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CITY OF  
**PORTLAND, OREGON**

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**OFFICIAL  
MINUTES**

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A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 8<sup>th</sup> DAY OF NOVEMBER, 2000 AT 9:30 A.M.

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

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

Item No. 1622 was pulled for discussion and on a Y-5 roll call, the balance of the Consent Agenda was adopted.

- 1608**     **TIME CERTAIN: 9:30 AM** – Multnomah Education Service District role in educating Portland children (Presentation introduced by Mayor Katz)

**Disposition:** Placed on File.

**CONSENT AGENDA - NO DISCUSSION**

- 1609**     Accept bid of JEC Mechanical, Inc. to furnish East Delta HVAC upgrade for \$60,325 (Purchasing Report - Bid No. 100146-Rebid)

**Disposition:** Accepted Prepare Contract. (Y-5)

- 1610**     Accept bid of Sun Quest Construction to furnish regulator vault SW Capitol Hwy. and Bertha Blvd. for \$119,000 (Purchasing Report - Bid No. 100229 SMP)

**Disposition:** Accepted Prepare Contract. (Y-5)

- 1611**     Vacate a certain portion of SE Raymond Court, under certain conditions (Second Reading Agenda 1584; Ordinance by Order of Council; C-9977)

**Disposition:** Ordinance No. 175042. (Y-5)

**Mayor Vera Katz**

- 1612**     Approve the appointment of David Smith to the Investment Advisory Committee, term to expire August, 2002 (Resolution)

**Disposition:** Resolution No. 35938. (Y-5)

- 1613**     Approve the re-appointment of Benita Harris and Anthony Rufolo to the Investment Advisory Committee, terms to expire August, 2002 (Resolution)

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**Disposition:** Resolution No. 35939. (Y-5)

- 1614** Approve the re-appointment of Sheila Holden and Chuck Gleason to the Portland Utilities Review Board, terms to expire November 9, 2003 (Resolution)

**Disposition:** Resolution No. 35940. (Y-5)

- 1615** Approve the three-month extension of the terms of Doug Morgan, Doug Marker and Paulette Rossi of the Portland Utilities Review Board, terms to expire February 9, 2001 (Resolution)

**Disposition:** Resolution No. 35941. (Y-5)

- \*1616** Pay claim of Leontyne Dvorshak (Ordinance)

**Disposition:** Ordinance No. 175043. (Y-5)

- \*1617** Pay claim of Lorraine Hayes (Ordinance)

**Disposition:** Ordinance No. 175044. (Y-5)

- \*1618** Contract with Yarger Decker & McDonald, Inc. to complete a classification and compensation study of City of Portland Professional Employees Association positions and provide for payment of \$68,310 (Ordinance)

**Disposition:** Ordinance No. 175045. (Y-5)

- \*1619** Amend contract with Burns International Security Services to provide uniformed security officer services for Bureau of General Services (Ordinance; amend Contract No. 40226)

**Disposition:** Ordinance No. 175046. (Y-5)

- 1620** Grant a ten-year property tax exemption to Hoyt Street Properties, LLC for new multiple-unit housing on the block bounded by NW 11th, 12th, Lovejoy, and Marshall Streets (Second Reading Agenda 1587)

**Disposition:** Ordinance No. 175047. (Y-5)

**Commissioner Jim Francesconi**

- \*1621** Authorize a rental agreement with Columbia Crossings Management LLC for a moorage on the Columbia River for Fire Boat 17 (Ordinance)

**Disposition:** Ordinance No. 175048. (Y-5)

- \*1622** Authorize a contract with H & W Emergency Vehicles to repair a fire engine for \$80,000 without advertising for bids and provide for payment (Ordinance)

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**Disposition:** Referred to Commissioner of Public Utilities.

- \*1623** Intergovernmental agreement with Oregon Health Sciences University for Fire Bureau defibrillator training (Ordinance)

**Disposition:** Ordinance No. 175049. (Y-5)

- \*1624** Increase contract with Harza Engineering to \$88,000 for additional services for Oaks Bottom Wildlife Refuge fish access, habitat assessment and alternatives analysis (Ordinance; amend Contract No. 32997)

**Disposition:** Ordinance No. 175050. (Y-5)

**Commissioner Charlie Hales**

- \*1625** Authorize renaming of N Pacific Gateway Blvd. to N Leadbetter Road, renaming of NE International Parkway to NE Cascades Parkway, and renaming of SE 157th Place to SE 157th Avenue (Ordinance)

**Disposition:** Ordinance No. 175051. (Y-5)

- \*1626** Authorize contract and provide for payment for improvements along NE Martin Luther King Jr. Blvd. between NE Knott and NE Monroe (Ordinance)

**Disposition:** Ordinance No. 175052. (Y-5)

- \*1627** Amend Ordinance to change the legal descriptions for the public walkway easement and temporary construction easement required for the NW Naito Parkway project (Ordinance; amend Ordinance No. 174423)

**Disposition:** Ordinance No. 175053. (Y-5)

- \*1628** Authorize payment to Portland General Electric Company for work related to the Portland Streetcar project in an amount not to exceed \$60,000 (Ordinance)

**Disposition:** Ordinance No. 175054. (Y-5)

- \*1629** Amend an intergovernmental agreement with Multnomah County to provide roadway maintenance services to certain county roads west of the Willamette River during Fiscal Year 2000-01 (Ordinance; amend Contract No. 51062)

**Disposition:** Ordinance No. 175055. (Y-5)

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**Commissioner Dan Saltzman**

- 1630** Accept completion of the SE 37th, SE Cora and SE Holgate sewer repair and detention facility, Project No. 6332, and authorize final payment to S-2 Contractors, Inc. (Report; Contract No. 32843)

**Disposition:** Accepted. (Y-5)

- \*1631** Amend Ordinance to change the legal descriptions for the easements required for the South Airport sanitary trunk sewer project (Ordinance; amend Ordinance No. 171824)

**Disposition:** Ordinance No. 175056. (Y-5)

- \*1632** Authorize an Intergovernmental Agreement with Washington County for riparian reforestation around the perimeter of the Tualatin River National Wildlife Refuge Dennis property (Ordinance)

**Disposition:** Ordinance No. 175057. (Y-5)

- \*1633** Authorize a contract and provide for payment for the construction of the N. Missouri Ave. and N. Alberta St. combined sewer relocation and detention project, Project No. 6348 (Ordinance)

**Disposition:** Ordinance No. 175058. (Y-5)

- \*1634** Authorize an Intergovernmental Agreement with State of Oregon DEQ for a food waste diversion program in the amount of \$62,660 (Ordinance)

**Disposition:** Ordinance No. 175059. (Y-5)

- 1635** Consent to the transfer of solid waste and recycling franchises to Waste Connections of Oregon, Inc. dba Arrow Sanitary (Ordinance)

**Disposition:** Passed to Second Reading November 15, 2000 at 9:30 a.m.

- 1636** Authorize an intergovernmental agreement between the Office of Neighborhood Involvement and the Multnomah County Public Affairs Office in an exchange for services provided by the Community Residential Siting Program in the amount of \$30,000 (Ordinance)

**Disposition:** Passed to Second Reading November 15, 2000 at 9:30 a.m.

**Commissioner Erik Sten**

- 1637** Authorize an Intergovernmental Agreement with Multnomah County for Administration of eligibility verification for Water/Sewer bill discount and crisis assistance (Ordinance)

**Disposition:** Passed to Second Reading November 15, 2000 at 9:30 a.m.

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- 1638** Authorize a two-year extension of the Intergovernmental Agreement with Multnomah County to administer eligibility verification and coordinate plumbing repairs for the Water/Sewer Enhanced Fixture Repair Program (Ordinance)

