by the hauler, and I understand that seattle recently, which has every other week yard debris pickup did a pilot program where they used those aerated wheeled carts for including the food, and the participants liked those because they could put, you know, they could put the food in there whenever they wanted to. And these carts are commonly used for organic collection in europe and in canada so, you can see, I am just mentioning three possible ways of doing this. So, I continued to be hopeful that Portland will follow the lead of these other cities, and I think it is important to keep a vision of what's possible because getting there may not be easy. A lot of hurdles can be put in the path of reaching this kind of system I am talking about. So, it will take strong leadership on the part of the council and strong commitment on the part of the staff, and mayor Katz, I have appreciated your advocacy over the years for food waste composting, but you won't always be here. I won't always be here to be an advocate, and so I am counting on the rest of you in this room to, to keep this vision. To make sure we keep on track --

Francesconi: You have got time. The mayor is not going anywhere.

Katz: I don't know, do you know something? I don't. [laughter]

Katz: But you are absolutely right.

Roy: To keep asking the question, like mayor Katz did today, so that we don't lose, you know, this opportunity to get -- to get as far as we can and completing the loop, getting the organics back to the soil. Thank you. Are there any questions?

Katz: I like the idea of having the household dump the food right into a bin with the leaf pickup. That's a good idea because some people might have problems keeping the food under their sink in a little container. This is not bad because you can dispose of this on a daily basis.

Roy: Well, actually, this can be kept on a counter or in the refrigerator or -- and because it's the cellophane-lined --

Saltzman: Who provides this bag to the residents?

Roy: Well, the local government provided it to the residents.

Katz: Okay.

*******:** Anything else?

Katz: Thank you. All right, everybody, return your bags. Anybody else, all right. If not, roll call on accepting the report.

Francesconi: Reducing our solid waste, actually, increasing our solid waste recycling is an important part of our larger goal, which is to be a sustainable city. So, we really appreciate the work that's been done by our staff and we really also appreciate even more so, the work done by our own citizens who are accepting this and not only accept it go but embrace it go, and we have employees, and we have employees who see it as a motivating factor in their job because they want

MARCH 13, 2002

a win for the earth which is a win for the city. I do think concentrating a little more and maybe you are on the office product side. If you have the commercial waste being 3/4s of the problem, paper, in addition to food, offers a great opportunity, and I know that there are a lot of corporations that would be willing to do this, for the reasons that the food employees were willing to do it, but it's also would be a big win for the city and the environment in our march towards a sustainable city. Aye.

Hales: Well, thanks for good work on this, on this project so far, and I look forward to the next stages. To me, I am struck by a couple of things, every time we revisit the work that's being done in recycling. One is that we have such a cooperative relationship with the haulers and the business community. There are times in public life where we have to do things that are unpopular, and that, so be it, but in this case, you have managed to do something difficult with a lot of cooperation, and I think that's very healthy. And then I think the other reason why this is working so well, in addition to just good work by the committee and the staff and the haulers and the business community folks that have been involved, that some one of those cases where we are aligning the policy and a program at the city with people's values. I think you saw that with your employees, the people really want to do this. They want to make a contribution. They want to help, and the stuff that really last and is makes a difference, I think, tends to fall into that category, where people want to on their own, advance some public purpose or policy, and this is in that arena, and I think that that's very useful, and will allow us to keep setting national records for participation levels, not because we are more directive than other cities, or maybe even not because we are smarter than other cities, that you are doing good work but because we are aligning the work that you are doing with what our citizens want to do every day. And I think that that's really great work. Thank you. Aye.

Saltzman: Well, the next goal is to reach the 60% level, and as you have seen, the higher we go, the more difficult this becomes. All of the simple approaches have been utilized by now. It is going to create variety innovation and investments than ever before, but I think as you have seen, we have not only a good relationship with our front-line people, the haulers out there making this work, our staff, who are always continuing to innovate and lead, and our citizens, and our citizens now have such a high expectation of us, that we have no choice but to meet it and exceed it, and I am confident jean, that you don't have to worry, that the ethic is firmly engrained in Portland. It's part of what makes us Portlanders, and we take great pride in it and continue to aim high. Aye.

Sten: I am very excited about it. It has been difficult to figure out and I recognize that, and I appreciate that. You guys really hung in there and stayed. I think the citizens have been ready for this for some time, and you know, if we can get the logistics figured out and some of the real tough facility issues, I think that we will see another exponential jump, and in terms of the graph, I think we will get to that. I want to thank the haulers. David, you eyes have been there, too, and we couldn't get it done without the guys who picked up the recycling, so thank you, and good work, commissioner Saltzman. Aye.

Katz: Commissioner Saltzman, thank for you keeping your eye on this and staying focused and for the staff, as well. You picked an area that I feel very strongly about, that we can really move much quicker once we find somebody that's willing to do the processing, and I am hopeful that I don't have to wait three years before jeannie comes back and lets us keeps our bags and lectures us about how to do it. And how many times a day to do it. So thank you, everybody, and jeannie, we don't say thank you enough to you for your values on this issue, and you are pushing us constantly so, thank you. Aye. All right. 226.

Item 226.

Saltzman: Well, this is a project --

Hales: This is a project that has had many years, literally, of work done by the staff that you are going to hear from, and many years of advocacy by the neighborhoods that are served by these

MARCH 13, 2002

streets and this section, and has been really a test case of our ability to build infrastructure under the endangered species requirements that the city is now subject to. So, although it has taken a long time, although it now cost as great deal more than any of us ever expected that it would, those costs are for at least understandable reasons. I think there is some issues raised for us as a council about our ability to continue making these kind of investments, not because anybody has spent money inappropriately in this case, but because it's expensive to do it right. And as you will hear from brett and the rest of our team, this is a, now, a much more significant project than it was when we started it, but it's also being done, I think, in a way that will set some standards for and you say other municipalities, as well. So thank you so far, and let's hear the report.

Brant Williams, City Engineer: Brant williams with the office of transportation, city engineer. We are pleased to be here today to give you an update of the status of this, this project that's been in the works to about five years. The residents and the drivers out in this area have been waiting a long time for this project. At the same time, the endangered steal head fish have been waiting a long time for this project, also, so it's a good thing that we could package this project and make it happen and hopefully, with some of the final pieces that will get pulled together in the next few months, we will be able to start construction in the summer. The project is significant in that it makes some major improvements from a traffic standpoint for traffic safety and traffic access for the newly developing areas up in southeast, outer southeast area of foster and 162nd. And as I mentioned, it also will help with fish passage in kelly creek, which is a tributary of johnson creek. The project is around \$4.6 million. That's a lot of money for one intersection, but it's more than just one intersection improvement. There's four main construction components to the project. The traffic improvements include a left turn lane and a traffic signal. We also are doing some major retaining walls to avoid impacts to the stream and to the riparian area in the e-zone. We are putting in an open bottom arch culvert, which replaces the box culvert that exists right now, which is an impediment for fish passage. This is part of the esa program. We have gone through and evaluated our 80 or 70 culverts around the city, and this particular location ended up number two ranked of all those locations throughout the city, so it's going to be great that we can take care of this particular fish barrier.

Hales: Number two worst.

Williams: Number two worst, excuse me. [laughter]

Williams: Yeah, that's correct. The fourth component of the project is the off-site mitigation, which is for water quality purposes, and also for the mitigation for the stream impacts that we are going to cause from doing some construction in the area. We are able to do construction this summer and get this project going because there's been a number of key players and partners who have helped us out through this, and I want to recognize them and thank them. The pleasant valley neighborhood association has been instrumental in this nearby property owners, including lakeside gardens and the hawthorne ridge residents. The initial developers of, of the developments up in the area have provided financial contributions to the project. Federal and state agencies, including nims, odf and w, u.s. Fish and wildlife, the corps, dsl have all been involved with this, and brett worked intimate with them to make this project happen. And of course, metro and yourselves have been instrumental in getting us grants through the Oregon watershed enhancement board, as well as through fhwa to help pay for this project. Unfortunately, the project has been somewhat reactionary on our part. There were a number of unknowns as we went into this project. We were unaware of the esa. We were unaware of many of the water quality issues that we have to deal with, with this kind of -- these projects, it's kind of changing how we do transportation projects in the future. This is a good example of, of a project that hopefully if we do better up front planning, have better understanding of the environmental impacts due to development and these kind of transportation projects, and just do better capital facility planning, also, we can go into these kind of projects, have

MARCH 13, 2002

a better understanding of what kind of impacts we are going to have, was kind of costs we are going to entail on us, and hopefully, be more assured of the decisions we make at the time. I am going to turn it over to brett. He can just run through some of the various issues that we are dealing with, with this project and we have a few people here that would like to testify, also.

Brett Kesterson, Sr. Engineer, Office of Transportation: Yeah, mayor and commissioners, I am brett, senior engineer in the office of transportation. And what I would like to do is go through three bullets very quickly and give some highlights to them, as far as the project is concerned. The first one is a schedule. The primary constraint on this project is an inwater work period, which is from july 1st to september 15th. And then we will also be required to keep foster road closed for a total of five months, beginning in june in order to complete the inwater work and then rebuild the road into its new configuration. Another issue is the permits. We have applied both for the corps dsl permits to work in the water and also concerning fish passage and repairing habitat. And we have also applied to the office of planning and development review for an e-zone review, and for the resource impacts and the flooding issues that would be of issue at this culvert crossing, all the permits have been going forward with no issues. We have resolved those issues and anticipate that the, both the permits should be granted sometime in april. The third issue is mitigation. Besides the culvert, which is the primary mitigation in order to restore the stream bed and the water philosophies so that fish can move back and forth through the culvert, we are also adding some additional rock dams below the culvert to decrease jump heights so that the fish have an easier time getting up to the new culvert. And we are also clearing one acre in gresham woods. It's a mitigation site that the city of gresham purchased to allow for these type of activities, and so we have, we are going to go in and clear and replant this one acre in repairing habitat along johnson creek and that will be our mitigation for the quarter acre that we are filling as far as needing to, to create the left turn lane at this intersection.

Williams: Real quick, one other important player that has helped make this successful is jim middaugh and the city esa staff in helping us work through all the environmental issues, the regulatory issues, and the permitting, so really appreciate the effort of jim. He's here today, if you would like to make a few comments or if you have any questions of jim, too, so.

Katz: All right, questions.

Saltzman: So, what's going to be the alternative for foster road during the five months that it is going to be closed?

Kesterson: We have developed a detour route that will sign people around the site. It will be primarily 122nd to powell boulevard, if you are heading eastbound and then the westbound is using jenne road up to powell. Because it will be between jenny and 162nd where foster would be closed.

Williams: The impacts of closure will be fairly significant, so we are expecting some calls on it, but we have been trying to work with the neighbors to, to --

Katz: Send them onto you --

*******:** That's good. That's what we are here for.

Saltzman: Gresham is well aware of this too?

Williams: Yeah, we will send them to gresham. [laughter]

Francesconi: Just a couple. First, this is terrific, and commissioner Hales, as commissioner Saltzman from the prior item, deserve a lot of credit for this. On the cost side of this, do we have a source of revenue for future -- did it cost more money than, than not taking the appropriate environmentally sensitive approach to protect the fish? Did it cost more money by this approach.

Williams: Definitely, there was cost component for the arch culvert replacing the box culvert that's there, and we estimate that to be about a third of the project. But quite a bit of the funds that were

MARCH 13, 2002

obtained through Oregon watershed enhancement board and fhwa were specifically put towards the, the fish passage issues.

Francesconi: Which leads to my second question, are those sources of revenue for the future culvert work that needs to be done?

Williams: Right now, and jim might be able to chime in on this a little bit, we have very few funds for culvert replacements, like I said, we have about 70 culverts that we inventoried. The 25 critical ones we estimate that the cost of them to be about a million dollars each, or \$25 million for replacing those culverts. And we do not have a good funding source for that. We will go after places like o opinion web, again, fhwa, if we can find money. Currently we are between bes and pdot, we are putting in each \$50,000 a year to address the culverts that are less expensive. And we are trying to tackle some of those like in crystal springs and burnside.

Francesconi: I thought parks had problems. [laughter]

Francesconi: Okay. The work that we do on this culvert and the added cost, or when we find a revenue source, will that, and I guess maybe this question isn't for you, maybe it's for commissioner Sten. Do we get -- is that part of a broader endangered species strategy by which we get some credit for the work that's done? I assume it is.

Saltzman: Yeah. We are really, and it's reassuring at the last presentation, that this is one that came along in exactly the way we are trying to avoid it in the future, which is we start into a project, it becomes clear that we have got endangered species fish issues and the project gets slowed down and it is a project at that needs to be done. I think if this project came up now, I mean, we are not perfect but we would have a pretty good sense that this was happening and what we are actually doing now is working with transportation to look at all the projects that need to be done and also prioritize which ones we think will have the most beneficial impact for fish, so not only are we kind of ready, although we still have to search out funds, that we can also make a case that in those situations where the project could be slowed up under review, but it really isn't a very vital habitat kind of link, that maybe we can make a strong case that this isn't that high on the list, so I think this is kind of been a good result, a learning experience in that we will both see smoother action and a little more predictability in the future, which, and it's money, money is a function of predictability, as well, and the hope would then be that also this one will pass the test, I think, by any standards, so I think it was a good one, but that we are really focusing those dollars in where they will make an impact, and it is something that we are working on but I think that we are getting there.

Katz: If you recall the matrix that was present when had we had the esa super fund presentation, there was a matrix that would prioritize these programs based on the values that have been established. Did I -- I explained that accurately. And so this will -- these and other projects will, will fall and the staff will be making priorities, trying to value them in terms of the highest meeting the endangered species, the super fund, whatever, whatever criteria we establish. And then we discuss the fact that the money is very, very limited and one of these days the council is going to have to tackle the issue of how do we fund all of the federal mandates that have been placed on this for not doing the right things to begin with.

Williams: Right. And some of the efforts that we are doing through just our capital coordination, city-wide capital coordination efforts, I think, will help along these lines. River renaissance being the broadest umbrella over that, and then as we work through the various different projects and planning of our cips, I think we will do a better job with these kind of projects.

Katz: Further questions? Jim, why don't you come on up.

*******:** Good morning, council. I would just like to say this is --

Katz: Identify yourself for the record.

Jim Middaugh: I am jim with the city endangered species program. This is a good example where a traffic safety issue ultimately resulted in some improvements for fish habitat, and I think these are

MARCH 13, 2002

the kinds of opportunities we need to look for across the city, and I would want to congratulate brett for dealing with an awful lot of really complicated trying issues with federal regulators who didn't understand transportation projects and really weren't familiar with the urban environment, and brett has really gone the extra mile to live within the constraints that were placed on him after this project was demanded by the citizens, so I think we have got a really nice project here, and it's a really learning experience for all of us. I do want to say, too, that the national marine fisheries service from what I hear, they get an application for a permit in. They often have to go back and forth three or four or five different times and because of the good work that pdot did, with my staff and others, I think we are going to get yes on the first try, and I think that that speaks to the quality of the work that the city is doing. So, I hope we can find other opportunities to fund these things. And join them with other infrastructure improvements that provide human benefits, as well, and I think that we are really on the way to being able to do that. So, I would just say pdot has done a good job on this project and the neighbors have been very supportive and looked forward to going out there when the fish can pass. It will be a nice, a nice change for a lot of folks and hopefully, a safer place to make the left turn.

Katz: Thank you. All right. Public testimony.

Katz: No, there is always one more. Two more. Three more.

Paul Grosjean, Board Member, Pleasant Valley Neighborhood Association: Good morning. My name is paul. The project at 162nd and foster is, indeed, spanned a lot of years, and I can't imagine that any project that would match this, as far as growing complexity, as it matured, and as from the previous testimony, it's clear that you don't need to be reminded of that history. I come here both as a resident of the development that triggered the original intersection and also as a board member of the pleasant valley neighborhood association. As a matter of fact, that's probably why I got involved with the neighborhood association. And I come to support you as a council for approving the rebuild. But late this year, local residents, as well as the occupants of the 17,000 plus vehicles that transits the intersection every day will be much safer. And I want to thank and recognize first the point man, or the first point man that I encountered in the project, and that being brett. I would never portray that brett and I agreed on each and every step taken, but I know that he left a great deal of sweat and tears and energy to get this project built and I personally thank him. Dan leighton is the project manager and proving to be a key in the buildout and the detour management. I would also like to recognize brandt williams, who I have always knew to be bold and receptive in his approach with the citizens on the issues that we bring forward to him. Commissioner Hales, this is your staff. And without your leadership, the project wouldn't have happened, and I thank you. There's a long list, as you already have been reminded of other departments both within and without the city, but I would recognize the environmental services efforts, and I would also like to recognize the efforts of the johnson creek restoration committee that always gave us, and I believe the project a great deal of support, and we already know the impact that it's going to have on the fish habitat. I have not been in front of council very many times, but each time I come here, I always caution that there's a great deal more to come up, as soon as this project is done. And indeed, another very close neighboring intersection at barber welsh and foster road is probably one that would need to be looked at very closely. But, I wouldn't want to look at the price tag on that because it's got two bridges instead of one, and it would probably be even scarier. And indeed, I would like to recognize the challenges that we face with the detour that we are going to have because I think at that time, we will find out just how important foster road corridor is when each day 17,000 cars need to find another way to get there. And I appreciate the efforts of brandt and his staff to recognize that we need to shift the traffic as far away from the inside roads in pleasant valley and over to a street powell, which may be the people -- powell probably can't take that much more capacity, but it certainly is the only adequate that can take

MARCH 13, 2002

additional capacity. I would also like to close with my appreciation, or my recognition of my associate, linda bauer. She's a strong voice, as you well know. And a leader in our neighborhood that helps bring our neighborhood issues to attention and resolution and I thank her. And I thank you.

Katz: Thank you. Linda?

Linda Bauer: Linda bauer. 6232 southeast 158th. And I just want to echo paul's comments. I agree 100%. We are very happy with the new section improvements. Thank you all.

Katz: You want to introduce your little friend in.

*****: This is kyle mayor. Say hi.

Katz: Hi, kyle. Thank you.

*****: Thank you. And you --

*****: That's adam.

Katz: Adam, can you see yourself?

*****: He's trying.

Katz: Okay. All right. Anybody else want to testify? I will take a motion to accept the report.

Hales: So move.

Katz: Do I hear a second?

Francesconi: Second.

Katz: Roll call.

Francesconi: Terrific work by everybody. Aye.

Hales: I want to thank commissioner Sten for advocacy and help in solving the financial problem here, I think it was all hands-on deck with the council to close the financial gaps on this project, so thanks to him and to the endangered species staff and des, as well, commissioner Saltzman. Everybody has really worked well together on this project. I want to -- I want to second the, the kudos for the folks at pdot here. This bureau was recently described by a columnist as a dog. If it's a dog, it never whines. And always manages to get the job done really under the worst of circumstances financially, so well done. Aye.

Saltzman: Well, this is really a tremendous accomplishment, and I hope it's, resources notwithstanding, I hope it's the first of many culvert that is we are going to be changing but let's also not lose sight of the important traffic safety improvements of this freeway called southeast foster out there. So, it's a good win for, for public safety and it's also going to be a good win for the environment and great work to all the bureau and is all the staff and commissioner Hales and commissioner Sten to, to make this a reality. Aye.