**Disposition:** Passed to Second Reading November 15, 2000 at 9:30 a.m.

- 1639** Grant a franchise to Broadwing Communications Services, Inc. for a period of ten years (Second Reading Agenda 1491)

**Disposition:** Ordinance No. 175060. (Y-5)

- 1640** Grant a franchise to McLeodUSA Telecommunications Services, Inc. (Second Reading Agenda 1492)

**Disposition:** Ordinance No. 175061. (Y-5)

- 1641** Grant a franchise to NEXTLINK Oregon, Inc. (Second Reading Agenda 1493)

**Disposition:** Ordinance No. 175062. (Y-5)

- 1642** Grant a franchise to Williams Communications, Inc. for a period of ten years (Second Reading Agenda 1494)

**Disposition:** Ordinance No. 175063. (Y-5)

**REGULAR AGENDA**

- 1643** Accept bid of Platinum Construction to furnish carpet and flooring replacement and repainting of an area in Central Precinct for \$89,136 (Purchasing Report - Bid No. 100193 SMP)

**Disposition:** Accepted Prepare Contract. (Y-5)

**Mayor Vera Katz**

- 1644** Authorize submission of the FY 2000-01 Fall Supplemental Budget to the Multnomah County Tax Supervising and Conservation Commission (Resolution)

**Disposition:** Resolution No. 35942. (Y-5)

- \*1645** Authorize payment of \$188,000 to Chinese Classical Garden Trust from City Facilities Services Fund to cover short term cash flow requirements (Ordinance)

**Disposition:** Ordinance No. 175064. (Y-5)

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**Commissioner Jim Francesconi**

- \*1646** Authorize agreement for acquisition of the Obrist property on Clatsop Butte in the Pleasant Valley Neighborhood for park purposes (Ordinance)

**Disposition:** Ordinance No. 175065. (Y-5)

**Commissioner Dan Saltzman**

- 1647** Contract with Comark Government and Education for the purchase of 56 flat screen computer monitors for the Bureau of Emergency Communications operations floor (Second Reading Agenda 1603)

**Disposition:** Ordinance No. 175066. (Y-5)

**Commissioner Erik Sten**

- 1648** Direct the City Attorney's Office and the Office of Sustainable Development to work with Portland General Electric Company to prepare, in coordination with Office of Cable Communications and Franchise Management, the Office of Management and Finance, the Office of Transportation and other city Bureaus, a proposed franchise agreement to be considered by the City Council for adoption (Resolution)

**Disposition:** Resolution No. 35943. (Y-5)

- 1649** Grant a franchise to Metromedia Fiber Network Services, Inc. for a period of ten years (Ordinance)

**Disposition:** Passed to Second Reading December 13, 2000 at 9:30 a.m.

At 10:51 a.m., Council recessed

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OREGON WAS HELD THIS 8<sup>TH</sup> DAY OF NOVEMBER, 2000 AT 2:00 P.M.

THOSE PRESENT WERE: Commissioner Sten, Presiding; Commissioners Francesconi and Hales, 3.

OFFICERS IN ATTENDANCE: Britta Olson, Clerk of the Council; Kathryn Beaumont, Senior Deputy City Attorney; and there was no Sergeant at Arms.

**1650** Tentatively deny appeal of Lois Wakelin, James Boehm and Phillip Moran and uphold Hearings Officer's decision as modified to approve the application of EJS Properties for a zone change from R5 to CN2 in order to build a 45-unit or less multi-dwelling residential development at 1636 and 1616 SE 39th Avenue (Findings; Previous Agenda 1606; LUR 99-01022 ZC)

**Motion to adopt the revised findings:** Moved by Commissioner Hales, seconded by Commissioner Francesconi.

**Disposition:** Appeal Denied as modified. (Y-3)

At 2:04 p.m., Council adjourned.

**GARY BLACKMER**  
Auditor of the City of Portland



By Britta Olson  
Clerk of the Council

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

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**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.

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9:30 AM

**Katz:** We're doing some analysis and commissioner Sten had some interesting numbers. Why don't you share before we even start. We're not started yet, are we?

**Sten:** I think I figured out the margin of error is one vote out of every 10,000 in florida, which means it's almost guaranteed that's human error. So who knows?

**Francesconi:** Wait. Could be.

**Sten:** It's guaranteed the human error is more than that amount. It could easily be more bush votes or more gore votes.

**Katz:** And I said i'm glad we're not in a national crisis. Okay. Good morning, everybody. The council will come to order. Britta, please call the roll. [ roll call ] there's been a request to pull item 1622. Any other items that anybody wants to pull off the consent agenda for discussion? Anybody by the council? If not, let's take a vote on the consent agenda item.

**Francesconi:** Aye. **Hales:** Aye. **Saltzman:** Aye. **Sten:** Aye. **Katz:** Mayor votes aye. Consent agenda passes. Item 1622.

**Item 1622.**

**Katz:** Is there any objections for taking that item back to the commissioner's office? Hearing no objections, so ordered. All right. We are now at time certain. As you know, carol turner is the education advocate in the mayor's office, but in many ways she serves all of us. And she came to me and suggested that we might want to spend a few minutes hearing about the Multnomah education service district role and what they do for our children. And so thank you. Why don't you come on up. I told ed, don't come asking us for money.

\*\*\*\*\*: We have to leave now?

**Item 1608.**

**Katz:** But I thought it would be important for us to get a few minutes to share with us the important work that they do.

**Jean Haliski, Chairman, Board of Education, Multnomah Education Service District (MESD):** I'm jean, chairman of the board of education for the Multnomah education service district. And we're here to present a little bit of our annual report for you. As you're well aware, education service districts in this state underwent a task force study, and that committee will be making recommendations to the legislature in the very near future. Each year our component districts rate mesd services and programs, and we are proud of the positive rating that is apparent in this report. We've also been encouraged by the efforts of the city in partnering with our Portland districts in providing additional funding. And so without any more time, I will have dr. Schmidt deliver this document to you.

**Dr. Edward L. Schmitt, Superintendent, MESD:** Good morning, mayor Katz. Commissioners. Thank you very much for allowing us to spend time with you this morning. It will be a very brief time. We know what fervent proponents of public education, each of you is individually, and as a council, as a group. And how supportive of -- you are of each of the districts within the Portland city limits. We thought we would share with you our annual report and how it shows the unique ways that the esd provides supportive educational services on top of the basic function of k-12 education. In partner