Sten: Well, thanks. I want to thank commissioner Hales, as well. It's mutual. Maybe it's a guard dog watching out for safety and now stream, as well, with his terrific, and I do want to be too long winded, but what I would like to say is I think the stream problem is something that's developed over 100 years of building our infrastructure in a way that just really didn't worry about streams, and I don't think it was malicious or anything like it. And the way we are going to restore habitat is through a careful, slow rebuilding of the infrastructure, over many years, and so I think each time we do a project, it's an opportunity to do it right this time around, and there's going to be a lot of debate about regulations and other things, and those are important, but you are never going to get out of these things unless what you are doing is investing in the right way, and I think we are going about it in a methodical fashion but, I think, we are also doing very good projects that make a big difference, so now it's more expensive, but hopefully over time, we can bring the price tag down as we understand it, and we have actually made it safer for humans and restored habitat in the same, same breath, and I think that johnson creek really becomes the place that maybe we can show that a truly urban area can be restored. I mean, it's close to gone, but it's not gone, and it's coming back strong, and, and what we are seeing over time is if you do it right, it's safer. Property values are

MARCH 13, 2002

higher because you don't have flooding and all the things that are happening if you better protect the flood plains and fish and people can live together in the same place, and I think this is, this was a little bit rocky but one of the first times that I think that we really have shown that we can get it right and that it -- it's really a matter of investing, not a matter of telling people how to do it, but figuring it out to go, so I really appreciate pdot's work and I think it was actually small but kind of remarkable chapter in kind of how the city continues to do things well but maybe just a little bit differently so really good work, aye.

Katz: Good work, everybody. This is an example of how we work with cross bureaus and different functions together and jim deserve as lot of the credit, as well as grant and pdot and the neighborhood. Good work, commissioner Hales. Commissioner Sten. And all of us who are committed to this. Aye. All right. 242.

Item 242.

Katz: We have heard a lot of discussion about the digital divide. Commissioner Sten talks about it a lot. We have wonderful partners now, to take a project, pilot it, and you will hear a little bit more in detail, to have an active community involved in their government, and that's a wonderful formula, and it works, and we are going to test to see how it works, and we are going to test to see how well it works. You all know about innovation partnership, and it's worked with, with governmental leaders and identified that citizen involvement is viewed as a key to better government services. That was the premise. That was their vision. That was their goal. And one of the ways to achieve it, is to build that partnership and in this case, we build it with at&t, one economy, and the city of Portland specifically the police bureau, to pilot a project to create ways to acknowledge you can engage more people in public affairs. You know about a lot of the projects that are now on the web.

But one of the problems is that many of the people that want to get involved may not have the resources for a computer. May not understand how to use a computer. May not be familiar with what is available to them on the web, and this is a pilot project to bring government an innovative partnership and a community together to participate with government on understanding the police services that we are providing here in this community. So, come on up, jane, and explain it in even greater detail.

Jane Braaten, Portland Police Bureau: Thank you, mayor, and members of council. Jane braaten with the Portland police bureau. Pleased to bring this project before you. The mayor has already explained a little bit about innovation partnerships and the other partners on this project. At&t is providing their digital internet services. One economy will insure that anyone who would not be able to afford a computer and a printer will have one. And they are developing a sliding scale to do that. The initial pilot project will focus on community placing and how technology can help foster a communication network between our neighborhood watch block captains, our senior neighborhood officers, our crime prevention specialist and is our community members. And how that communication can better achieve community building and community policing. The other city partners, in addition to the police bureau, are the bureau of information technology and the corporate gis, who will be our web development partners, and the office of neighborhood involvement and the crime prevention specialist who will also be providing quite a bit of the content and the community building resources. The project will consist after six-month pilot, and 3 to 400 households in portsmouth neighborhood will be selected to participate in the study group that will be evaluated, we will be looking at where they go on the site, what they use, and that information will then be shared not just with the partners, but with all the city bureaus, so that when they are developing web services, we all have a better idea of what's effective, what's needed and what the community most wants to receive. And all the portsmouth neighborhood people in the neighborhood can participate on the website, it's just the specific study group that will be evaluating their, their, what they prefer in the site, but everyone in that neighborhood will have access to all of

MARCH 13, 2002

the services and resources on the site. The specific website will be created and will allow users to have the ability to select the information that they want to receive. That was an important project goal. We all know that we are sometimes overloaded with data and yet we are still lacking information that we really want. So, we are building in feature that is allow people to subscribe to the type of information that they want to receive and to talk with other neighbors about the topics they are most interested in. So, we want to build a little bit of an internet back fence, so to speak, and test that to see if that is effective at community building and building community policing. Some additional features, we would like to have a feature that allows people to put in their address or click on a block and find out if there is an active neighborhood watch in that -- on that block. If there isn't, they can then sign up. If there is, they can receive contact information, how to get in touch with that block captain and become more active on their block. They can sign up to receive crime alerts from either the police bureau or neighborhood crime prevention so that they know what to look out for or what, what's a current crime or people can pose, this happened to me, if you saw anything, please call. Online reporting of some activities, in addition to the police bureau currently has a website that allows people to report drug house activity online. They ask for a lot of detailed information, and that goes directly to our drug division where they track it just like they would anything that comes in on their phone line but at the same time, they have made it more convenient for people to report and people have a better idea of the type of information that's needed to actually investigate those types of complaints. We want to explore more avenues, not, not in lieu of offering that service in another way, but in addition, so that that is an additional convenience for the community. And then some online neighborhood meetings and forums. Exploring ways that we can provide that for people who may not be able to either travel or find day care for a traditional meeting, or ways in which we can offer some type of a web-based participation for them. And then in addition, all steps of this process will be evaluated -- evaluating the services they used, how effective they thought they were, how convenient was the site, how user friendly was it. What did they most want to use on the site, and we want to build that in such a way that it applies not just to public safety, but to all types of city services and web services. So that's what we are looking at. Questions?

Saltzman: Will the computers and internet service that at&t provides, it will just be general internet service not just to connect to this website?

Braaten: Right, they will have full internet access on their highest speed connections.

Saltzman: And okay, so what six months from now, how are we going to know whether this was a success or not? What's the performance goal here?

Braaten: Well, the time line for the project is that this fall, they would begin marketing and signing up the participants, and then january 1 is our target date to the website up and alive. Then that would be -- we would keep that with all the features intact for six months, and do initial surveys, mid-point surveys and post surveys, but we are going to have trends data from corporate gis, as we go along to find out where did people visit on this site and then we will be doing follow-up questions with our survey participants, and that's where we will want to get that good demographic sample so that we have a good idea of when we make conclusions based on that. What they found was most effective.

Saltzman: It starts january 1st --

Braaten: Yeah. The other -- the back end work starts before that.

Saltzman: But the \$50,000 today is going to help develop the website?

Braaten: Actually, half of the funds is, is dedicated for the overall project management. The task of bringing in all of these players and half of the funds have been earmarked for the quality evaluation. We wanted to make sure that that was done in such a way that if the program expands,

MARCH 13, 2002

that evaluation frequently they use to attract additional grant dollars, so we wanted a good quality evaluation. The police bureau is providing some guidance on that.

Saltzman: And these are grant dollars?

Braaten: The funds earmarked for this project came from the 2001-2003 bja block grants. The proposal was submitted last june, and the block grant discussions came up about august, and that's when the funds were dedicate sod there's no general fund cash contribution to the project.

Saltzman: I don't know about this bja block fund. Is this thing also going to fund officers and things like that or --

Braaten: The llbj can be used for overtime. Can be used for positions and can be used for special projects. Our -- typically it's about a \$1.8 million allocation. Last year the funds were split in half with the county, so our portion of that was roughly \$900,000.

Saltzman: do you envision this \$50,000 being a one-time only request?

Braaten: At this point, yes. It would be used for the start-up, and then --

Saltzman: In june of next year, will we see another request?

Braaten: We won't have a need to contract any further. All of the -- we are building this in such a way that the police bureau and our technology partners are going to be evaluating what services that were well received could be replicated city-wide. Because that's part of the whole goal of the project, if it works well in portsmouth we have 95 other neighborhoods who would like to receive the same service, so we are sensitive to flagging that for our policymakers, that that may be additional service demands.

Saltzman: Okay. And final, do we know what is the current internet penetration in these 300, 400 households?

Braaten: We actually don't have data on that. We have the national data, which says 80% of households in Portland. We might, we might have reason to believe it would be less than 70% in portsmouth because as we turned out working on this project, we learn that had there are 27 languages spoken in portsmouth. So each one of those may represent, you know, a barrier to full internet access. But, we will be finding out about portsmouth as we look at this project.

Saltzman: Thanks.

Katz: Further questions?

Francesconi: This is a terrific idea. I am not sure you were really clear, at least I didn't understand your answer to commissioner Saltzman on the evaluation criteria. Is it the number of visits to the site? What is the criteria by which people --

Braaten: And perhaps I didn't mean to shortchange that answer. There's an evaluation committee. Dr. Lang is on that, in addition to dr. Beetle from police bureau and some other players, and they are developing what is it that we want --

Francesconi: Still working on it.

Braaten: So at least we know right now it will be both qualitative and quantitative. We want number counts on where they went but we also want to know did they find the information useful, and develop some type of a survey instrument to gather that data from the participants.

Katz: Further questions? Anybody else want to testify?

*****: We have -- I guess not.

Katz: Roll call.

Francesconi: This is an exciting thing. I was going to ask you how we could then take what you learn and had apply it see-wide, but then you have the players right there and the real lessons are for oni and how to take this and give more citizen input and involvement throughout all the other issues and they would be the key for that, so thank you for leading the way. Aye.

Hales: Aye.

MARCH 13, 2002

Saltzman: Sounds like an exciting project, although I want to be mindful that we have some tangible outcomes that we can measure to insure that, that we know this is really working or this is something that would happen anyway in this modern age, as people, more and more people gain internet access, but sounds exciting and worth a try, aye.

Sten: I think this is going to be a very good effort and there are two things happening in Portland. One is that we are actually, by objective numbers, have the most connected people in the country in terms of percentage to the internet, and so why not use that to try and connect people up better, I mean, it's obviously people are on the internet in ways that they are not going to get other information, so I think trying to connect them with some of the police data could be very, very powerful, and the other piece, picking portsmouth, a neighborhood that doesn't have quite as much money and not as many people, there's, when you go to the 70% or whatever the number is that are on the internet and look at people who are, there is going to be a direct correlation between income, and I think when you look at it that way, technology is not neutral, and neither is it, it's going to get more people connected or make it harder for people to stay in tuned as more people go over the internet, and teaming up with the nonprofit economy and having an opportunity to not only connect people with the civic infrastructure but give them a chance to buy a computer on the terms that they can handle is really an awfully cool proposition, and I think that, you know, I think this will be something that we will be very glad that we did in the years to come, and I think it actually, to start looking at the economy and other things that are going poorly, the notion of trying to get people who are not connected, connected is actually a productivity issue, as well, and I think this could be a very good step forward, and it's fun to see the police bureau leading the effort to connect people to the internet so I am very, very excited about it, myself, aye.