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with each of these districts as well as the other three in the county, we believe the services we provide for them are crucial for the success that they're experiencing. Just quickly walking through this annual report, which is required by statute, you can see on the very inside cover -- first of all the cover itself comes from a mural created by students who serve at donald lee long detention facility. We have a six-by-six mural hanging in our building and that is just a composite of what that looks like. A very moving rendition of those students and how they express themselves. The superintendent's message really talks about accountability. We have at least five measures. Evaluations of the superintendents of our five districts every year, standardization review by the department of education, which was completed this past year, advisory committees, each of the districts has a member representing them on our advisory committees to give us constant feedback and retooling through the year, customer service satisfaction surveys and other measurements, and then finally the measurement -- the menu of services approach that we offer. Basically districts can vote with their wallets. If it's something they like they use it, if they don't, they choose not to. Pages 2-11 just gives you some highlights of the past year of some of the programs in the students and the districts they've served. You can see that a wide variety within special education, alternative education, health services, particularly students with chronic health needs, various instructional support and school improvement issues, including outdoor school, and then technology to support not only the education function but also the business function of these districts. On page 13 you can see a rendition of our board, our elected board. Most of whom reside within Portland and then also our foundation board, I know you know many of these people and these names are -- pictures are familiar to you. Page 14 gives a concise financial overview of our resources and our expenses, and then beginning on page -- let's see -- section on summary of services, it gives by theme a picture of each one of the major resolution services we offer, description of what it is, participating districts, their representatives on the advisory committee, and -- an overview of the staffing, the budget, and then that important superintendent rating at the bottom of each page. Some of those will be more familiar to you than others, but in some cases, for instance, pregnant and parenting student services not -- also we provide staffing and financial support to Portland public schools to operate their own program. Programs are different. The nature of the student is different. We think that each one of them provides a very important niche for those students who need that kind of service. Then if you go to the next major tab section, it is the services by district. On just a few pages you get an overview of each of the services they are choosing, the amount of resource that is devoted to that, the evaluation by the superintendent of the satisfaction of that service, pie chart showing you proportionately what areas they're choosing services, and then a list of the contracts. We also have besides the resolution. In many cases they'll provide their own funding to contract with us for services beyond what we provide for them. If you look at the Portland section specifically, you'll see that we provide Portland public schools with just about \$20 million of services and programs on an annual basis. With the task force and equalization, this number is shrinking within the past few years, and it will until equalization is totally phased in. We're working on a transition plan with the district so the cuts are not detrimental to the programs and services and we have a logical phase-in so that in four years there is stability within the funding level. Again, thank you for your support. You're to be commended for what you do for public education in this community, and we hope this report helps you as you continue your advocacy to understand more broadly the scope of public education beyond the concept of a teacher in the classroom and 25 students. I'd be happy to answer any questions you have about the report and about our services. Also with the report is this much smaller easier to carry flip chart of the basic services we provide too.

**Katz:** Thank you. Questions?

**Hales:** Just a quick comment, in addition to the spectrum of services many of which we don't see directly, either as community leaders or as parents, one that a lot of us see is outdoor school. I want to commend that program. I think it's great. My kids have gotten a lot of benefit out of that program.

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My son is now an instructor, and has blossomed in that role, so it's been great fun for our family to see that particular program and its benefits. Well done. Bravo.

**Schmitt:** It's been there over 30 years and has served over 200,000 sixth graders and thousands of the high school students as you're talking about. Very important leadership development capacity for students.

**Saltzman:** When I was on the Multnomah county commissioner I worked with the education service district and the district attorney's office to put together a teen paternity kit, basically an instructional module that emphasized the importance of establishing paternity and what all the ramifications were of that, financial, emotional, all that. Is that still around?

**Schmitt:** The paternity kit?

\*\*\*\*\*: Yeah.

**Saltzman:** I understand if you don't know, you don't know.

**Schmitt:** I don't recognize it in that terminology. I know there are those kinds of issues, and we have had male students as well as female towns -- students, and part of the issue is responsibility of parenthood on both sides of the spectrum. I don't know. I'll check on that.

**Saltzman:** Okay. Thanks.

**Katz:** Anybody else want to make comments?

**Francesconi:** I just I want to make a comment. I want to thank on -- thank you on two particular efforts. You represent regional districts, and so through your efforts on the s.u.n. School program, you've been hanging in there through a lot of these meetings and I want to tell you, because you have experience with other districts, but your effort to pull this together to extend the school day, not just in Portland public schools, but the other district, I just want to thank you for that. The more important thing for -- from my standpoint, the issue of at-risk students, in your summary of programs you divide things under giving all students a chance to reach their potential, you've really carved out an area and done a much more effective job than others have about reaching out to young folks who have some special disadvantages by way of background, by way of race, by way of other barriers. And so your turnaround school is a good example of that, helen's view, the efforts on student attendance initiative, the alternative pathways program too. The issue -- we've been working with sue richie, the issue of giving alternative school kids a shot into this economy and building their self-esteem at the same time of giving them skills, you've been a leader in that. So your efforts to pull together the alternative schools into a network to help do that, you demand -- I don't know if people know how much you've been doing in that regard. We have some challenges in working through the work force youth opportunity grant and what's the role of them versus the role of you, but there's a great opportunity now to get additional resources. Into your system. And i'm very aware of that. I just wanted to tell you i'm working with sue and others to see what we can do to help you in that regard. As the mayor said, the city does not have resources. But there's some other resources out there now that were designed for this, in my opinion, and how we work with your grant, youth opportunity grant, these alternative schools to create a system is a challenge we have right now. But thank you for being there before others on that issue.

**Katz:** Thank you. Let me just say that ed's been at the table as a representative of a leader not only in the education community, but in the community as a whole, and I appreciate that. He's never shirked from that responsibility, and he's always under attack at the legislature. So I am glad that we had the opportunity to hear from you and share the report, and say hello to mark for me.

**Schmitt:** Thank you. It's nice to be in friendly territory.

**Katz:** Thank you. All right. We're now to our regular agenda. 1643.

**Item 1643.**

**Sue Klobertanz, Purchasing Agent, Bureau of Purchases:** Good morning. My name is sue, i'm director of purchasing through the city of Portland. Council item 1643 recommends award to platinum

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construction to furnish carpet and flooring replacement in an area in central precinct for a little over 89,000. This called for a city selected standard carpet product, one specific carpet or equivalent. The bids spec also required the proposed carpet installer be certified by the carpet supplier to ensure that the city would have warranty coverage on the carpet. This report was pulled from the council agenda two weeks ago and referred back to the purchasing agent because of concerns that we have received regarding the certification process of the carpet supplier. Since that time the purchasing bureau has done two things -- first we went back and reviewed the procurement process to ensure our procedures were correct and complete. I believe that that procurement process was correct and legal and that there is currently no legal or procurement process related reason to not move forward and award this contract to platinum construction. The purchasing bureau also has been in repeated contact with both a local minority firm who is trying to get certified by the carpet supplier, and the carpet supplier to confirm what the process for certification is and if possible discrimination has occurred against this local firm who is in the process of trying to get certified. The carpet supplier has described their certification process as a matter of developing a business relationship of trust with a dealer or installer. Evidently this small firm has not reached that business agreement with the supplier at this time, although they are still attempting to get certified. The local minority firm, the carpet man, who has bid as a subcontractor to platinum, is interested in becoming certified. The carpet man, however, had not, prior to the bid opening, completed the necessary request for certification in a --. In a letter I received monday, they indicated they still have not yet completed the necessary credit application. So although this firm is trying to get certified, they did not meet the will requirements in the bid spec that they be certified at the time of bid opening. I'm recommending the award of the contract to platinum construction to furnish the carpet and flooring in the central precinct because the procurement process was complete and legal, and secondly there's a need to move forward with this carpet and flooring installation. However, with the recommendation for award, I want to be clear that both the bureau of general services and the purchasing bureau are continuing their discussions with the carpet supplier. We have indicated to them that beyond this award that it is necessary for them to certify more minority, women or emerging small businesses in the Portland area, or that the city will have to select a different carpet product standard in the future. So the bottom line on this is we believe that we should move forward with the procurement process in this particular award. However, we continue to be concerned about the ability of our small local firms to have access to this certification that is required to install this carpet. And we're committed, it's not an answer that we can get to overnight, and we're committed to continuing to work toward that end so that we don't return to the same place at the next award.

**Katz:** Let me ask a question. Is the carpet that we choose so very special?

**Klobertanz:** I'm going to defer that to ron bergman, bureau of general services.

**Katz:** I recall another issue that we faced with a fire engine, whether the specs were written in such a way that actually precluded anybody else from applying. So what's so special about the carpet?