Katz: That's exactly what I wanted to add. Innovative partnership looks for good ideas. This one came up through their process of identifying ideas. They wanted to connect more people with government, using technology and we have begun building those tools. But the nice thing was it came to our office. We thought about, well, who would be a natural for this, who developed information that the community wants, needs, and it was the police bureau and I have to tell you, I was a little nervous about facing the chief in light of everything else that he has to deal with and ask him, do you want to get involved with a technology program and share information with a community in north Portland, and chief kroeker certainly understands the value and the use of technology, which is one of reasons that I hired him. He understands its use. He understands its value, and he said absolutely sign it had to jane, who has done a marvelous job in bringing it, all of this together. So, the wonderful, it will be wonderful to watch this whole thing unfold. Aye. All right. 243.

Item 243.

Hales: This is a hearing so there may not be anything here to testify. Does anybody want explanation on this?

Hales: Then I will move we close the hearing, accept the engineer's report and direct an ordinance be prepared.

Katz: Roll call.

Hales: This is street vacation. The reason for the quick process is this is a dead end street that dead ends at a railroad line so it is not going to be needed for transportation purposes. Aye.

Saltzman: Aye. **Sten:** Aye.

Katz: Mayor votes aye. 244.

Item 244.

Andrew Aebi: Good morning, mayor, commissioners. I am andrew aebi. Local improvement district administrator with the office of transportation. The ordinance before you allows us to perform the final assessment for this lid and close the lid process. Just to recap this project, before

MARCH 13, 2002

we started this project, the area along nato parkway between the steel bridge and 9th avenue had very little development in the area, except for the existing mccormick pier development and we had nato parkway, which was the thoroughfare through the area, but it was not a particularly inviting streetscape and I didn't really connect the neighborhood around union station to the river. Now that we have complete this had project, we have built streetscape improvements along nato parkway, and installed traffic signals and pedestrian connections in the area so that we have now brought together the new development that has occurred, the mixed use housing near union station. We have united the neighborhood with the existing mccormick pier development so it has been a real transformation of the neighborhood. The project as complete was ontime, and within budget. The assessment was, was a guaranteed cost assessment to the property owners and there was unanimous support for the lid upon formation. So.

Katz: We are looking at the lid. All right. Questions?

Francesconi: Well, this isn't directly relevant but on the landscaping side of this, how much, how much was the cost for the landscaping, roughly?

Aebi: The landscaping portion of it was approximately \$30,000. It was a pretty small portion of the overall project cost, which was \$1.8 million.

Hales: That's the street tree mostly? That's street trees.

Aebi: I am not -- I don't have the exact detail on the, the street trees, but I know the lapped escaping was 30,000. The left turn lane was about 35,000 and the overall streetscape improvement was about \$900,000, which included the street trees.

Francesconi: My real money was, you don't have any money to maintain it, though, do you? Is there any way that we can maintain this landscaping in the public right-of-way.

Aebi: I don't have an answer for you on that one. I am not sure what provisions have been made, other than if it is in the, the arterials, we just add it to the inventory of what we maintain along with everything else.

Francesconi: I think it's a budget issue we are going to have to look at.

Katz: Oh, there are more than this one to look at. A lot more than this one. All right. Further testimony? All right. Then it passes on to second. Thank you.

*****: Thanks, andrew.

Katz: 245.

Item 245.

Katz: Commissioner Sten?

Sten: Thanks, mayor Katz. We have actually had a resolution authorizing this contract to go forward and I just thought I would put it on the regular agenda because it's kind of a nice moment for, I think, for progress. We have actually had this long list that karla just read of partners who are now jointly funding very in-depth study of technical, financial, and political issues to form a regional authority and I won't go into great deal because we talked about it a lot in this chamber, but it's really the idea is to try and set up a regional structure that makes sense. We have 27 water districts providing water in the three counties, and three sources of water, and this would take the major source, and I dare say the best source, the bull run and make it something that's jointly owned by the city and suburbs and the city wouldn't lose any ownership interest but would gain more partners to fund the infrastructure that we need and I think it's just a lot smarter approach, and as you can see, we have got a ton of support and so actually the studies, themselves, won't cost the water bureau very much because we are splitting the cost with all these different agencies, and there is a process that a steering committee will go through to pick a consultant to help on some of these issues, and I think that we should expect a hard proposal back to the city of Portland probably by the middle of the summer, and I am very excited about this. I think it's a forward-thinking, the right strategy, but I also want to just quickly remind people out there in the greater citizenry that we

MARCH 13, 2002

won't move forward on actually making a regional bull run authority unless we do meet all of the Portland values of environmental protection and source protection and all the things that we have come to care about for all the good reasons, so, it's a very exciting moment but we still have plenty of time and well -- the details on these types of things, and we are going to go and figure those details out jointly and be back later this summer.

Katz: Okay. Anybody want to testify?

Tom Cropper: Hello. My name is tom cropper. I am a community cable access television producer. I sent out an e-mail today, this morning after reading the Portland tribune tuesday edition about this intergovernmental agreement plan, and I am surprised nobody else has showed up. However, I object to having this particular measure on as an emergency ordinance, if there is an emergency, it would be an emergency of your own creation. There are 14 entities involved, according to this summary, one of which is metro, which is the planning, regional planning group, which owns no share of the, of the water rights. The water rights that Portland has exercised has existed for a very long time, certainly longer than the time that commissioner Sten and the members of the, of the council have been serving, and I noticed that the summary says it will be supporting a funding of the implementation plan for the formation of the bull run regional drinking water agency. Okay, the question is which plan. I understand that the consultant, ed, tenney, might be the one that is being talked about, if it is, I know that there is opposition to that from the citizens interested in bull run. I do receive press releases, we had a press release this week, the democratic clubs. They voted unanimously to construct a third dam on the bull run water channel. This would alleviate some of the water supply problems. I received a press release from citizens at bull run. It said that the granges have officially endorsed, or resolutions in Multnomah, clackamas and Washington counties supporting the people, public utilities district, and this is another alternative. I do not think that this is an emergency ordinance for real. I think you should have more testimony. You should have an actual official meeting. I was invited to a workshop about this regional plan, which I did not go to because I don't believe in workshops. They do not actually provide a form for official testimony, which can be implemented through class action suits or whatever. That's what I have to say.

Katz: Thank you.

Cropper: Oh, one more thing. And then I will sum up, okay. How much did this thing -- is this thing costing? Thank you.

Katz: Okay. Commissioner Sten, do you want to respond? I will do it -- anybody else want to testify? All right. Roll call.

Francesconi: It's one thing to talk about regional cooperation. It's another thing to actually put some money towards actually make it go happen, so this is a very significant step led by commissioner Sten, and something that makes sense. So, he's also going to make sure not only that our environmental ethic is honored here, but also that it's a financially good deal for the citizens of Portland. Especially given the major infrastructure costs that are coming. Aye.

Hales: Well, I am very enthusiastic about this effort, and I just want to commend you, erik, for patient diplomacy and persistence, regional cooperation among turf-oriented local government, not for the faint at heart, and I appreciate your willingness to dive in and do this, and I think it's going to make a huge difference for the whole metropolitan area for a very long time. Aye.

Saltzman: Maybe there is a secret here. It's easier to work with the water utility districts, perhaps, than the elected governing boards of the other governments you, but nevertheless, it's an important thing in cooperation and regional governance and I think the outcome, I mean, we are just starting the official study here to see what probably will identify what more questions need to be answered by, before any jurisdiction wants to take it to the next step, but I think the outcome sounds promising to me at this point. I think the other thing that we have to be, to be mindful of is continue

MARCH 13, 2002

to be able to guarantee citizens of Portland that bull run will always be their first source of water or bull run and the well fields will be there for a source of water in -- and that issue permeates this issue, as commissioner Sten well knows. Aye.

Sten: Well, let me just briefly make sure I hit some of the questions for clarification, and in all of the issues that each council member raises will be addressed. One of the biggest issues has been public comment and how we involve the public, and we have had a bunch of public meetings, and those, I think, have been good but those are limited in terms of what you can do with those. The regional group is still looking for what's the right strategy and it's not -- there's not an easy blueprint on it when you have 27 and now 14 different jurisdictions, but there will be regional hearings. There will be hearings in each city. I am going to, at some point later in the spring, a citizen's panel in Portland to advise Portland on the specifics. I am working with the perb to ask them to look at the financial and technical issues to make sure that the repairs are treated correctly. And then I think we will have a series of hearings, so we will have a series of different public meetings, a series of task force to say look at these issues and we will be utilizing existing advisory boards, and we are taking a little bit of time to try and figure out what's the right way to make that work. The 14 members actually had a public meeting in gresham to solicit input on how to involve the public so, we are kind of taking it like every step we can to try and get people involved, and I think that's been a good effort so far. It has. The democratic club, for example, not only asked for a third dam, they endorsed the idea of regionalization in a step in that direction, so the grass-roots groups are getting involved and we are trying to figure out ways to keep them involved. The cost is a maximum of \$20,000 and at this point, I am projecting that I think that we will only spend dollar 15,000. The costs are submit equally between each of the groups, and we are authorized by this resolution to go up to \$20,000. I think an equal split will probably leave us at 15, which is quite reasonable for this amount of work. And I actually think ed tenney did a terrific job on the first part of the consulting. There were issues raised. He's actually not bidding on the contract for a variety of reasons. There is two firms that have bid on it, and the regional folks will make a decision on that. I am going to stay out that far because I think it's important that the suburban leaders get as a consultant team that they are very comfortable, looking out for their interests, so I think that hits all of the key pieces. I should also say that there's a technical advisory meeting -- team and there's an elected official's advisory team that are having public meetings, as well, and we can connect people and they are welcome to attend those meetings, as well, if they want to see the, the ins and outs that are going on so, we will be back in the summer with the proposal and I hope that we will have a good one. Aye.

Katz: Good work, commissioner Sten. In fact you have proven yourself you might be the next member of impact. [laughter]

Katz: Aye.

Saltzman: I will move that. [laughter]

Katz: We will both -- actually, all three of us will move that. [laughter]

Katz: See what happens when you do good work? [laughter]

Katz: All right. Next item, 246.

Item 246.

Katz: Roll call.

Francesconi: Having the independent public review division, review shootings and death is a very important and urgent step in, in increasing the public scrutiny and public confidence surrounding these events, so we are at a step in a journey toward providing more oversight that's absolutely required and this is a very significant step. I want to thank people for coming together around this proposal, and it's going to help. We are going to learn some things that are going to help our citizens understand, help our officers not have to be involved in and put in this situation. And help

MARCH 13, 2002

do anything we can to avoid this, this situation. I guess I have two requests. The first is that we, the expert that we are going to bring in from outside, who will be independent in reporting to the auditor, that we ask the expert to review some things right away, and one of them is the issue of what we can do right now in terms of training, specifically, around mental health and any issues, any diversity issues that need to be addressed, and I am going to come back to that. I also would like it if we ask our experts to look at the question of citizen involvement nation-wide as to how we can involve more citizens in this process. With the benefit of the experts' advice. I also think we should look at how we involve the chair of the committee as much as possible in this process, and I also think that the independent expert before issuing a final report should meet with the citizen's review group to give initial impressions, initial findings, ask for some suggestions, ask for some guidance before reading, issuing a final report. My second request is really of the police bureau and the police union, and I have really been encouraged that it's already been initiated by the police union. And that is within 80 days -- let me preface it by saying that crime, it's the reality of crime as well as the perception of crime that we try to address, and what we are trying -- because it's fear caused by the reality of crime and the perception that we could become victims of crime. That it's the goal of policing. And they are both real. We also -- and actually, these are the words, not just of me but of others, we really don't want to get ourselves in a situation of Cincinnati on this issue of police shootings. So, it's the reality but it's also the perception of how we are going to work together that we need to address. So, I would appreciate it -- I have asked my bureaus on, also, to address this. I have asked fire and parks that within 60 days get back to me in terms of issues of diversity, hiring, issues of cultural sensitivity and training, and special outreach to minority communities, and I guess I would ask the police bureau but also the police union who I think is already there to look at the questions of those three questions about what we can do to build even stronger relations with the minority communities, specifically Latino communities and African-American communities where there is a perception that we are not as sensitive as we need to be towards issues. 8 and so we are going to -- this is an issue, I was at -- in conclusion, I was at the interviewing of that, one of the candidates for superintendent last night, and on the wall of Madison High School, it says diversity is all of our businesses. So, it is. We all have a responsibility in that regard, but on the issue of police shootings, there is a special responsibility on behalf of the council and the police to do all we can, and I think that these two issues have been intertwined. I think the two issues are related but I also think the issues are separate. So, that's my two requests. As we move on this journey to more public scrutiny on a very personal, very explosive and very critical city issue. Aye.

Hales: I am going to support this, but I want to join Jim in that request that our expert confer with our citizen review committee. I think that we have some citizen expertise and some people there that are committed to making this process work and I think it would be a waste and an unfortunate oversight if we didn't have that communication occur. So, with that caveat, Gary, aye.

Saltzman: Well, I think it's already embedded in the proposal from the outset this consultant will confer with the citizen review committee. That was one of the precepts of it, as I recall. I think this is a good step forward. We asked the auditor -- well, we asked the auditor first of all whether he would consider taking on this responsibility of reforming PIIAC, and he graciously accepted that, came forward with the proposal to set forward this independent police review office and the citizen review committee, and at the time we pass that had ordinance we also said we want a handle on looking at, at deaths in custody and officer shooting, but we didn't quite know what it was then and we asked him to come back and he came back with this proposal, and I think this is a good first step. It may not be the last step. We may decide at some point that we want to get the citizen review committee more proactively involved but I think for right now, given that they have a lot of work to go, to get -- they have got backlog of cases and issues that they need to deal with. It's a

MARCH 13, 2002

time-consuming job for the citizens, already, and I think it's important that we take the step here of getting an independent consultant to take a look at the shootings and the policy recommendations because that was the linchpin of our request to the auditor was to come back with a way that we could look at shootings and deaths in custody for policy recommendations, not to recreate another grand jury, and I think that was my biggest concern about the proposal of the citizen -- some of the citizen review committee last week is I really felt that it was, in essence, asking to impanel another grand jury as we heard in testimony, we already have -- we will now have seven layers of review of officer shootings and deaths in custody, and one of those is a grand jury. I have a lot of respect for the grand jury process. These are citizens, who were chosen at random, and they, you know, served us well for over 200 years, and I think it will continue to serve us well in this regard. Setting up an eighth layer, an eighth grand juror but not -- an eighth grand jury but really not random citizens. I think without service -- I think will serve us well at this time, aye.

Sten: Well, I think this is a step forward and I am -- I am appreciative of auditor blackmer's efforts and the police union's efforts to come to an agreement, and I am very hopeful that this will give us some more advice, good thought, and, you know, I hope it can be done in a way -- I have said for a long time, there is a lot of issues, and I think it is very important to have proper discipline and all the things that need to be in a system to function. I think the long-term issue is can you improve performance and I think this is focused on improving performance and preventing problems before they happen, and I think that, as we look down the road, is the issue. Although, you know, no way does that take away from, on each incident, there has to be a clear analysis and the facts need to be found out. You know, got a little back and forth at times last week, and the auditor and i, I think, have -- I think a modest -- it's an important but a modest disagreement, and I am more than willing at this point to put that to the side and move forward. I permanently think, and I will just take a second to explain where I was going with that last week, that the number one problem that face this is community is in terms of police issues, is communication and trust between the vast majority of law abiding citizens and officers, and I am not saying most law abiding citizens do just fine but there are perceptions, problems, and I think to the best extent that more people understand what happens when an officer makes a tough decision, I think the better the relationship will be, and for that reason, the idea of having a couple of people from the citizen review committee have access to the facts on the specific cases, not to second-guess them but to help understand and translate to the greater community what the policy decisions are. I think that would make sense. I am more than happy at this point to say, let's set that aside and see what happens because I think, you know, these are, as you move forward and change is difficult, there's tough issues on all sides, and I understand clearly that, that the sense is that people would not like to reopen cases that are closed, and I think there's an argument there. I don't completely agree with that, but I think that is step forward and I am happy that we have gotten this far and perhaps I am wrong and that would not be the next step, so let's see how this works, and I think this will be a positive experience and I appreciate everyone's work on it. Aye.

Katz: Thank you, everybody. Let me share with you how this really all started. And it started with the Oregonian who was persistent in asking my office and asking the bureau to really begin to review some of these cases, and then gary and I struggled about how to do this. What would be the best venue in making this happen, and gary came up with this approach, and it was one of many, and I think as a start, the best one that's in front of us right now, it would allow an independent person, an expert in this area not only to review the quality of the investigation, but more importantly, to identify procedures and processes in our training. The police force is becoming a young force, and are more elder, more experienced police officers are reaching their retirement age. And we all worry about making sure that we have enough sound coaches and a training program that meets all the requirements, not only safety of officers and of the public, but the issues of

MARCH 13, 2002

sensitivity of diversity, of differences of he said nick groupings, the demographic differences in a community -- ethnic groupings, and demographic differences in community. And I want to make sure that we have another pair of eyes looking to see that we are doing all the work that we need to do and whether we are capturing the best practices from around the country, and I think this will be a good first start. I also want to say that after one of the more recent shootings, I want to commend the chief and the assistant chiefs for reaching out to the community, to the family, and to the community as well, explaining in very great detail what happened from all the police reports that have been made available for public review. That is another way of approaching the public and explaining to the public all the nuances of these very, very crisis-sensitive situation that is we find ourselves in, especially our officers, so get on with the hiring and let's begin the work. It's long overdue, aye. Thank you, everybody. We stand adjourned until 2:00 tomorrow.

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

MARCH 14, 2002

MARCH 14, 2002 2:00 PM

* * * [roll call]

Katz: Commissioner Francesconi hopefully will be here in a few minutes. Let's start with 249.
Item 249.

Katz: Okay.

Eric Engstrom, Office of Planning and Development Review: Mayor Katz, commissioners, my name is eric with the office of planning and development review. As you recall about a month ago we were here and you upheld the hearings officer's decision on this. It is a 12-lot subdivision with concurrent greenway review. I've prepared findings to reflect that discussion and I wanted to briefly just go over the differences that we made -- the changes we've made in the findings based on your conversation. Under conformance with plans findings, section 34.50.010, we've had -- added elemental findings concerning plans relevant and -- verse approval criteria. We've modified findings related to -- [technical difficulties] also modified in the report to reflect some of the discussion that occurred. With regard to the conditions of approval, one of the hearings officer's conditions of approval has been modified slightly to clarify how the condition would be implemented. Pdot's conditions related to street improvement were trimmed with pdot's and the applicant's agreement to reflect that the lid issue and condition f-5 was added, and that's the condition that council added that wasn't in the hearings officer's decision. And any of those bullet items I could find the page number for you if you'd like. Also i'd like to clarify that the findings submitted -- that were filed with council, the ones you've just been given are different on one of the pages we found a glitch on one of the pages that we needed to correct, and have done that so -- just so there's no confusion about that.

Katz: Let me know when you're okay with it.

Hales: We're ready for us to adopt this?

Katz: Okay. Go ahead.

Hales: I'll move we adopt the findings as revised.

Katz: Do I hear a second?

Saltzman: Second.

Katz: Roll call. 249 findings. You voted no the time before.

Francesconi: Good job on the findings. No.

*******:** Thank you.

Hales: Aye. **Saltzman:** Aye. **Sten:** Aye.

Katz: Mayor votes no. [gavel pounded] motions passes. Let's go to -- this will be almost the last time we will talk about this. 247 and 248.

Hales: Come on, don't tease:

Item 247 and 248.

Katz: Okay. I don't think everybody was with us last time, so let's just very briefly run up where we are and the instructions that we gave you, and then we'll pass all of -- we'll pass one and pass the others the other two.