**Ron Bergman, Interim Director, Bureau of General Services (BGS):** The carpet -- ron burgman, general services director. The carpet we use is the standard for the buildings and it has been since the construction of the building, all the replacements to date are this carpet product. Some of the reasons for selecting this particular carpet product are the durability of this particular carpet, we have excellent experience with this carpet. The central precinct is a 24/7, 365 facility, and it requires a product that can take extensive wear and essentially hard use that it gets in the precinct. Some of the particular issues of this carpet meet some of the other goals that we have, the backing on the carpet is 100% recycled material, and the carpet itself, when it is many used up and is time for replacement, 100% of that is recycled and does not go into the landfill process. So those were some of the reasons for the selection of this carpet that we've --.

**Katz:** Questions?

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**Francesconi:** It's a vague question and I should maybe know the answer. What's the process when we do have subcontracts out there that do not have -- subcontractors that do not have minority subcontractors? How do we go about deciding whether we use the stick approach, or the carrot approach, or -- what's our process?

**Klobertanz:** I use any approach that works, actually. We require in our larger construction contracts, and again, this is a relatively small contract. It's under 90,000, so in this contract -- let me confirm, is this a sheltered market? This was a sheltered market. Platinum construction is a sheltered market. Number 1, it was bid to prime firms were allowed to bid that were in the sheltered market, so these are certified firms, and then in turn we asked them to attempt if at all possible to use sheltered market firms as subcontractors.

**Francesconi:** Okay. And so attempt if at all possible --

**Klobertanz:** If there are available, and there is the question of are there firms that do that kind of work, are they available, those sorts of issues.

**Francesconi:** Do we rely on them? Do we double-check that?

**Klobertanz:** Yes. Staff does go back and work with them to assure the maximum utilization.

**Francesconi:** Okay.

**Katz:** Let me follow up on that. This issue I remember being a little more aggressive than some of you might want me to be. I wanted sue or whoever was in charge of the bureau to actually come in on these reports and let us know the status of their willingness or the number of subcontractors that they have as well as the prime contractor. So sue now is coming and telling us this, but sue, in your contract of performance report, I don't see any indication of the subcontractors that they use. Am I not seeing that right? And if not --

**Klobertanz:** Down at the bottom of the contractor performance report --

**Katz:** The noncertified --

**Klobertanz:** You see that for platinum construction, who is the prime in this case, that they've -- of the total 494,000, that they've been awarded during the period July 1, '99, through 10-30 of this year, you see the amount that we're -- where they used mw or esw subcontractors.

**Katz:** That's what you're flagging to us, that this is not acceptable?

**Klobertanz:** Fought not for platinum, but for the carpet supplier. So this is about three levels removed from the prime.

**Katz:** And we don't have that information here.

**Klobertanz:** In terms of which firms the supplier has certified?

**Katz:** Correct.

**Klobertanz:** We've received that from them of the firms certified in the area there is one wbe firm certified, and we don't believe that that is sufficient and we have told the supplier that they must work to get more small firms certified in the Portland area.

**Katz:** Okay. All right.

**Hales:** Can we come at this from a slightly different angle? Did our bid specifications specify this particular carpet, or this particular carpet or its equivalent?

**Klobertanz:** Or equivalent.

**Hales:** Are there equivalents commercially available from other suppliers?

**Klobertanz:** Let me answer the first part of that. No bidder proposed an equivalent. So no prime contractor came to us and said, we believe this carpet is equivalent, will you approve it. In terms of review of other carpets, I'll defer again to Ron.

**Bergman:** My understanding from my staff is that there are other equivalent carpets available. Most of the warranty issues on carpet changed when some of the environmental regulations changed on the number of volatiles in the glue that was put down, and in order to maintain that warranty and appropriateness of the way that carpet is installed, the suppliers are requiring certification of their

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installers so that they're assured that the product is put down appropriately. And that's really what has happened here, is that the certification is required to ensure the product is installed properly so that we can get the warranty that comes with the product.

**Klobertanz:** If your question is can we pick a different carpet standard product, the answer to that is yes. However, it will take some time to go through the evaluation process and make that selection.

**Hales:** Well, I guess I want to hear more from other people who want to tough, but it -- testify, but it seems like some kind of mediation might be appropriate here rather than simply making a decision on the spot. The question was how much leverage had we given our suppliers here in terms of specifying only one product, but that's not a good place to be in construction. It sounds like it wasn't that bad, and frankly if you were in this situation in the private sector, I would be talking to the supplier about whether to be supplying anymore.

**Klobertanz:** Those are the discussions that are going on.

**Hales:** So it would be pretty amazing to me if this supplier and this subcontractor, slash, installer couldn't get to yes despite personality conflicts or other things if the ultimate purchaser, ii the city in this case, made it pretty clear that we weren't going to do business with folks that were going to, you know, hold out on us in terms of ability to install the material. Because there is other material available, you know. We've got some leverage.

**Klobertanz:** The supplier has indicated they are willing to look for other mwesb firms to work with in the area. They have indicated that they have no intention of certifying this particular contractor that you're going to hear from this morning. So they are at this point to my knowledge ready to walk away from our contract rather than be forced to work with a particular firm. Now, everyone I have talked to has a slightly different version of that answer, and that's part of what we need the extra time to work through, is just where is everybody in this discussion.

**Francesconi:** Is the supplier here?

\*\*\*\*\*: No.

**Francesconi:** Can I talk to -- ask a question?

**Hales:** I'm done.

**Francesconi:** With our lawyer? Who is our lawyer in this?

\*\*\*\*\*: Our lawyer on this particular project is in hawaii this morning.

**Francesconi:** I can ask you. I think you said at the beginning one of our reasons your -- you're recommending this approach is for legal reasons. So I guess the question is -- go ahead.

**Klobertanz:** All of the procurement process was correct. Platinum construction is the prime contractor, bid in good faith. They -- we followed all of our procedures. We would have to reject all bids in the best interests of the city based on our desire to continue to work with the supplier to get mwesb firms certified. The city does have that ability. Given all of the differences of an opinion of this situation surrounding the ability of the carpet man to get certified, his performance on past work is my conclusion that the procurement process was correct, and that it is in the best interest of the city to move forward with this particular contract and then take the time necessary to sort out the rest of the issues between supplier and installers and certification issues.

**Francesconi:** So have you done, or any independent verification of some of the issues regarding this -

**Klobertanz:** I have about three different versions, three different answers, three -- depending on who I talk to. The bureau that has done work with this particular minority firm, the minority firm itself, and the supplier. And we're -- it is not clear what the answers to the questions are at this point.

**Francesconi:** Okay. Do you know how long it would take to get to the answers to the questions?

**Klobertanz:** We would probably need to make a decision, and ride need to work with bureau of general services, but we'd need to make a decision regarding standard product. I'm guessing within the next 30 days, because I know there are additional projects in line to come forward.

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**Francesconi:** Okay.

**Katz:** Let's open it up to public testimony.

**Olson:** We have three people wanting to speak.

**\*\*\*\*\*:** I'll start first.

**Katz:** We need your name.

**William Harden, Carpetman:** My name is glen harden, carpet man.

**Terry Scott, Carpetman:** And i'm terry scott, carpet man.

**Harden:** What we have here, first of allied like to say the carpet house, the city has been using in the past, are environmental -- people -- it's not a good type of carpet house to use for the city. I do have a supplier, jj commercial, which carpet is guaranteed for life, wear, the labor and installation is guaranteed for lifetime, and also the installation will be guaranteed for lifetime. Opposed to carpet town. I'd like to go on to say that we are ready to go with this project. We do have certified installers. As a matter of fact I have -- I have another bid this afternoon. I will get two of the general contractors. And at this time we'd like to go ahead and proceed with this project. To lay the carpet tiles. There's also a problem with the firm as far as getting certified with them. We do have a credit application in place, and -- when did we get that?

**Scott:** We just received the credit application last week. We'd been requesting it for the last 30 days. We have been 100% cooperative with the city and with collins and aikman. We have faxed, we have letters, we have back and forth faxes. The sales rep has not been cooperative with us. She hasn't sent us requested lists of certified installers, she hasn't sent us the credit april upon good timing. We just completed the six-floor water bureau remodel using collins and aikman tile. We did over 2,000 square yards of their carpet tile. The process for certification is to get the job, do it, they fly a tech in, oversee it for a period of time, make sure you're installing properly, and then you get certified after three of these such jobs. Wove already done one. This would be our second job. The central precinct.

**Katz:** I guess you all testified. Did you want to add anything else?

**Scott:** We're just really -- we want it looked into because we don't feel equal opportunity is being given to the small minority-owned company. We have no problem with platinum to receive the contract to do this, but our question is if collins and aikman is allowed to keep doing this practice with the city of Portland and other government agencies to exclude minority-owned businesses like this, then that's not equal opportunity. And so we kind of -- we want to protest it, but we don't because we don't have a problem with platinum, but we have a problem with collins and aikman.

**Katz:** Thanks. Questions?

**Francesconi:** Have you heard from -- the testimony here today, it sounds like you may have won the war in terms of the future, but we're having a battle over this particular contract.

**Scott:** Mannington --

**Francesconi:** Do you perceive it that way? Do you agree with that?

**Scott:** I do. But I don't quite understand all of it. This is all kind of fairly new to me. You did mention something about the carpet tiles. Mannington also does carpet tiles for the city of Portland, so it's not that collins and aikman has been a very exclusive city of Portland government carpet tile agency. There are other alternatives to call ins and aikman.

**Hales:** If the process you just described, where you have to do three installations under the supervision of the supplier in order to get certified --

**Scott:** And the supplier doesn't want to work with you.

**Hales:** You've got to chicken and egg problem. You can't get to the third job.

**Sten:** I --

**Katz:** Hold on.

**Hales:** That's the situation?

**Scott:** Basically that's what the situation is.

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**Sten:** I understand -- this is the other question I came up earlier, to basically say this isn't a unique product, that --

**Scott:** No.

**Sten:** I am having a hard time believing that carpet is a pretty competitive business. That there's one type -- i'm for the environmental and i'm for the durability, but I guess i'm having a hard time believing -- I have no hard time believing we like this particular brand of carpet, but if there's issues around -- I know carpet man has been around a long time, they're a reputable firm. There's issues around who they'll certify, maybe we shouldn't be that rigid in saying we'll only use that kind of carpet. Is that what you're saying?

**Harden:** I agree with you, commissioner. The city has constantly used this carpet tiles, collins and aikman, but here again, I hate to repeat myself, but to exclude minority companies, african-american companies, and -- I feel that -- i'm sure the city attorney will agree with me that that's not fair to any carpet company whether it's the carpet man or --

**\*\*\*\*\*:** Anybody else.

**Harden:** Any carpet company. My suggestion is that the city look deeply into this as far as perhaps getting another supplier. I know that linda met with my carpet supplier thursday of last week to tell her that it's a better carpet, less cost, the warranty is a lifetime warranty -- warranty.

**Katz:** Thanks. I'm going to -- let's move on, because i'm going to have to ask sue to come back and -- is there anybody else who wants to testify? It will be a little bit more candid about what the -- candid about what the problems are. Anybody want to testify?

**Hales:** I think there's one other person.

**Katz:** Is there anybody else who wants to testify? Hello?

**Mark Morrell, Carpetman attorney:** My name is mark morel, a lawyer that's been hired --

**Katz:** That's a problem, but come sit down. [ laughter ]

**Morrell:** I unfortunately am not in hawaii, but i'll make this brief. My name is mark morel, the lawyer for the carpet man. He's asked me to come here, bill asked me to come here today to help him out. I had a conversation -- a conversation with them, I wrote a letter to craig johnson at the city. The current state of affairs is that we have a credit application, but it was faxed to us and we can't read the small print. So we've asked for another one that wasn't a fax of a fax. I haven't had a response from susan, the local collins and aikman representative, after three or four days of phone calls. There seems to be two problems here. You can be an installer, and you can be a dealership. There seems to be some effort on the part of the company to tie these together in this particular case. We have installed one prior job, which you heard about, where about to do a second one, about a quarter of the size of the first one. And they are requesting the certification process to become a certified installer that we bring some people in, which we did, and we're going to do -- continue to do that. So it's a process we have to go through a couple of jobs before they give it to you. The separate question is whether they're going to tie the dealership to an installation. Which they have not historically done. That would pose some problems, new problems for carpet man, which we haven't dealt with in the past. But the current state of affairs is that we're working with the company, and I have not been told by anybody that the company will not certify us.

**Katz:** So come on back. You heard the concerns raised by the council members, and you -- you shared with us sort of that there are some inconsistencies, or differences. You might want to spell them out a little bit, or make another recommendation to us, or not.

**Klobertanz:** I'd like to stand by my current recommendation that I believe this procurement process should go forward. I think you heard from the carpet man that they are still working with platinum and there is a possibility that they could still be the subcontractor on this. And so I think platinum has said that they would prefer that this particular award go forward. I think there is no disagreement that additional work needs to be done between the parties involved, so that all parties are sharing the same

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information. Will the installation of the -- that the carpet man previously did in the Portland building, based both on information from the supplier and information from the bureau of general services, tells me that that installation was not done satisfactorily. That doesn't mean that carpet man can't do it better this time, but some of the issues about the supplier's hesitancy to certify this firm is based on this previous job that they have done for the city of Portland. I don't know who is correct at this point. I am hoping to have additional time to sort that out. And if necessary, I agree with what was said earlier, that it probably is in the best interest of the city to pick a different product, pick a different carpet, and go with a supplier who will ensure utilization of our mwesb firms in the Portland area.

**Francesconi:** This is where I get confused. Can you do that if we award this contract? Or would that be on a future project?

**Klobertanz:** That would be on future contracts.

**Francesconi:** So it looks like -- I don't understand the facts totally. So are there three alternatives that could end up happening? One is we could award this to the current system, which would have the current subcontractor, and they could do the job with no minority participation at all. But in the future, if we're ever going to use this contractor, they would have to have some minority participation. That could be one result. Right?

**Klobertanz:** Let me just rephrase what I think I heard you say. The council could award this contract, platinum construction could act as the prime. At this point we are still trying to work out whether they would have platinum as the prime would utilize an mwesb subcontractor. I'm hearing this morning that carpet man is ready to go ahead with this because they're in the process of hiring a certified installer. So you would get a third tier certified installer with carpet man acting as the mbeb as -- mweb as the supervisor for platinum construction. That's alternative one.

**Francesconi:** That was my second question. Was that also an alternative? Where they would get the work anyway, even if we --

**Klobertanz:** Normally we do not allow what we call brokers, carpet man in this case would be hiring a third-tier subcontractor to do the installation. Normally I would not allow a firm to it is in the middle and do no additional -- no commercial useful function into the process. However, I believe that if carpet man were allowed to do this, it could assist them in getting their certification through the supplier. So in this case I would recommend that they be allowed to go ahead and do that. Does that answer your question?

**Francesconi:** Yeah. But you need some more work to decide whether you go with the first option or this option.

**Klobertanz:** I believe we can award the contract --

**Francesconi:** To platinum.

**Klobertanz:** To platinum, go ahead and finish this particular job, hopefully assist carpet man in working on this project, but possibly not, but then move forward to ensure that on all future projects we are in a situation where we are working with a supplier who will maximize the utilization of our small firms.

**Francesconi:** Why is it important that we give that power to you to decide as opposed to not voting at all on this until you have done that work?