Gil Kelley, Bureau of Planning: Okay. Good afternoon, gil kelley, planning bureau, and with me are stevie greathouse from the planning bureau and rebecca esau from office of planning and development review land use review division. These two know much more about the details, so i'm going to step out of the way except to say that we took commissioner Saltzman very seriously last time when he asked what it would take for us to go away completely, and we think we have the

MARCH 14, 2002

list, the short list for you today to do that. On this topic I assume. So we think -- except for the time --

Saltzman: Just this topic.

Kelley: Okay. We think except for the time reading, we have that action in front of you today, and there is one issue that has been raised by -- that you'll hear about in testimony in a moment which Stevie can also allude to and talk about.

Katz: We're going to hear more testimony?

Kelley: I think -- isn't this still open?

Stevie Greathouse, Bureau of Planning: I think it's still open.

Katz: It's still open? On the issues that you've come back with. Okay. And only on those.

Greathouse: And on the delay of the effective date, which hasn't had a hearing yet.

Katz: I thought everybody was in agreement with that. But go ahead.

Greathouse: Stevie Greathouse, Bureau of Planning. Before you today is a memo that outlines what we heard as direction from the previous council hearing, which is basically to go ahead and approve several uncontroversial amendments listed in the land division code rewrite project implementation report, as well as several uncontroversial amendments listed in a memo that had been submitted to the council by the Bureau of Planning. In addition, staff was requested at the last hearing, which occurred on February 20th, to prepare specific amendment language related to the measurement of trees on large sites, and to allowing right of way flexibility for trees and other natural features through the use of easements. We have prepared specific amendment language for both of those.

Katz: Okay. I have page 3, 5, 7, and 9. So I'm missing the even pages. Does anybody have another copy? Thanks.

Greathouse: Included in this package today is our amendments related to the measurement of trees on large sites and amendments related to right of way flexibility for trees and other natural features through the use of easements. The council also directed staff to bring back discussion and where appropriate specific amendments relating to several additional outstanding issues, the measurement of seeps and springs was an issue that was raised in testimony. We have prepared an amendment that's included in the package today that we feel addresses the issue that was raised in testimony on the 20th. Another outstanding issue was what to do in cases where you have a seep or spring or stream or a storm water facility tract on the front part of the property in a way that would preempt being able to provide lot frontage or street onto that property. We have created some amendments that have the support of staff from transportation and environmental services and Bureau of Planning that we feel addressed this issue. The council also heard from OPDR and other service bureaus at the hearing on the 20th about some concerns relating to the requirements for balancing land use and technical decisions. And there is a recommendation included in this memo that would basically delete that section and request that the council direct staff to do additional work to study what the actual problem is and to look at what conflicts if any emerge under the new regulations with the feeling that the balancing requirements don't adequately reflect the new regulations and don't create a clear enough decision-making process for how to deal with any potential conflict. In addition to the issues that are outlined in the memo that include potential amendments to the adopted report of the land division code rewrite, there's another issue that came up that was raised in testimony at the previous hearing on the 20th, and that staff did not receive specific direction from the council pertaining, which is an issue related to the requirement that the office of transportation provide additional technical guidelines for their decisions in advance of the implementation date of the code. The issue that has been raised is that the ordinance as it was

MARCH 14, 2002

originally filed with the council back in september did request that certain work be done in advance of the effective date, and further said that if this work was not completed in advance of the effective date, provided a directive to essentially adopt land use approval criteria for these technical decisions. We feel that the work that has been done to date meets the minimum legal requirement of the ordinance because the ordinance did direct that guidelines be created. However, the council may have additional sort of requests from an in-depth of the ordinance perspective in terms of additional work that may need to be done in advance of the effective date. And with that, I will --

Katz: Okay. All right. Any other issues that we have not covered? All right. Let's run down through them --

Saltzman: What was the new proposed effective date?

Greathouse: July 1st, the second ordinance on the agenda today is to delay the effective date to july 1st, 2002.

Katz: Let's take the first issue, which is the trees on large sites. Stevie, just quickly for people who are not here but listening, run through that, and if there's any opposition here we'll take a vote, if not, we'll do it by consensus.

Greathouse: The amendment, the trees on large sites would do two things. The first thing it would do is allow sites larger than an acre to measure the trees on the site based on a canopy percentage rather than a total tree diameter percentage and to use the most recent aerial map of the site in add to make that calculation. The second thing that it does is for sites that choose either the smaller sites, sites smaller than an acre required to use a total tree diameter count, or sites larger than an acre to choose to use the total tree diameter, it provides an option for measurement that would involve statistical sample instead of a complete tree survey.

Katz: Okay. Council's okay? I don't hear any opposition. All right. That's adopted. Right of way flexibility.

Greathouse: Item number 2 would basically amend the code to allow certain street elements to be included in easements. The current --

Katz: One second. Did anybody want to testify on the first item? Okay. Anybody want to testify on this item? Okay. Go ahead.

Greathouse: Item number 2 would amend the adopted regulations to allow that limited right of way easement -- right of way elements be placed in easement specifically it allows an easement up to 50 feet long and no more than ten feet wide adjacent to the right of way in situations where a tree rock outcropping or other natural feature precludes construction of the sidewalk. It's a limited amendment to allow the use of easements for street elements in some situations.

Katz: Actually, it's being done today. All right. Everybody all right on it? All right. [gavel pounded] that's been adopted. Next?

Greathouse: Item number 3 relates to streams, springs -- seeps, streams and springs in storm water management tracks there are two pieces to item number 3, one piece relates to the measurement of seeps and springs, at the february 20th hearing staff brought forward an amendment that would have used a wetland delineation to measure seeps and -- measure seeps and springs, and would have used top of bank as the measurement line for the edge of a stream. There was testimony concerning that at that time that a wetland delineation, because it relied on the presence of three things, that all three of those characteristics might not actually be present with a seep or spring situation, that you might not have in particular the plant communities that you expect to see with a wetland. We have modified that amendment to basically allow the delineation to be based on the presence of any one of those characteristics once the seep or spring would be identified based on the definition of seep or spring, and once its identified, the measurement of the

MARCH 14, 2002

boundary of that seep or spring would be based on sort of a variation on the wetland delineation process. So that's sort of issue number 1 contained within item 3. Issue number 2 relates to the interaction of research tracks with access to the site or lot. In cases where the tract would separate one or more lots from their legally required street frontage or would prevent construction of a necessary right of way, or the presence of the tract of the development stage would prevent construction of required driveways and other service connections. And the language that's before the council today gives some pretty specific direction in terms of in what cases these resource tracks would be allowed to be bisected by a right of way or other service connection to the site. And in some situations would allow the resource tracts to be placed in an easement, resource to be placed in an easement rather than a tract.

Katz: Does anybody want to testify on that item? All right. Council? I don't hear any oppositions. [gavel pounded] adopted. All right. We've got balancing and the transportation using land use criteria.

*****: Correct.

Katz: Okay. Good.

Greathouse: As I mentioned initially, the balancing recommendation basically would recommend deletion of the section in the new regulations that deals with balancing, and would recommend staff to monitor the new land division regulations and to come back at some point in the future with a study to the council of what if any conflicts are actually occurring and do some more work in terms of defining conflict. One of the -- and defining a process for dealing with conflicts. We feel the balancing regulations are really trying to get at a much more global issue in city code in terms of what you do in any event when one or more city codes come into conflict with one another, especially when you've got different decision makers as the ultimate authorities for those different codes. The current proposal would essentially place opdr -- potentially opdr staff and in some cases the hearings officer in the position of balancing the land use and technical requirements which may not fit with the intent to divide land use and technical requirement into those sort of separate authority structures. So the question is not so much whether we need these regulations, it is whether the right regulations and whether there's some process that can be come up with that provides an actual process and a decision-maker that makes sense for doing that type of balancing work. As well as more specific, the criteria that are in the adopted code or not. Very specific and may not deal with the actual conflicts that are going to occur under the new code, if any.

Katz: Anybody want to testify on this? Come on up. Give -- bonnie, you too? Okay.

Saltzman: This is the part you want to take back?

Katz: Go ahead.

Amanda Fritz, : I'm amanda fritz. Do you want to testify on this item only?

Katz: On the -- on item 4, and then you wanted to do --

Fritz: I have some interest in the later item. The reason I wanted to testify on item 4, this was one of the few parts of the new code I was quite excited about. It's okay to delete it, but only if you fix the problem with the clear and objective standards for transportation.

Katz: Okay.

*****: That's it?

*****: As long as --

*****: I want to second what amanda --

Katz: Identify yourself.

Bonnie McKnight: Bonnie mcknight, 1617 northeast 140th. I'm here on all sorts of reasons, but as a resident. I'm concern the that we not view streets as a thing, because streets have become

MARCH 14, 2002

much more than that. And we are constantly reminded in east Portland of the land use role a street plays. And it plays that regarding becoming play grounds when we don't have parks, it's used to leverage density, the designation of the street will allow higher densities, and it becomes a parking adjunct or alternative to on-site parking. The problems being in an area like areas, looking at the site-specific conditions we can talk about a street with sidewalks and lights and pedestrian circulation, but on either side of that is an area without those things. The balancing is not a technical balancing, it's a land use balancing. And so we are continually -- continuing to be concerned about making this a more technical, more removed decision process from the neighborhoods and from the input of the neighborhoods. I think you have an opportunity to do this carefully, to bring in the kinds of things that need to be addressed. That has not been done to anybody's satisfaction to this point. But if there are to be standards that can in fact be met and written and used, that hasn't happened, and they aren't easily done. So I would suggest that this particular code change, which would change the process for looking at streets, be deferred during the two-year review period, which you've already built into the code, where issues will be looked at. During that period these can be brought out hopefully the standards can be brought out into a public discussion to make sure that all the nuances are there, that aren't just about the street, but about the use of the street, living along the street, and the value of the street to the overall community. So I'd simply ask you to continue land use status for the particular item that pdot is responsible for until there's a much more sufficient public process to look at it.

Katz: Okay. Amanda, why don't you address that and then don will come up and we'll finish on that issue.