**Klobertanz:** To not vote on this or to reject the award of this contract would not allow this carpet and floor refinishing in the precinct to go forward. And at that point I asked ron to come back up here, because he knows why it's necessary for this project to move forward.

**Francesconi:** And if we did that, that could have the effect of foreclosing the option of carpet even getting the job at all. So I don't think you want us to do that.

**Klobertanz:** That's a possibility. And again, you have the situation where a prime contractor, platinum construction, in good faith bid to the city, met all the legal requirements, and on the basis of a



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complaint, really, because carpet man has no legal standing to protest, you are telling platinum they cannot be awarded the contract. That's why i'm saying -- recommending -- so we --

**Francesconi:** You want us to go ahead, you've made your point. I think maybe we should call him back.

**Saltzman:** I'm ready to make a motion.

**Katz:** You have further questions?

**Hales:** I'm not falling your strategy. It seems to me that we give up a lot of leverage at this point. With the supplier.

**Klobertanz:** This is a small \$90,000 contract. We do a lot of carpeting --

**Hales:** There's just something fundamentally wrong here, which I think you've agreed to, and you've put a lot of heart and soul into having a purchasing process that's fair and based on rules, and then we have some private party exercising arbitrary capricious standards of their own about who gets to do the work, and -- so who's in charge here?

**Klobertanz:** And council has heard repeatedly from our lawyer, who's not here today, that the city cannot tell prime contractors who they must subcontract with. This is a similar situation.

**Hales:** I understand that.

**Klobertanz:** We can't tell the supplier who they must certify. Whoever, we can pick a different carpet.

**Saltzman:** It's not uncommon for any product of any sort to want to make sure that people installing their project, whether it's a roof sealant, whether it's carpet, that the people doing the installation are doing it up to their standards of excellence. Because they're the ones that have to warrant the product. And if it's installed incorrectly, it's the vendor who ends up paying that price. This is not uncommon. Not say we shouldn't encourage this supplier to have more minority firms qualified to do the certification, but this is not -- this is not uncommon at all.

**Katz:** I think the message that you're hearing, a unified message from the council has always been to work as hard as you can and disqualify people who aren't willing to work with minority contractors.

**Klobertanz:** We've heard that loud and clear.

**Sten:** It doesn't make sense from me -- for me from a price standpoint not to specify the type of the carpet rather than the brand. I just -- my own personal shopping I have never found carpet to be that different. But I might be dead wrong on this.

**Bergman:** The specifications do all lieu for the substitution of an equivalent. There is a submittal process where the contractor can submit what they consider to be an equivalent alternative. We take a look at that. If we agree, then we use a different type of product.

**Sten:** It didn't sound like he understood that, because -- so you could submit the other brand, I guess.

**Katz:** Okay. Are we ready? All right. Then let's have roll call.

**Francesconi:** I think purchasing not only has the expertise, but the heart to do this thing right. I think we need to get this to platinum and then give an opportunity to straighten this out. Aye.

**Hales:** Reluctantly I agree. Obviously sue you're trying to make this work. Again, I think all of us need to get out of the position where somebody in the private sector that we're paying money to is in effect cancelling out our efforts. So that can't stand. So hopefully your strategy will work, and this project will be one step out of that particular pothole. Aye.

**Saltzman:** I think you've handled this exactly the right way. Aye.

**Sten:** Hopefully it will be smoother next time. Aye.

**Katz:** I have the utmost confidence in sue, and her work with all of us on making sure that we expand opportunities for minority contractors. And sometimes it's a little bit more difficult to achieve what we all want to achieve, but I have the confidence that she's made the right decision. Aye. All right.

Thank you. 1644.

**Item 1644.**

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**Mark Murray, Director, Financial Planning, Office of Management and Finance (OMF):** Good morning. Director of financial planning. Quick preamble and then we'll get highlights for you so we don't carry too long. Local budget law requires a certain action amending the jurisdictions annual budget be processed to a major supplemental budget process. The triggering requirements are if you're going to increase the size of a fund by greater than 10%, or if you are going to move greater than 15% of the funds out of the contingency appropriation. Other actions that don't trigger that will be handled through -- can be handled through the more normal ordinance process. The process requires public notification of the proposed changes --

**Katz:** Just one second. Can we have the conversations outside in the lobby, please? Thank you.

**Murray:** The process also requires a hearing administered by the tax supervising conservation commission, which is scheduled for next wednesday, time certain at 9 o'clock. And the city submits the proposed changes in the form of a resolution and following the hearing from tsec council would vote on an ordinance to adopt the changes that they agreed to. Jordan will briefly highlight the major changes and we'll be answering questions you may have at that time.

**Katz:** Okay. Jordan, go ahead.

**Jordan Epstein, Financial Planning:** Jordan epstein, bureau of financial planning. This supplemental budget appropriates approximately \$139 million between 22 funds. The largest is in the special finance and resource fund, 56.4 million, 42 million of that is money that would go to pdc for convention center urban renewal projects. And 14 million to tri-met for the interstate max project. The money comes from bond proceeds. The transportation fund is appropriating 18.8 million, 14 million of that is coming from the park and -- parking facilities fund for the streetcar project. And 4 million from the l.i.d. Construction fund for the l.i.d. Portions of those projects. Additionally the facilities services fund is receiving money from several other funds for various kinds of projects. Emergency communication and public safety funds are transferring 1.2 million to facilities for additional requirements in the expansion of the Portland communications center. The 1.2 million is over and above money already approved in the bond. Fall silts is also receiving 1 million a little over a million from the water fund, which has additional requirements in the remodeling of the fifth and sixth floors of the Portland building. And finally the fund is receiving about 1.8 million from the parking fund for carryover projects. Previous parking, major maintenance projects didn't get done, they're going to rebudget this year. The other interesting things, the communications fund is receiving 1.4 million from the general fund. The police bureau has grants. This is essentially carryover and the monies can be used to buy laptops, replacing the radio-related equipment. And there's 1.6 million in communications in beginning fund balance, which includes old requests that have been approved and a couple of new requests for 800 megahertz projects. And finally, some of the debt funds are budging -- budgeting the interstate max fund, there's a new fund called the interstate corridor debt service fund, which is budgeting some money for debt payments and the convention center debt fund is going to make some payments. Those are the highlights.

**Katz:** Fine. And you'll be ready to explain it to the commission on monday?

**Epstein:** Yes.

**Murray:** Actually, wednesday.

**Katz:** Wednesday.

**Murray:** We'll supply to -- the council offices with the questions we anticipate they will ask as well as the answers.

**Katz:** That was my point. All right. Questions? Anybody want to testify on this? Roll call.

**Katz:** Mayor votes aye. Before you run, mark, I need to understand, and we don't need to do it now, but -- what the impact on the measure of the forfeiture that I think passed --

**Murray:** The takings?

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**Katz:** No. Forfeiture of -- after conviction, measure 3. I need to understand of the impact, since some of that is already or has been or may not be budgeted. So just kind of flag that.

**Murray:** Just a quick answer, we always treat it as one time, so that helps us.

**Katz:** But I need to know if we've treated it until anticipation of --

**Murray:** I'll verify that and respond to all of the offices.

**Katz:** Thanks. 1645.

**Item 1645.**

**Sam Adams, Chief of Staff, Mayor's Office:** Good morning, my name is sam adams, I work for mayor Katz. Before you today to authorize payment for \$188,000 to come from the facilities services fund, a loan that will then be paid for as part of the council's action on the bumper port, which is scheduled to be before you on november 18th. 11 -- let me give a background on why this payment is necessary. As you might recall, the trust -- the chinese classical garden trust was formed in 1997. Preliminary cost estimates was made for the construction of the garden in may 1998. That preliminary estimate was 8.5 million. At that point the mayor committed to raising 50% of the cost for the garden from the private sector. The construction budget was then increased to 10.7 million, and that was approved in june of 1999. The mayor's commitment remained. Construction began that same month. There was a budget adjustment in late 1999, including 74,000 for the tea house elevator, and other adjustments. We've gone through the process of sort of final billing, and the cost estimates are now at 12.8 million. And that's including all the final bills related to the construction. We didn't have a choice when the chinese workers were going to arrive or exactly -- we didn't have a choice in terms of the construction -- a lot of the construction materials. But we did have the challenge as one of the most challenging construction projects in terms of trying to meld the chinese practice decisions and the chinese traditions. I think that an admirable job was done, but clearly the costs associated with making that further translation were more than were initially anticipated. The increased costs we feel this is the final best number in terms of going through all the billing. The payment of 188 is a payment that's due currently to the contractor. Will the additional amount due we are working on options, including we are reviewing 247,000 dollars in additional payments that are due to the contractor, and we filed insurance claims for \$368,000 for goods that arrived damaged and which were covered by insurance. We're pursuing other options for the amount remaining and we'll be back before you and others to discuss those other options at a future date. What we found in terms of fund-raising, which is we've also continued to pursue and which we knew ahead of time that once the construction was completed that fund-raising would be very difficult. It's very difficult to raise money to pay off debt. People would rather put their resources into other projects other than debt, but the mayor did raise \$6.1 million, which is well beyond the initial commitment, and it does remain about 50% even with the 1.4 that we still owe. That's not privately raised. The amount the mayor raised is still about 50%. So the payment today will help us take care -- it will take care of the amount we owe the contractor currently. We have a little bit of time to address the remaining amount owed. And ron is going to talk a little bit more detail about how some of the costs -- exactly where some of the costs increased.

**Saltzman:** It's like 1.2 million remaining?

**Adams:** Approximately 1.2 million after this payment.

**Ron Bergman, BGS:** As sam indicated, some of the major costs dealt with making the codes work, some seismic upgrades and ada issues were in the neighborhood of about \$700,000 worth of additional costs. Those weren't anticipated. He also mentioned \$75,000 for the elevator that was necessary to meet ada codes. We had some weatherization issues that we had to protect, the materials. We had to essentially tent the property to protect it during the rains. That was some additional \$365,000 that wasn't anticipated. Some of that was the result of the materials arriving from china in a weathered condition. They got full of water on the trip over here, so we had to send them out to the kiln to be dried. That took additional time and put us into the wet weather that required the tenting. So there

were a whole series of timing issues that added to the cost. And that accounts for the majority of the cost increases. There are a whole series of smaller individual items that made up the balance, but those were the big items.

**Katz:** Thank you. Questions?

**Francesconi:** There's a lot of good news. So the maintenance costs, for example, they're all taken care of. Right?

**Adams:** Correct. As you probably have read, the maintenance costs we did provide for a -- I think it was about a \$65,000 ongoing amount in the parks budget to pay for the horticulture maintenance costs for the garden, and the ongoing receipts from the garden itself will pay for other maintenance needs. As you've read, the gate has been very, very, very good.

**Katz:** And we also set aside over I think the payment of over \$200,000 for the management of the garden. We felt that it was important enough as we raised the money to build the garden that we not leave the management of the garden without any resources at all. So part of that money is to go for the management.

**Adams:** That's correct. Basically what you're saying is we primed the pump in terms of their ability to manage the garden, and that payment has already been made, so they have that.

**Francesconi:** There's so many obligations on the general fund, and the more acutely aware of that, and sam, than you are, of anyone. What's the likelihood you're going to have to come back to the general fund for the million two?

**Adams:** I don't know that I can speak to likelihood. I can tell you it's certainly not our intent. That's the last place that we want to go. And we're considering this as a one-time --

**Katz:** How --

**Adams:** A one-time benefit from the general fund. Today you're authorizing a loan the general fund will pay back to the facilities funds, but we consider the 188 in terms of a one-time general fund benefit to this project.

**Francesconi:** That's good.

**Katz:** Paid back to the fund.

**Adams:** Correct.

**Saltzman:** Why does it have to be paid out of the fund as opposed to, say, pay back six months to a year later?

**Adams:** In other words, why does this have to be a grant instead of a loan?

**Saltzman:** It's a loan from the facilities services fund to be paid back from the general fund at the fall -- why then as opposed to, I don't know, july? I'm just --

**Adams:** The let me give part -- the bill is due, is part of the answer. The second --

**Saltzman:** The bill will be paid today.

**Adams:** Basically the facilities fund is cash on hand. I'll look to mark to give you --

**Saltzman:** It may just be that you want to pay it back and get it over with.

**Mark Murray:** It's just a technical mechanism we're going to use to make sure council cleanly makes the appropriation and understands in the context of all the other decisions that they'll be looking at next week. It's as simple as that. Keeping the record clean financially.

**Saltzman:** Okay.

**Katz:** Further questions? Okay. Thank you. Anybody want to testify? All right. Roll call.

**Francesconi:** I favor this. This is -- i've heard chinese say this is better than the chinese garden in suzhou, and that's what our citizens are saying as well. Having said that, that's good to keep it to this one time. Aye.

**Katz:** Thank you, everybody. This has been an extraordinary project. You need to know also that the gate receipts are incredible, and the weather had held up, and the reason that we had raised the money for the management was to make sure that we don't get ourselves in an omsi situation in terms of

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maintaining the garden and managing the garden. That was really the prime purpose of doing all of this. Aye. Thank you. 1646. Anybody want to testify on that?

**Item 1646.**

**Francesconi:** We're going to have john and judith testify briefly. This is a nice -- another nice success.

**John Sewell, Chief Planner, Parks Bureau:** John soul, from parks and recreation. This will be the briefest of presentations on the acquisition of a piece of property today, and then judith, who is our property manager responsible for all acquisitions for Portland parks will give a brief history of what we've acquired so far with the systems development charge.

**Judith Rees, Parks Bureau:** Since the beginning of this year, we have been working with a citizens advisory committee and also a technical committee made up of Portland park staff to identify priorities for acquisitions with sdc funds. During our primary focus and priority during the first five years of the program, are to acquire community parks, ones for active recreation, and then a little bit of money was set aside also for acquisition of habitat areas to match monies from the 2626 bond measure that metro has. And those funds would be allocated to fanno creek and the east buttes. In the case of the community parks, though, our primary focus has been on outer east. The area east of i-205. That is the area that most of the sdc funds -- receipts have been coming in, most of the development is happening there, and it is also one of our most highly park deficient areas within the city. The acquisition that we're bringing to you today is the fifth acquisition that we're doing, the third that is for community park, and the site that we're talking about is a ten-acre parcel right here on the top of clatsop butte. It is immediately adjacent to an acquisition that we brought to you about a month ago called mcgregor heights. Together they will make approximately a 20-acre community park. What is particularly --

**Francesconi:** You can throw a frisbee in a 20-acre park. You can throw it a long way:

**Rees:** Soccer fields, and --

**Saltzman:** Off-leash area too? [ laughter ]

**Rees:** It is very exciting. Also because --

**Katz:** We could make it a zoo if you want:

**Rees:** To the north is property that's owned by the county, Multnomah county. It's heavily forested, and to the north of that is a parcel that as part of the johnson creek acquisition program that parks and bes and water bureau and metro have all been working on over the past few years, the -- what we know as the petterson property has been acquired, and that not only connects these properties to johnson creek, but to the spring water corridor and to powell butte. So there is a direct connection now of public property. We're very excited about this acquisition. Our prime size for a community park is really 20 acres, so we were excited about the first acquisition up on the top of the butte, but this one makes it even more usable and I believe that the neighbors in that area are very pleased. The land will be land bank until there are funds available for its development. And we are expecting that will be a few years out. But our -- we're hopeful. If you have any questioning, i'd be happy to answer them.