Fritz: As stevie had said, amanda fritz, you did promise in september that if there were not additional guidelines from pdot so that the standards were clear and objective, that there would be criteria for -- approval criteria for street decisions. Staff said if we had to write clear and objective standards for everything we do, that's a multiyear process. You already gave staff six months to come up with additional standards, and they haven't. I've sent you an -- and I'll put into the record, some -- a few examples of where transportation standards are not clear objectives, they even say balancing is what this one says, the conflict -- the resolution of such conflicts in any given case must be based on considerations of balancing the conflicting uses and adjusting the solution to fit the magnitude of the problem. If that's not a discretionary thing to talk about, I can't imagine what is. If that's not enough, it goes on to say public streets, including but not limited to blah, blah, blah, are decided on a case-by-case basis by the city engineer. That's not a clear and objective standard that everybody knows what is going to be required in the street. In order to preserve the city's discretionary immunity, any technical standards must be implementable without any further exercise of discretion. Since pdot doesn't have clear and objective standards that aren't -- and they're not implementable without further exercise of discretion, they must -- they cannot be administrative process. The proposed code assigns most subdivisions creating a public street to a process. Section 730.100 says type 1 process is to be used for such reviews as minor design cases. Type 2s are shorter and simpler and intended for reviews which involve lesser amounts of discretion, potential lower impacts or both, and the type 3 procedure is the longer and more in departments review. It is intended for reviews which involve the most discretion or greatest potential impacts. I can't think of a thing in a subdivision that has the greatest potential impact than the creation of a street. And in order to correct the inequity between eastside and westside, I respectfully request that you make these land use decision and make them a type 3 whenever a public street is created. In the past couple of weeks you had a subdivision and zone change request. Two of you said that you didn't like the proposal but there was nothing in the code that

MARCH 14, 2002

allowed you to vote no. At this point you have the opportunity to require the code to contain approval criteria so when I as a lucky westside resident who can appeal any of the type 3s in my neighborhood to you, when I bring those complaints to you, those concerns, there will be something in the code that you can say, yes, we agree with the citizens and the street should look like this. If there isn't, even you can't change it. And all that's left is for the folks on the east side to appeal to luba or us to appeal, saying staff has made decision and we the public have the right to participate in those decisions. So please rethink that.

Katz: Thank you. I don't want to be argumentative, but I don't think it was how the streets looked, it was the traffic level on that street.

Fritz: On that particular subdivision. There's been -- i've watched several council things that you want to be able to do the right thing. It was an example of not particularly that instance, but you want to be able to do the right thing, the code doesn't give you the arrival approval criteria to be able to back that up.

Katz: And that's -- that covers a lot more than just streets. All right.

Francesconi: Amanda, i'm still having a little trouble understanding. Practically speaking, give me some examples of decision -- streets that you're afraid that we're giving too much -- the end product, or the end result, the damage that's going to happen.

Fritz: Currently in standard subdivisions, minor subdivisions that don't create a new public street, maybe build on a public street, they are technical standards. We've had three subdivisions on southwest 35th which is a city -- designated city walkway, leads to jackson middle school. Commissioner Hales's staff has been out there with citizens figuring out how to build a sidewalk. In one particular subdivision our neighborhood appealed it because they -- transportation didn't -- the section in the standards that says that the city engineer has the opportunity to require an alternative walkway, all we were asking for is an asphalt strip in the middle of a current grassy strip, so that kids would know it was okay to walk on this grassy strip to get to school. The city engineer had the absolute right to say whether or not that asphalt strip was there or not, and that was a discretionary decision that was made. That's the kind of thing where the width of the street, whether there's parking, whether there's not parking, whether there's a plant strip or not, I said in my memo to you, there are literally over 100 different decisions to be made as to what goes into the right of way, and there isn't a clear and objective method to make that decision the same way every time. Nor should there be, in my opinion. I think it should be something which is open for discussion, the public has a right to participate at the tentative stage, and then we're done.

Katz: Okay.

*******:** Thank you.

Katz: Let's bring don. Come on up. Does anybody else from pdot want to come on up and address this issue and then let -- I thought -- I thought we did address it a long time ago, but it's come up again, and we need to put some closure on it one way or the other.

Don Gardner, Office of Transportation: I'm don gardner with the Portland office of transportation. I'd like to start, the implementing ordinance that passed the land division code gave the bureaus certain directions. First one was that we document our existing administrative practices and technical guidelines and make those available to the public. And the council discussion in september that issue was discussed, miss greathouse was asked about that, she reiterated it was to take the existing technical documents that you have and put them in a format that was easily accessible and understandable by the public. Which we have done. We are in the process, we have september out the first review of that --

Katz: This is this document here?

MARCH 14, 2002

Gardner: Yes, ma'am. That's our first cut at it. That went out to 141 people. We received two responses. This document, what we've tried to do -- we operate under a plethora of documents that tell us how to do engineering and technical things. But the two main items that really guide the decision process for us were the skinny street standards, which were adopted in 1991, which stopped which roadway width would be. That was done in response to citizens concerned about the cost of building streets, the amount of storm water that was being generated off the excess area of the street because the belief was streets were too large, and speeding in the neighborhoods that. Was a long public process, technical groups went the other -- the big issues on those were public safety and how to do fire and police access. They came together, that process then went to every neighborhood association in this 60 and gave everybody a chance to have public meetings to talk about those. And we adopted the roadway width. The second thing that happened was in 1998, this council adopted the pedestrian design guidelines. It's kind of a misnomer because the pedestrian guidelines go well beyond pedestrians. They cover every other element that's placed in the right of way. Where you put a sign, where you put a signal pole, there is some discretion within those because engineering decisions and technical problems of natural resources will have to occur, but it talks about what those are. Council adopted that in 1998. What we did to try to make this accessible people is rather than refer you to two different documents or three, Elizabeth put together this manual, which shows the right of way widths that will be required to incorporate all of the elements that are necessary. The roadway width, and all of the other elements within the roadway. Those things are what are in our guidelines and what we use today. We've used for a long time to tell people what to do. This gives direction as to what the situation should look like. There is a certain amount of technical engineering judgment that has to be used because situations arise. An example is one that's -- that's near and dear to Miss Fritz, an existing public right of way that has a drainage ditch, and part of it's piped. What we did under that is to make this work, we required, which we cannot do in the future, we did ask the developer to grant more right of way so we could move the right of way in the roadway over on this property, we narrowed the road to the 20-foot, which is the absolute minimum for public safety that the fire bureau will accept. We put a sidewalk on one side because the other side of that right of way belongs to Lake Oswego, and that's where we would like to daylight that ditch and take it out of a pipe and bring it up into a stream. Move that over, but as we put the sidewalk in, the typical configuration would be, there's a roadway, there would be a plan planting strip for the trees and the sidewalk. We've been able to follow that most of the way down one side. At the end of that site, what we had to do was bring the sidewalk back out to the curb line, tighten it up to come around. Those are engineering decisions that are made in the field once you have a real understanding of what's happening. What we've done with the guidelines is the guidelines that we operate under give everybody direction. Now, as far as neighborhoods knowing what's going to happen in the case of a land use hearing, an applicant comes in, we have the preapplication, we understand what he wants to do, we start to understand what the neighborhoods' concerns are because they're very quick to tell us what their concerns are. We write a response. Our response talks about what the roadway and all of the other elements within that will be. That generates a right of way width that's necessary to handle that. That right of way width and the location are land use decisions and are determined at the time of land use. When you go into final engineering, you may have to make some adjustments within that to be able to actually get things to fit. Things happen that we're not aware of. Seeps and springs that perhaps the applicant wasn't aware of or didn't tell us. Things we start to discover as we go through the process, we start to adjust to meet those. But our guidelines are there. Our staff and we spent a long time since 1998 bringing everybody up to pedestrian issues, they're issues that

MARCH 14, 2002

need to be taken care of. Natural resource issues, you'll try to design around those issues. That brings the case of let's take parking. The minimum street width in an r-7 subdivision which would be your typical residential subdivision today, would call for a 20-foot street minimum. If, because we're aware of a parking issue in the neighborhood, or the neighborhood makes us aware, and there's room, the criteria may be at the time of the land use, make the right of way big enough to put in a 26-foot street width parking. Those are all known by the applicants and by the neighborhood prior to the land use decision which established the right of way width. These things are all moved forward. There's plenty of opportunity. The next process we have is that should as we go through the process, and we start to -- if people believe that we've made an error and that we have missed -- misapplied, we have an administrative review process, they can contact us, and there are a number of people that have me on speed dial. Those things can come forward through an administrative review process to make sure our staff didn't make a mistake. Or that there was a good reason why they made the decision they made to avoid something. The issue of clear and objective standards was never required. Technical decisions and engineering decisions cannot always have a clear and objective standard for every situation that can arise. What you can have is you can have guidelines that give predictability and certainty to the neighborhood, to the applicants, and direction to staff as to what we want done. Our first draft of this is out. The next draft we've been working on is to try to give them a little more guidance, is one of the big questions has been, when you have a natural resource issue, how do you make a decision? What do you decide goes? That was -- that we're starting to draft now. I can give you basically where we're at and how we've been directing our staff to operate. In a case like that where let's assume the neighborhood was told that you're going to get parking in a 26-foot street, but you have a natural resource issue, a tree you need to avoid, something comes up, the first thing that goes is the parking to avoid that particular site. It's not to take all of the parking off the street, it's not to let an applicant say, oh, I promised everybody I was going to do 26-foot street with parking on both sides, it's, we have a problem that we have determined needs to be avoided. And that -- in this case we'll taking parking, because parking in our mind-set is that storage of excess motor vehicles is probably a much lower priority than pedestrians, public safety, or landscaping. Then we walk through a process of, what item can you reduce? Where can you move things? We're fairly adamant about this. We can maybe get everything if we can use the easement because we could move the tree around the back. Those are the steps we go through. That's the next step to go out in the second review, is to show people how we make those decisions and what direction we've given our staff, which is what we were asked to do.

Katz: Go ahead.

Saltzman: I just want to ask you to respond to the situation that amanda mentioned on southwest 35th and the request for the asphalt sidewalk.

Gardner: I'm going to be honest, I can't respond to that because I don't know anything about it.