**Katz:** So it's about 1.1, 1.2 million.

**Rees:** Yes. 1.15.

**Katz:** And you're planning to pay it through the sdc.

**Rees:** Yes. That is correct.

**Katz:** You do good work.

**Rees:** Thank you.

**Katz:** As good as pdc. [ laughter ]

**Rees:** It's a lot of fun.

**Hales:** Better. They actually buy property.

**Katz:** I'm not going to comment on that. Thank you. That's wonderful news. Anybody want to testify on that? Roll call.

**Francesconi:** Judith, you are doing a terrific job on this. We've gotten great response from citizens out there. Not only to buying the land, but Judith's work in buying the land. Aye.

**Hales:** Yeah. Bravo. This is great. The SDC is really doing what you and I think the council hoped it would do, so that's just outstanding, and I'm really glad to hear we're not just buying natural areas, but also land that does pass the frisbee test and the parks commissioner and the bureau have adopted that as a goal, so thank you. And I'm very enthusiastic --

**Francesconi:** One of our goals. Not our only goal. I want to make that clear.

**Hales:** I agree with that. But that's -- it's nice it's in the list. Aye.

**Saltzman:** Great acquisition. This is really an area that really needs more parks, and this looks like a real jewel. Good work. Aye.

**Sten:** It's wonderful and much needed. Aye.

**Katz:** Excellent work. Aye. Thank you. All right. 1647.

**Katz:** Roll. This is second reading.

**Katz:** Mayor votes aye. 1648.

**Item 1648.**

**Sten:** This is the resolution that I think formally marking the start of a long bit of talking and working together. But I think it's most people are aware we have a long, long history in the city with PGE. Their franchise goes back to I guess two centuries ago in the 1800s, and what we've agreed through a couple of different processes is including some of the merger discussions now, is to embark on an effort to write a new franchise for PGE, in is something that -- that I think we've agreed to do. There's a whole set of issues that will have to be talked about, some of them are complex, some will involve agreement and disagreement. The whole concept will definitely take some city council attention, but at this point what we're really doing is formally asking that process to get moving via this resolution, and it's our expectation that it will be a collaborative effort and what we'll do is kind of nail down what the issues are and be back. And this is probably going to be something that takes a little while. But we wanted to lay that out. We have had some concerns come in from I think Larry Tuttle and other folks who follow these issues, and I think the issue -- as I looked at all those issues, those are all concerns we'll have to talk through. And figure out. There's some question about -- in some people's mind whether the franchise should can be -- should be considered valid or not. I see those issues as worthy of being talked about, but I'm not sure they're pertinent. I think the reality is the franchise is in play, it's being used. We're not in any position to want to go out and try to prove its validity. What we'd like to do is update and make it something that speaks to the current issues and I think reinforces what the values and relationships ought to be for the future. So there's a lot of both technical and philosophical issues floating around. The intent today -- we also did not in the resolution list all of the issues, because just to give people a taste, we can't even say for sure what all the issues are going to be. So I originally in a draft of the resolution list add bunch of the issues and got, that's not all the issues, so I thought it was better so say what we're going to do is begin this negotiation, but the terms of the franchise need to include public purposes and relationships and franchise fees and all the things that I think this council cares about, and I think there's an opportunity to come up with something that is mutually beneficial. I think what everybody would agree on at this point is that the electric industry is changing dramatically, and there's a chance here rather than to get into an argument to try and shape maybe what would a municipal private partnership that was forward thinking look like. And certainly that's my goal. So Susan and Carl?

**Susan Anderson, Director, Office of Sustainable Development:** Susan Anderson. I don't think I need to add much. I want you to know that they strongly support the idea of having a new franchise. They have that with other cities throughout the states they work in. They formally agreed through a

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stipulation as part of the merger that they would in fact work with the city within the next two years after the sale closes to have a new franchise in place. So sierra pacific as the new owner of pge in the future is very happy and is very interested. They see it as -- in their best interest because it will provide them with more certainty in terms of the use of the right of way, and also they see it as a way I think to help us get to some of our goals around energy use and conservation and global warming, things that are important to the city, and enable us to be better partners. So I am excited to work with carl on this. He was on the energy commission when I first came here, so we work order these issues a long time and I think we'll be able to come up with something that works for both parties.

**Carl Talton, Vice President, Government Affairs, Portland General Electric:** Thank you. Carl tallton, vice partnership of general affairs for Portland general electric. We do appreciate this opportunity to begin this discussion with the city of Portland. We think there may be in fact some mutual benefit to discussing the possibility of a new franchise, what it would look like, what the pieces might be and so forth. I want to point out that the discussion and moving forth on the franchise is not dependent on the sierra deal. We want to continue this conversation regardless of whether that becomes a done deal or not. Our anticipation is that it will. We expect within the next few months that it will in fact be complete. But we are still currently owned by enron. But from Portland general's perspective, we do clearly see the benefit and are looking forward to this process. This process of moving forward and getting to some really mutually beneficial conclusions.

**Sten:** To be honest, I fudged a little bit on where all the corporate deals were. It was only election night last night and I couldn't remember where we were in the whole sierra pacific merger.

**Katz:** That was my response. My nonverbal response. Further questions? Thank you.

**Saltzman:** Have we agreed on the shape of the table?

\*\*\*\*\*: We're off to a very positive start.

\*\*\*\*\*: We're arm wrestling.

**Katz:** Okay. Let them not forget about the expectations from the city. On the whole scale of issues. Okay. Anybody else want to address this issue? Fine. Roll call.

**Francesconi:** Having a franchise is the right way to go. A franchise agreement. I just -- it's taken us a while to get to this point. I remember two or three years ago actually talking to pge about the park use, nonpark use of park property, and so I guess we need to do this. And so -- but the other thing that's good about this is a unified approach. Going all different directions, you know, parks was a little tail on this process. So I appreciate you pulling this together in a unified approach to pge and others.

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

**Sten:** Thanks. I would just say too that I expect literally because the city's in so many businesses there will be a couple of things where is the of the city's bureaus' interest in -- are in a little conflict, so that's when we'll get back to the council, and we'll need everybody's help to keep the bureaus pushing in the same direction. Aye.

**Katz:** Mayor votes aye. **Item 1649.**

**Sten:** Another franchise.

**Katz:** How many do we have now?

**Sten:** A lot more than last year.

**Hales:** Not as many as next week.

**Katz:** It passes to second reading. And we are adjourned until 2 o'clock.

At 10:51 a.m., Council recessed.

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2:00 PM

**Item 1650.**

**Sten:** Please read item 1650. Uphold hearing's officers decision as modified to approve the application of ejs properties for a zone change from r5 to cn2. I believe these are findings. Are there any amendments? Are they the same findings that were before us?

**Kathryn Beaumont, Senior Deputy City Attorney:** As of last week, you had agreed to keep the record open until 5:00 p.m. Yesterday. The only piece of additional piece of information we've received was a memo from pdot addressing parking issues that were raised last time. Based on the testimony that was presented last week, the applicants' representative has submitted revised findings that reflect that testimony and those are before you for consideration and adoption. You had made a tentative decision last week to deny the appeal, uphold the hearing's officer's decision. And I think what you need today is a motion and final vote on the findings.

**Hales:** Those are okay with opdr? Okay. So no further changes. Then I will move adoption of the revised findings that are before the council today.

**Francesconi:** Second.

**Sten:** Roll call. **Francesconi:** Aye. **Hales:** Aye. **Sten:** Aye. The motion passes, and I believe we're adjourned until next week.

At 2:04 p.m., Council adjourned.