Saltzman: Does it sound like a scenario -- where it could be requested and the engineer would deny that or not allow that?

Gardner: No. If it was a location that could be placed safely, didn't interfere with existing natural resources, didn't interfere with a drainage way, which we're not allowed to get near, then I don't see why we would have a problem with interim improvements. We've done it when we still had the pedestrian program as a program under me, we built a number of interim improvements because it was the only cost effective way to provide a pedestrian facility short of a full road. We did a lot of them. We still don't have a problem. Is it a standard thing we would probably require or go out and build and maintain? No. But in situations when they're necessary, they're there. The other

MARCH 14, 2002

thing that has to be aware of, a number of situations have changed. Transportation element of the comprehensive plan is being updated to the transportation system plan. And in compliance with the state transportation planning rule, which talks about how you will provide pedestrian facilities what you will do. There are a number of new requirements that are in the tsp that talk about connections for pedestrians, how you will move them between sites, how you will move them to activity centers. All of those things. So -- in this particular case I can't respond, I don't know. In concept, do I have a problem with it? No.

Katz: Go ahead.

Sten: Do we want a council discussion?

Katz: Yes. Questions, and then --

Francesconi: What's the administrative review look like?

Gardner: It was adopted in 1991 as an outcome of a recommendation from the regulatory review process that started in 1988, I think commissioner Hales at the time was on that committee, but not as a council member. One of the things they said, and we went forward with a recommendation at that time, was having an administrative review process that was simple and easily accessible. Our process is, if you're aware of a problem, and let's do the informal. If you're aware of something, you call us, we're going to go look at it. If you have a real problem and you don't think we're paying attention to you, write us a letter, state what you think we did wrong, that's elevated up to the city engineer, myself, in many cases mr. Rhodes, and we'll take a look. What is happening here, are staff following direction? Are they doing what they say they were gag to do? And we'll resolve it at that time. Woe receive very few of these. The ones we receive tend to be from applicants and developers who -- let me say this in a kind way -- have had requirements placed on them that everybody is expected they will carry out and they would just as soon not do and think we should be able to change. What we've talked about, and with members of some of your current staff, is to take that process because we expect that this whole process is knew in -- and the land division code is new, we will compile all those requests, we will keep them, we'll keep track of the numbers, we'll keep track of what the issues are and in a minimum we'd report back to the council and say, these are the things coming up.

Francesconi: One year?

Gardner: At least one year. If something is really going wrong, we're not going to let it continue for a year. Now, we can be honest, there can be a series of these simply because people just have their issues. But when it's clear that there is something there, if there's a problem, we're going to go back to the bureau of planning, our own staff and we're going to come to you saying, a problem has been identified. We need to resolve this problem.

Katz: Further questions? Okay. Discussion?

Sten: Just a question for the council members, whether or not we want to pursue this. I voted against this rewrite, which I think is a good rewrite over this issue, and to my satisfaction, it's a lot worse than I thought it was because I understand where transportation is coming from, and if I were in the bureau i'd want to be able to make these decisions administratively. My point of view was then, these things don't get appealed a ton. Ways also concerned about a storm water not being a land use as well. They occasionally show holes in our policy, and that's why I like them to be appealable to council. Not to slow things down, but occasionally when I was b.e.s. Commissioner there was one case that came forward and showed me the way the rules were being correctly interpreted by the bureau I was in charge of was not in line with the intent of the regulation I had proposed. It just over time had gotten there. I think these appeals are important. I do remember the hearing differently than it's being described today. I remember the rationale for getting rid of

MARCH 14, 2002

that appeal being the objective standards would be much more clear and drawn out. I hear planning say that's only been done at a barely legal level, and so from my point of view, the direction wasn't we're getting rid of an appeal that people have right now in return for a clearer description of what already exists, it was we're getting rid of this appeal in return for stronger, clearer more objective standards. I think it's clearly not what the intent of what I heard the majority vote being, to go forward with it under this fashion. But i'm not going to keep pursuing it if everybody thinks this is what they asked for in september because I lost the vote.

Katz: Let me turn to commissioner Hales. Do you want to --

Hales: I think we're down to the point of diminishing returns in terms of how much discretionary authority ought to remain. I think -- I am inclined to take don's suggestion that we leave the amount of discretion that's here and then look back at administrative reviews and see what's happening. I suspect we're arguing about an abstraction that in reality is not going to happen very often. But -- so i'm concerned that if we can go too far in that direction, and make these things -- make these things into much bigger cases than they have to be, whereas the discretion lodged as it is I think works. I'm inclined to take don's suggestion and go with it. I'm not sure there's the majority of the council that wants to do that on the not.

Katz: Commissioner Saltzman, Francesconi?

Saltzman: I then, i'm inclined to concur with commissioner Hales. Based upon the explanation I just heard that there's a sufficient amount of issues that are appealable to the land use decisions in determining right of way width and location. And that I guess I -- that's where I am right now. I'm not sure what we're asking of you or what you're suggesting in terms of looking at administrative reviews and getting back to us, and what action that may or may not lead to. That's unclear to me.

Katz: It was just an annual report to the council to identify the type of issues that we're talking about and how many of them.

Saltzman: And if we decide once we see that list that you somehow -- we're not comfortable with them being technical decisions, the presumption --

Katz: That would be council --

Saltzman: Once again amend title 33?

Katz: That would be a council decision whether would you want to readdress this issue. That's the reason for bringing it back.

Gardner: Our hope also would be in bringing that back, if things were coming up, to use commissioner Sten's example, you're finding things are coming up, that your codes, your requirements are all there and it's coming out with solutions that people are not feeling are correct, then it would be certainly my hope that we're back with a recommendation of how to correct that.

Katz: Let me ask a silly question.

Gardner: No silly questions.

Katz: You're right. There aren't any silly questions. We have land use review process that's long and sometimes troublesome. It's -- because of its complexity and length. On very serious issues, is there a possibility for those -- to those coming to the council for review?

Gardner: I think all really serious issues will come to council for review, because there's a number of things that I think there's more being read into the engineering design standards than is there. Some of the issues that people are talking about is like the impacts on my whole neighborhood, those are issues that are land use. They're not how wide is the street, and is the sidewalk next to the curb or moved over here behind the tree, those aren't those kind of issues. These are right of way, locational issues, and they're going to come when they're big serious cases,

MARCH 14, 2002

there's going to be other points. I doubt if the appeal -- I don't know of an appeal -- I take that back. I know of one in 15 years that was really over the width of the road and it was a fight between 28 and 32 feet, and that really had to do with amount of land that went to the right of way changed the number of lot configuration. But I think you're going to find the serious issues, when there's a serious issue, they're going to be here.

Sten: I guess mayor, i'll stop, but I think what the council is about to do is take away an appeal right that is rarely used, but does create a little bit of check and balance in the system. People know it can be appealed. Replace it with administrative authority, and replace the with something we need to look at. So I don't see what we gain if it's only appealed every once in a while by taking the appeal and putting in place a whole other check. The fact is there's not more objective standards in place than since september. That's a fact. It's -- the whole premise of passing this was in six months we'll have objective standards, you don't have to worry about the appeal. So now we're going to say, now go prepare a report every year, bring it back and I have to figure out whether your system is working. Let the appeal process signal me if something is wrong.

Katz: Commissioner Francesconi?

Francesconi: It's a close call. But what helped was amanda who sent me the transcript. I actually have the transcript in front of me. As to the question -- there was a question I asked that was important to me on the subject. And transportation answered that there's going to be guidelines, but they needed to be published. And these guideline were similar to the storm water guidelines, which is my understanding, there is a little bit of discretion in the storm water guidelines too. That's where the -- this commissioner Sten argument falls short. The issue is --

Sten: I think you should appeal the storm water too.

Francesconi: I know. But you're saying for me -- you have a different point of view. It's on both issues, not just one. And so the issue was, are there these guidelines. But it is a very close call, and so the question -- we needed them all compiled in one spot, which you did do. I'm going to go with commissioner Hales for two reasons. One reason is, you've published them, you've put them in some spot and there's an administrative process which suspect the same. The second reason is, i'm actually -- I actually have to trust your judgment on some of this, and you have strong feelings about it, so does the commissioner in charge. The third reason s. We're going to review this within a short period of time to see if amanda is right and to see if you folks are wrong. And commissioner Sten is right. So I think all that adds up on a close call, and i'm going to go with commissioner Hales.

Katz: Okay.

Saltzman: In terms of the situation that bonnie mcknight addressed, that establishing the type of street, street width and all that can affect what the future development may look like in an area, respect those issues all subject to the determination of the location of the right of way, width of right of way, is that where you would -- is that where her issues would be addressed as land use issues?

Gardner: The land use issues, the type of the street, the classification of the street, and the right of way width, and the location, which are all the things that really set the tone of neighborhood are land use decisions.

Saltzman: Okay.

Katz: Okay. My sense is with commissioner Sten dissenting on the issue, that you would dissent both on the balancing issue, that's before us. Okay. So the record should read that on the balancing issue, there is one no vote. Commissioner Sten's. All right. Thank you. Planning, come on up. Is there anything else that you want us to address?

MARCH 14, 2002

Kelley: Think that does it. That last issue you dealt with --

Katz: I don't know, commissioner Sten, I don't know where you are on 248, which is an emergency, right? And if we don't have -- if it's not unanimous, then what happens?

Sten: I'm willing to vote yes on the delay as a courtesy.

Katz: Okay. So 247 moves to second reading. And then we'll take a vote on 248. Thank you for the courtesy.

Francesconi: Aye. **Hales:** Aye. **Saltzman:** Aye.

Sten: Just to -- I want -- i'm voting no on the package, but this gives it more time to get it together. It doesn't make sense to force the package to go forward if i'm against it. Aye.

Katz: This has been a very long journey. [laughter] and I am not even sure when we started it, and how many iterations of this we've had over the years. But for everybody that's been working on it, thank you. We're going to put it to rest. We will -- my hope is that amanda and bonnie continue to monitor this and if they're right and we're wrong, that we hear about it and we don't close the door on these issues, as you well know. Aye. [gavel pounded] all right, everybody. We stand adjourned. [gavel pounded]

At 2:57 p.m., Council adjourned.